

PLANNING COMMITTEE AGENDA

Tuesday 18th April 2023 at 7.15pm

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

THIS MEETING IS OPEN TO THE PUBLIC

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

To access the meeting please use the link below:

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

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, Mrs A Kilmartin, P Thorogood,
Vacancy x 2

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 by 3pm on the day of the meeting.

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

D GASCOYNE
Chief Executive

INFORMATION FOR MEMBERS - DECLARATIONS OF INTERESTS

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

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

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

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

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

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

For example, if the Committee Meeting is on a Tuesday, the registration deadline is midday on Friday, (where there is a Bank Holiday Monday you will need to register by midday on the previous Thursday). The Council reserves the right to decline any requests to register to speak if they are received after this time.

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

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

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

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

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

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

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

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

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

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

Documents: Agendas, Reports and Minutes can be accessed via www.braintree.gov.uk

Data Processing: 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

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

PUBLIC SESSION

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- 1 Apologies for Absence**
- 2 Declarations of Interest**
To declare the existence and nature of any Disclosable Pecuniary Interest, Other Pecuniary Interest, or Non-Pecuniary Interest relating to Items on the Agenda having regard to the Code of Conduct for Members and having taken appropriate advice where necessary before the meeting.
- 3 Minutes of the Previous Meetings**
To approve as a correct record the Minutes of the meeting of the Planning Committee held on 28th March 2023 (copy to follow).
- 4 Public Question Time**
(See paragraph above)
- 5 Planning Applications**
To consider the following planning applications
- 5a App. No. 22 00450 FUL – 31A Julien Court Road, BRAINTREE** **6-57**
- 5b App. No. 22 01686 FUL – Colne House, Station Road, EARLS COLNE** **58-101**
- 5c App. No. 22 01687 LBC – Colne House, Station Road, EARLS COLNE** **102-120**
- 5d App. No. 22 01881 DAC – Land East of Periwinkle Hall, Links Road, Perry Green, BRADWELL** **121-135**
- 5e App. No. 23 00395 DAC – Land East of Periwinkle Hall, Links Road, Perry Green, BRADWELL** **136-188**
- 5f App. No. 22 02283 FUL – Land North of Colchester Road, WITHAM** **189-274**
- 5g App. No. 23 00152 OUT – Cullen Mill, 49 Braintree Road, WITHAM** **275-300**

6 Urgent Business - Public Session

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

7 Exclusion of the Public and Press

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

At the time of compiling this Agenda there were none.

PRIVATE SESSION

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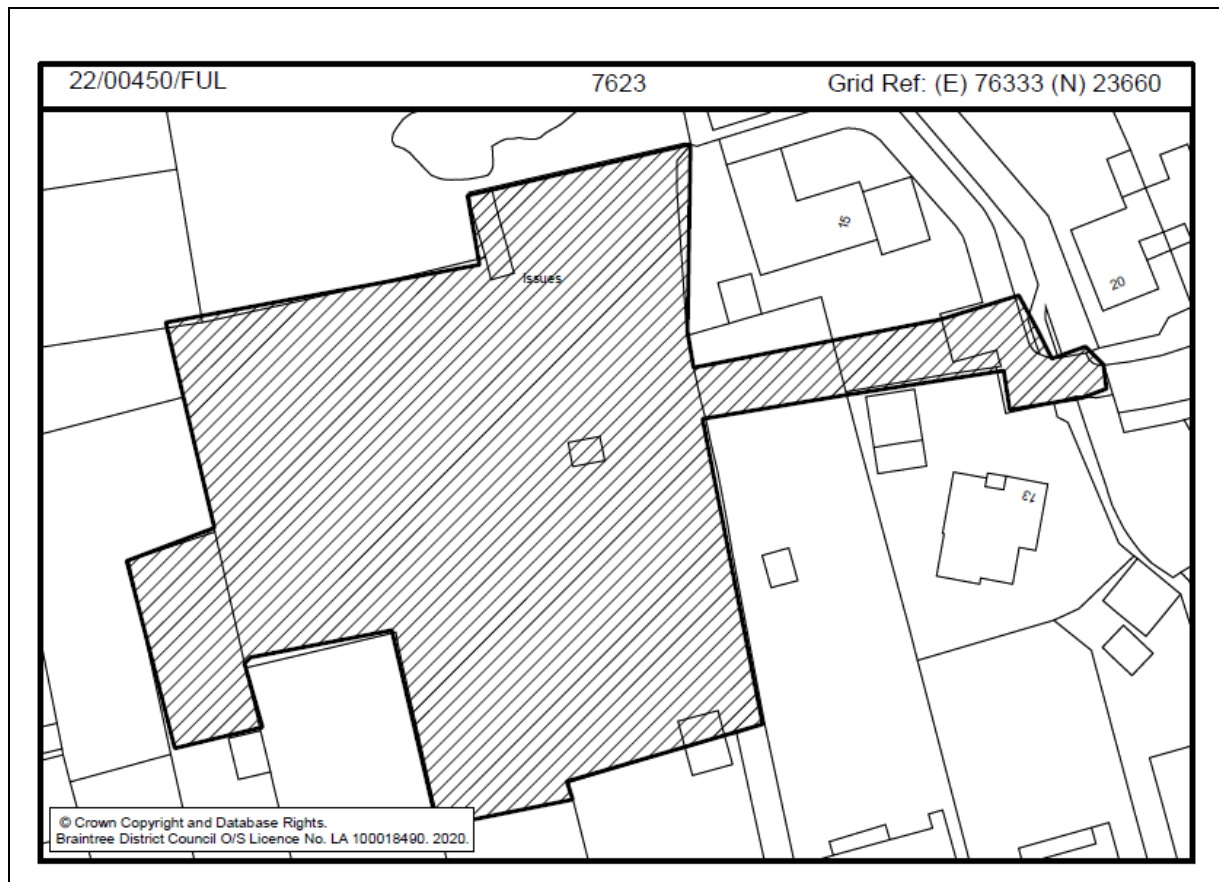
8 Urgent Business - Private Session

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

Report to: Planning Committee		
Planning Committee Date: 18th April 2023		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	22/00450/FUL	
Description:	Construction of 3 No. bungalows within the residential garden and new access off Beaufort Gardens.	
Location:	31A Julien Court Road, Braintree, Essex	
Applicant:	Paul Hopkins, Clara Developments Limited, 18 Oaklea Avenue, Chelmsford, CM2 6BY	
Agent:	Mr Steven Higgon, HGN Design Limited, 6 Proctor Way, Marks Tey, Colchester, CO6 1XE	
Date Valid:	1st March 2022	
Recommendation:	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. §	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
	Appendix 4:	Committee Report & Appendix - 20th December 2022 Planning Committee
Case Officer:	Juliet Kirkaldy For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2558, or by e-mail: juliet.kirkaldy@braintree.gov.uk	

Application Site Location:



Purpose of the Report:	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.
Financial Implications:	<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>
Legal Implications:	<p>Any legal implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions & 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>
Other Implications:	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.
Equality and Diversity Implications	<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"> a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act; b) Advance equality of opportunity between people who share a protected characteristic and those who do not; c) Foster good relations between people who share a

	<p>protected characteristic and those who do not including tackling prejudice and promoting understanding.</p> <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
Background Papers:	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 22/00450/FUL.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan 2013 – 2033 § Neighbourhood Plan (if applicable) § Supplementary Planning Documents (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/. The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. UPDATE REPORT

- 1.1 This application for the 'construction of 3no bungalows within the residential garden and new access off Beaufort Gardens at 31A Julien Court Road' was considered by Planning Committee on 20th December 2022 and was subsequently deferred.
- 1.2 Members of the Planning Committee sought further information on the location of the spring at the site and how the spring would impact on neighbouring gardens following concerns raised by a neighbouring resident. Therefore, this update report relates to the impact of the onsite natural spring following further information provided by the Applicant and further consultation with the Lead Local Flood Authority (LLFA).

2. Onsite Natural Spring

- 2.1 *Policy LPP75 of the Adopted Local Plan states, 'The Council will require development to have regard to and contribute positively towards delivering the aims and objectives of the Braintree and Witham Surface Water Management Plan as updated. Developments located in Critical Drainage Areas (CDAs), Local Flood Risk Zones (LFRZs) and for redevelopments of more than one property or area greater than 0.1 hectare should seek betterment to a greenfield runoff rate. All developments in Critical Drainage Areas (excluding minor housing extensions less than 50m²) which relate to a net increase in impermeable area must include at least one 'at source' SUDs measure (e.g. water butt, permeable surface). This is to assist in reducing the peak volume of discharge from the site.'*
- 2.2 The site is situated within Flood Zone 1 (an area of low fluvial flood risk). There is a natural spring on site. The Council safeguarding maps have identified a critical drainage area outside of but adjacent to the site.

Map – Natural Spring

- 2.3 As stated in the previous Committee Report which was considered by Members on 20th December 2022, at Paragraph 11.11.3, the Lead Local Flood Authority requested a high-level drainage strategy be submitted. The Applicants subsequently submitted a report (*prepared by D.J Barton Associates dated November 2022*). The LLFA were reconsulted on this report, however they submitted a holding objection requesting further detail to be provided including a maintenance management strategy. The Applicants provided the additional information sought and a maintenance management strategy. The LLFA raised no objection following review of the additional information and maintenance management strategy.
- 2.4 A neighbouring resident has raised concern regarding the impact of the development and the natural spring on their property. They have also raised concern that the Lead Local Flood Authority stated in their consultation response, '*Prior to deciding this application you should give*

due consideration to the issue(s) below. It maybe that you need to consult relevant experts outside your planning team:

- Sequential test in relation to fluvial flood risk.

The Planning Practice Guidance states that, '*you don't need to do a sequential test for a development in flood zone 1 unless there are flooding issues in the area of your development.*' It then refers to the local planning authorities Strategic Flood Risk Assessment to understand these flooding issues further.

- 2.5 The Council commissioned a Strategic Flood Risk Assessment (prepared by Aecom) in 2016 as supporting evidence base for the Local Plan. The assessment identifies the site as being in Flood Zone 1 (low risk of fluvial flooding). The site is situated adjacent to an '*ordinary watercourse*' with an identified medium / high risk probability of flooding from Surface Water. Given that the site is within Flood Zone 1 (low risk of fluvial flooding) a sequential test is not required.
- 2.6 The impact of medium/high risk probability of flooding from Surface Water has been considered further following the Planning Committee meeting held on 20th December 2022.
- 2.7 The Applicants have undertaken a borehole site investigation (undertaken Feb 2023) at the request of the LLFA. A supporting letter from the Applicants civil and structural engineering consultants (D.J. Barton Associates dated January 2023) has also been submitted. The letter makes the following comments regarding surface water and flood management on the site:
- The proposed development will not involve building over the spring pool and will not be changing the cross section of the downstream ditch.
 - The site falls within a 'Critical Drainage Area' however, the proposed development is at no risk of flooding from fluvial flooding (flooding from watercourses or main rivers) this is due to the fact the watercourse starts within the proposed site at the much lower northern area of the site.
 - All plots will stand in excess of 1 metre above the stream bed, further reducing any risk of the dwellings from fluvial flooding.
 - The drainage strategy for the developed site has been accepted by the LLFA as consulted by the LPA. The agreed discharge rate from impermeable areas of the development will be restricted to 1 litre per second for all storms up to and including the 1 in 100 year + 40% climate change event.
 - The ditch water course has been recorded on maps since 1881. The purpose of ditch is to convey surface water, ground water and land drainage discharges downstream to the River Blackwater.
 - It is understood the neighbour to the north of the site has previously had bad experiences from other developments in the surrounding area, causing water to run across his property. The properties that caused the issues do not appear to have a watercourse starting within their site, and therefore the situations are entirely different. The proposed site

does have a watercourse. The watercourse has the purpose of conveying water safely downstream, in accordance with the Land Drainage Act 1991, and the Land Drainage Byelaws which came before the act.

- To alleviate any concerns the following measures outlined should be undertaken by the contractor during construction; Surface water run off during construction should be managed by the use of a bund to direct all run off to the ditch/watercourse, rather than leaching across other sections of the boundary; a silt fence or similar should be installed to the manufacturers specification to slow run off and to filter out silt/sediment prior to the run off entering the watercourse; provision of a 'Construction Surface Water Management Plan'.

2.8 The LLFA have reviewed the comments provided above, the borehole report and the Surface Water Drainage Strategy and do not object to the application subject to the measures as detailed in the submitted document being implemented in accordance with SuDS guidance and subject to permeable paving being primary source of treatment for both driveway and roof runoff. The LLFA further state that the discharge rate must be limited to 1litres/second for all storm events up to and including the 1 in 100 year plus 40% allowance for climate change storm event. Maintenance of the SuDS features should be in strict accordance with the maintenance management strategy.

2.9 The submitted Surface Water Drainage Summary (prepared by D.J Barton Associates dated November 2022) confirms that, *'the surface water discharge rate will be restricted to a maximum of 1 litres/second for all storms up to and including the 1 in 100 year +40% climate change event. This flow rate will be controlled using a hydrobrake flow control installed in the last manhole prior to discharging to the existing surface water manhole. The storage attenuation volume required to prevent flooding during storm events will be provided in underground geocellular units. Driveways are proposed to be tanked permeable paving, with flows being conveyed through perforated pipes to the surface water network.'*

2.10 Conditions are proposed to be imposed that the development is carried out in accordance with the submitted Surface Water Drainage Strategy and the Maintenance Management Strategy.

3. CONCLUSION

3.1 Following the deferral of the application at Planning Committee on 20th December 2022, the Applicants have provided additional information and a borehole report relating to surface water discharge. The LLFA have reviewed the additional information provided and have raised no objection subject to the measures detailed in the Surface Water Drainage Strategy and Maintenance Management Strategy. Conditions are proposed to be imposed to ensure that the development is carried out in accordance with these strategies. Officers are satisfied that implementing these measures would reduce the risk of on and offsite flooding.

4. RECOMMENDATION

- 4.1 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)

Plan Description	Plan Ref	Plan Version
Proposed Elevations and Floor Plans	9168.007	N/A
Management plan	Drainage System	2402E
	Maintenance Plan	
Existing Site Plan	9168 001	A
Landscape Masterplan	9168-009	N/A
Tree Plan	N/A	A
Arboricultural Report	N/A	A
Proposed Site Plan	9168.003	M
Section	9168.006	A
Proposed Elevations and Floor Plans	9168.008	A

Condition(s) & Reason(s)

Condition 1

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

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

Condition 2

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

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

Condition 3

A) No development, including any preliminary groundworks or demolition, shall commence until a Written Scheme of Investigation (WSI), which shall include details for a programme of archaeological investigation, has been submitted to and approved in writing by the Local Planning Authority.

B) No development, including any preliminary groundworks or demolition, shall commence until the approved WSI as required by this permission has been fully implemented and a report of the findings including any mitigation strategy and/or preservation strategy has been submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved mitigation strategy and / or preservation strategy.

C) Within six months of the completion of the fieldwork in connection with the WSI a post excavation assessment of the findings shall be submitted to an appropriate

depository and the Local Planning Authority shall be notified in writing. This will result in the completion of post excavation analysis, preparation of a full site archive and report, and publication report.

Reason: To enable full investigation and recording of this site of archaeological importance. The details are required prior to the commencement of development to ensure that the site is appropriately recorded prior to loss of any details of archaeological significance.

Condition 4

Prior to the commencement of the development a Construction Management Plan shall be submitted to, and approved in writing by, the Local Planning Authority. The approved plan shall be adhered to throughout the construction period.

The Plan shall provide for:

- I. Vehicle routing
- II. The parking of vehicles of site operatives and visitors
- III. Loading and unloading of plant and materials
- IV. Storage of plant and materials used in constructing the development
- V. Wheel and underbody washing facilities
- VI. Before and after condition survey to identify defects to highway in the vicinity of the access to the site and where necessary ensure repairs are undertaken at the developer expense where caused by developer.

Condition 5

Prior to the commencement of the development details shall be submitted to and approved in writing by the Local Planning Authority to show the provision of a traffic calming/traffic management feature where PROW Footpath 53 Bocking and Braintree crosses Beaufort Gardens. The development shall be carried out in accordance with the approved drawings.

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway to protect the PROW network and users in the interests of highway safety and in accordance with policies DM1 and DM11 of the Highway Authority's Development Management Policies February 2011.

Condition 6

Prior to commencement a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following. a) Risk assessment of potentially damaging construction activities. b) Identification of "biodiversity protection zones". c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements). d) The location and timing of sensitive works to avoid harm to biodiversity features. e) The times during construction when specialist ecologists need to be present on site to oversee works. f) Responsible persons and lines of communication. g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person. h) Use of protective fences, exclusion barriers and warning signs. The approved CEMP shall be adhered to and implemented

throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

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

Condition 7

No above ground development shall commence until samples of the materials to be used on the external finishes of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details and permanently retained as such.

Reason: To ensure that the development does not prejudice the appearance of the locality or setting of the Listed building.

Condition 8

Prior to the erection of any means of enclosure, details of all gates / fences / walls or other means of enclosure details shall be submitted to and approved in writing by the Local Planning Authority. The details shall include position, design, height and materials of the enclosures. The enclosures as approved shall be provided prior to the occupation of the relevant plot and shall be permanently retained as such.

Reason: In order to secure the satisfactory development of the site and in the interests of visual amenity, neighbouring residential amenity and the setting of Listed building.

Condition 9

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no enlargement of the dwellinghouse, as permitted by Class A of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the Local Planning Authority.

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

Condition 10

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no addition or alteration to the roof of a dwellinghouse, as permitted by Class B of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the Local Planning Authority.

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

Condition 11

The garages hereby permitted shall be used for the parking of motor vehicles, bicycles, and powered two wheelers associated with the dwelling.

Reason: To ensure adequate parking and garage space is provided within the site in accordance with the standards adopted by the Local Planning Authority

Condition 12

A lighting design scheme to protect biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstance should any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species), as updated by the Environmental Act 2021.

Condition 13

No above ground development shall commence until an Electric Vehicle Charging Strategy to demonstrate the provision of at least one Electric Vehicle Charging point to every dwelling hereby permitted has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented for each dwelling prior to the occupation of that dwelling and thereafter retained.

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

Condition 14

No above ground development shall commence until a strategy to provide fastest available broadband access has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to occupation and thereafter retained.

Reason: To ensure that all new dwellings/commercial units are provided with appropriate internet connectivity that will improve commercial opportunities and facilitate working from home and improve residents' connections to essential online services and social networks.

Condition 15

Prior to occupation a Biodiversity Enhancement Layout, providing the finalised details and locations of the proposed biodiversity enhancements, as contained in the Preliminary Ecological Appraisal (Adonis Ecology Ltd, February 2022), shall be

submitted to and approved in writing by the Local Planning Authority. The enhancement measures shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter."

Reason: To enhance Protected and Priority Species and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

Condition 16

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of the above Site Investigation Condition, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of the above Site Remediation Condition, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme, a verification report must be prepared and submitted to and approved in writing by the Local Planning Authority in accordance with the above Verification and Remediation Condition.

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

Condition 17

Prior to the implementation of the landscaping scheme hereby approved, a strategy for the watering and maintenance of the landscaping shall be submitted to and approved in writing by the Local Planning Authority. Once approved the watering and maintenance of the landscaping scheme shall be carried out in accordance with the approved details. The scheme of landscaping indicated upon the approved plan, shall be implemented in accordance with the approved implementation programme. Any trees or plants which die, are removed or become seriously damaged, or diseased within a period of five years from the completion of the development shall be replaced in the next planting season with others of a similar size and species.

Reason: To ensure that the approved landscaping scheme is implemented and that appropriate measures are put in place to ensure that new trees are suitably irrigated until they become established and in order to enhance the appearance of the development and in the interests of amenity and privacy.

Condition 18

The development shall be carried out in accordance with the Arboricultural Impact Assessment (AIA) (prepared by Moore Partners Ltd dated September 2022) and Tree Survey Plan (drawing HGN/JCR/01rev A)

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

and hedges.

Condition 19

All removal of trees, hedgerows, shrubs, scrub or tall herbaceous vegetation shall be undertaken between September and February inclusive. If this is not reasonably practicable then a suitably qualified ecologist shall check the areas concerned immediately prior to the clearance works to ensure that no nesting or nest-building birds are present. If any nesting birds are present then the vegetation shall not be removed until the fledglings have left the nest.

Reason: All wild birds, their nests and young are protected during the nesting period under The Wildlife and Countryside Act 1981 (as amended).

Condition 20

The scheme of landscaping indicated upon the approved plans, shall be carried out during the first available planting season after the commencement of the development. Any trees or plants which die, are removed or become seriously damaged, or diseased within a period of five years from the completion of the development shall be replaced in the next planting season with others of a similar size and species.

Reason: To enhance the appearance of the development and in the interests of amenity and privacy.

Condition 21

The development hereby permitted shall be carried out in accordance with the approved the Surface Water Drainage Strategy (prepared by D.J Barton Associates dated November 2022). The scheme shall include:

- Limiting discharge rates to 1 litre / second for all storm events up to an including the 1 in 100 year plus 40% allowance for climate change storm event.
- Permeable paving being primary source of treatment for both driveway and roof run off.
- Provision of underground geocellular units.
- Installation of a hydrobrake flow control installed in last manhole prior to discharging to the existing surface water manhole.

The mitigation measures shall be fully implemented prior to occupation of the development.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

Condition 22

The development hereby permitted shall be carried out in accordance with the approved Maintenance Management Strategy (prepared by D.J Barton Associates dated November 2022). Details of long term funding arrangements for maintenance company shall be submitted to and agreed in writing by the Local Planning Authority prior to works commencing.

Reason: To ensure appropriate maintenance arrangements to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

Condition 23

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

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

Condition 24

No development shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall subsequently be implemented as approved and thereafter retained in the approved form.

Reason: To prevent flooding off site by ensuring the satisfactory storage of/disposal of surface water from the site during construction works and in the interests of preventing pollution during construction works.

Informative(s)

Informative 1

This development will result in the need for a new postal address. Applicants should apply to the Street Naming & Numbering Officer using the application form which can be found at www.braintree.gov.uk/streetnaming. Enquiries can also be made by emailing streetnaming@braintree.gov.uk.

Informative 2

Sprinkler System - There is clear evidence that the installation of Automatic Water Suppression Systems (AWSS) can be effective in the rapid suppression of fires. Essex County Fire & Rescue Service (ECFRS) therefore uses every occasion to urge building owners and developers to consider the installation of AWSS. ECFRS are ideally placed to promote a better understanding of how fire protection measures can reduce the risk to life, business continuity and limit the impact of fire on the environment and to the local economy.

Informative 3

The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath 53 Braintree and Bocking shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way. The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall

be permitted to commence until such time as they have been fully agreed with this Authority. In the interests of highway user safety this may involve the applicant requesting a temporary closure of the definitive route using powers included in the aforementioned Act. All costs associated with this shall be borne by the applicant and any damage caused to the route shall be rectified by the applicant within the timescale of the closure. All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org.

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP3	Spatial Strategy for North Essex
SP4	Meeting Housing Needs
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP16	Housing Provision and Delivery
LPP35	Housing Mix, Density and Accessibility
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP46	Broadband
LPP47	Built and Historic Environment
LPP52	Layout and Design of Development
LPP63	Natural Environment and Green Infrastructure
LPP64	Protected Sites
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP67	Landscape Character and Features
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP71	Climate Change
LPP72	Resource Efficiency, Energy Generation and Energy Efficiency
LPP74	Flooding Risk and Surface Water Drainage
LPP76	Sustainable Urban Drainage Systems
LPP77	External Lighting

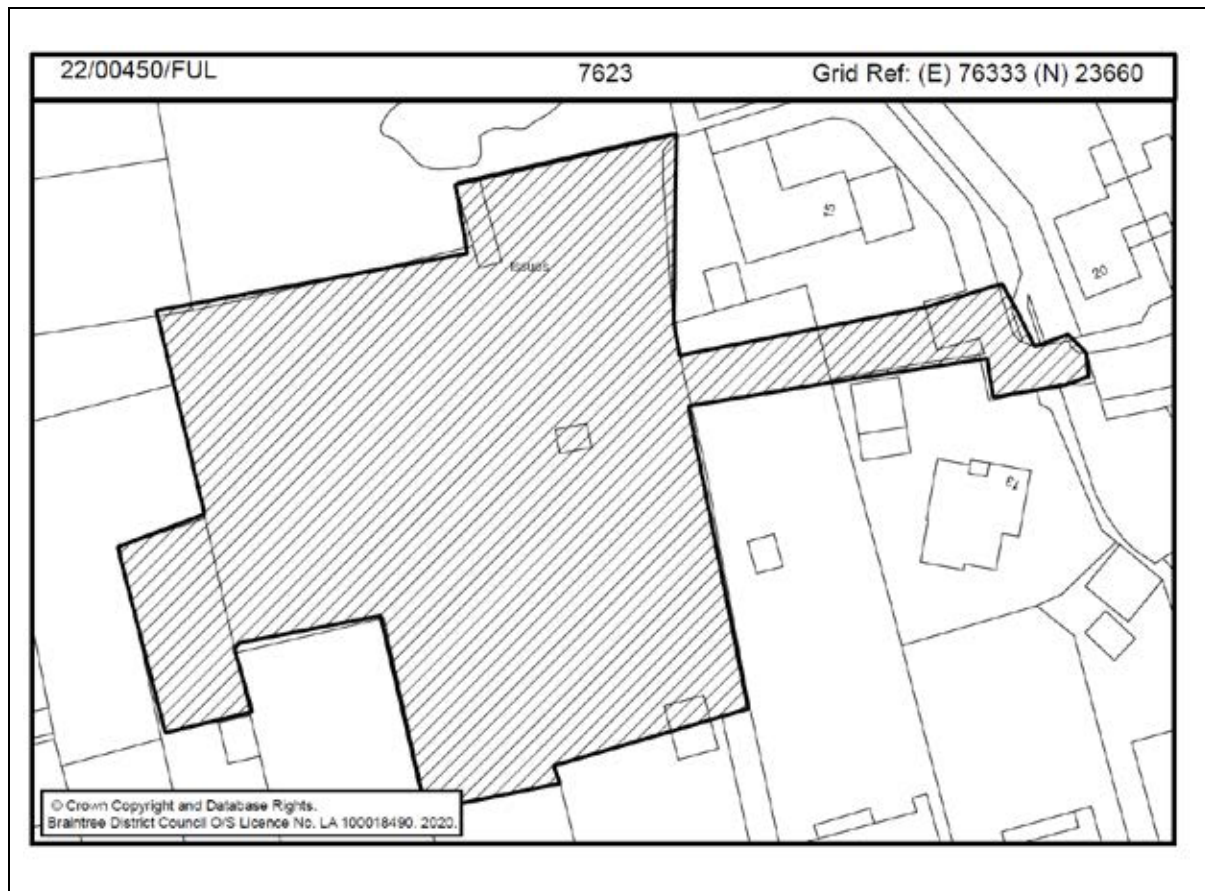
APPENDIX 3:

SITE HISTORY

Application No:	Description:	Decision:	Date:
16/00345/TPO	Notice of intent to carry out works to a tree protected by Tree Preservation Order 39/01 - Cut back branches from an Oak at roof level and close to side of dwelling at 15 Beaufort Gardens by approx 3 metres (subject to suitable cutting points and safe working) remove dead wood as identified from ground and as found	Granted	04.01.17
17/00870/FUL	Demolition of existing bungalow and erection of 4no. two storey detached dwellings, associated garages, private drive and access	Refused	11.09.17

Report to: Planning Committee		
Planning Committee Date: 13th December 2022		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	22/00450/FUL	
Description:	Construction of 3 No. bungalows within the residential garden and new access off Beaufort Gardens.	
Location:	31A Julien Court Road Braintree Essex	
Applicant:	Clara Developments Limited, Paul Hopkins, 18 Oaklea Avenue, Chelmsford, CM2 6BY	
Agent:	HGN Design Limited, Mr Steven Higgon, 6 Proctor Way, Marks Tey, Colchester, CO6 1XE	
Date Valid:	1st March 2022	
Recommendation:	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.	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Reason(s) for Refusal Submitted Plan(s) / Document(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
Case Officer:	Juliet Kirkaldy For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2558, or by e-mail: juliet.kirkaldy@braintree.gov.uk	

Application Site Location:



Purpose of the Report:	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.
Financial Implications:	<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>
Legal Implications:	<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 & 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>
Other Implications:	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.
Equality and Diversity Implications	<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"> a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act; b) Advance equality of opportunity between people who share a protected characteristic and those who do not; c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting

	<p>understanding.</p> <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
Background Papers:	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 22/00450/FUL.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan 2013 - 2033 § Neighbourhood Plan (if applicable) § Supplementary Planning Documents (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1 The application site is situated within the development boundary for Braintree. It currently forms part of a large garden for 31A Julien Court Road. 33 Julien Court Road is a Grade II listed property which abuts the southern boundary of the site. There are 2 large oak trees within the site one of which is protected by a Tree Preservation Order. Access into the site is proposed from between 15 and 12 Beaufort Gardens.
- 1.2 Planning permission had previously been refused on the site (Application Reference 17/00870/FUL) for, *'demolition of existing bungalow and erection of 4 no two storey detached dwellings, associated garages, private drive and access'*. Access for this refused scheme was proposed from Julien Court Road. The reasons for refusal related to the cramped form of development, adverse impact upon the setting of the listed building, the poor relationship with the oak trees, and insufficient information to demonstrate that access can be achieved to/from the site.
- 1.3 The application proposes the erection of 3 detached single storey dwellings with attached garages, associated car parking and amenity space. A new access is proposed to be created between 13 and 15 Beaufort Gardens with a turning head within the site. The proposed scheme also proposes an area of landscaping and ecological gain to the north east of the site. The proposed scale, layout, and appearance of the dwellings is considered acceptable and in harmony with the character and appearance of the surrounding area.
- 1.4 The site is located within a sustainable location with access to alternative sustainable modes of travel.
- 1.5 The proposal would not have a detrimental impact on the setting of the Grade II listed building at 33 Julien Court Road.
- 1.6 The proposed vehicular access from Beaufort Gardens crosses over a Public Right of Way (footpath 53). There are 2 x 450mm wide rumble strips proposed either side of the Public Right of Way as a traffic calming measure.
- 1.7 The proposal requires the removal of 10 trees that have been given a 'C' rating, 4 trees that have been given a 'B' rating and 3 others to be removed that have been given a 'U' rating. It is considered that any adverse impact in relation to removal of lower quality trees can be mitigated through new planting and additional landscaping.
- 1.8 When considering the planning balance and having regard to the adverse impacts and benefits outlined above, Officers have concluded that the adverse impacts of granting permission do not significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. Consequently, it is recommended that planning permission is granted for the proposed development.

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.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 The site is situated within the defined development boundary for Braintree. It currently forms part of a large garden for 31A Julien Court Road and abuts the gardens of 8 residential properties on the boundary. 33 Julien Court Road is a Grade II listed property which abuts the southern boundary of the site. The site slopes significantly in a northerly direction. There are 2 large oak trees in the site one (to north east of the site) of which is protected by a Tree Preservation Order. Access into the site is proposed to the east, from Beaufort Gardens between 15 and 12 Beaufort Gardens. The site measures 0.34ha.

- 5.2 Planning permission has previously been refused on the site (Application Reference 17/00870/FUL) for a similar character of development, 'demolition of existing bungalow and erection of 4 no two storey detached dwellings, associated garages, private drive and access'. Access for this refused scheme was proposed from Julien Court Road. The reasons for refusal of the application were as follows:

1. *The proposal would result in inappropriate backland development. The siting, layout, design and bulk form of the proposal would result in a cramped form of development that is harmful to both the character and appearance of the locality and the amenity of neighbouring dwellings. The proposal would have an adverse impact upon the setting of the listed building, reducing the openness/spaciousness currently evident and diminishing the setting of listed building through the proposed access road in close proximity. The proposal is contrary to the NPPF, Core Strategy policies CS8, CS9 and policies RLP 3, RLP 9, RLP 10, RLP 90, RLP 100 of the Braintree District Local Plan Review 2005.*
2. *The relationship between the proposed dwellings and the existing mature oak trees is poor and is likely to adversely impact upon the amenity of future occupants. In addition it would likely result in pressure*

to reduce or the loss of the trees in the future contrary to the NPPF and RLP 80 of the Braintree District Local Plan Review 2005.

3. *Insufficient information has been provided to demonstrate that access can be achieved to/from the site, given that this part of Julian Court Road is privately owned. The proposal is therefore contrary to the NPPF, RLP3 and RLP90 of the Local Plan Review.*

6. PROPOSAL

- 6.1 The application proposes the erection of 3 detached single storey dwellings with attached garages, associated car parking and amenity space. A new access is proposed to be created between 13 and 15 Beaufort Gardens with a turning head within the site. The proposed scheme also proposes an area of landscaping and ecological gain to the north east of the site.

7. SUMMARY OF CONSULTATION RESPONSES

7.1 Essex Fire and Rescue

- 7.1.1 No objection subject to being in accordance with Building Regulations.

7.2 Ramblers

- 7.2.1 The following comments were made:

- A revised site plan is required to be submitted to show the position and route of Public Footpath 53.
- Safe pedestrian access should be provided between north - south Public Footpath 53 and the Public Footways at the west end of Beaufort Gardens.

7.3 BDC Ecology Officer

- 7.3.1 No objection subject to conditions relating to financial contribution towards visitor management measures for the Blackwater Estuary SPA/Ramsar Site, Essex Estuaries SAC and ecological enhancement measures.

7.4 BDC Landscape Services

- 7.4.1 Initially submitted a holding objection requesting that the turning head is relocated to the south of site in order to mitigate future issues regarding vegetation and branches in area of T22 (Cat A Oak tree). Also requested that a planting and landscaping scheme be submitted for consideration as mitigation planting for the loss of numerous trees.

- 7.4.2 The Applicant submitted amended plans and detail to address these concerns raised. The Landscape Officer was re-consulted and stated that the encroachment into the root protection area for T22 had been reduced significantly due to the repositioned turning head. The planting and

landscaping plan indicates planting and various areas of grass, along with an area for ecology and biodiversity net gain. Use of only Silver Birch trees and Beech hedging to mitigate loss, has the feeling of missing an opportunity to expand upon the variety of the areas tree scape but it is appreciated that there is a limited amount of space to allow for experimentation of specimen planting within the development site. No further objections were raised.

7.5 ECC Archaeology Consultant

7.5.1 No objection subject to conditions relating to a programme of archaeological investigation.

7.6 ECC Highway Authority

7.6.1 No objection subject to conditions relating to submission of a Construction Management Plan, detail relating to traffic calming/management where Public Right of Way Footpath 53 crosses Beaufort Gardens and the submission of a Residential Travel Information Pack. Informatives proposed to be imposed relating to the Public Right of Way.

7.7 ECC Historic Buildings Consultant

7.7.1 Initially submitted an objection raising concern that the proposal would have a detrimental impact on the setting of the Grade II listed Thorpe Lodge (33 Julien Court Road) resulting in less than substantial harm to its significance. A further representation was received from the Historic Buildings Consultant stating that a reduced number of dwellings would enable a greater sense of amenity and gardens to retain the sense of space within the setting of listed building. The Historic Buildings Consultant also requested detail relating to a dilapidated structure within the site. The Applicant reduced and amended the scheme to address heritage concerns and provided further detail on the dilapidated structure.

7.7.2 The Historic Buildings Consultant has raised no objection to the revised scheme subject to conditions relating to materials, landscaping and boundary treatments.

7.8 ECC Lead Local Flood Authority - SUDs

7.8.1 Initially submitted a holding objection requesting a high level drainage strategy be submitted for consideration. Also raised concern regarding a gravel driveway. The Applicant submitted further information to address these concerns. The LLFA were re-consulted and raised a further holding objection based on the following:

- Discharge rates should be limited to the greenfield 1 in 1 year rate or 1l/s, whichever is the greater. Therefore, the current discharge rate needs to be reduced;

- Small sites should minimise the areas of hardstanding, where hard surfaces are necessary unlined permeable paving should be used. The superseded site plan specified 'permeable block paving' was to be used and yet the updated plan says 'block paving'. Clarification is needed as to whether permeable paving will be used;
- All areas of the site should receive sufficient water treatment. Permeable paving would provide sufficient treatment for the site and thus confirmation is needed regarding its inclusion;
- Half drain time has not been included within the hydraulic calculations;
- Exceedance flows should be considered to ensure potential off site flooding is managed;
- Maintenance Management Plan is required.

7.8.2 The Applicant provided the additional information requested to address the concerns. The LLFA were re-consulted and raised no objection.

8. PARISH / TOWN COUNCIL

8.1 N/A

9. REPRESENTATIONS

9.1 A site notice was displayed adjacent to the site for a 21-day period and immediate neighbours were notified and re-consulted on revised plans. 27 representations have been received (including re-consultation) objecting to the proposal. In summary the following comments have been made:

Highway Issues

- Concern regarding traffic and sight lines/blind spots;
- Concern regarding construction traffic/access;
- Access road is too narrow;
- Conflict with Public Right of Way and pedestrian safety;
- Lack of visitor car parking;
- Insufficient off road parking;
- Concern regarding access for emergency vehicles;
- Concern regarding future maintenance of site road.

Flooding Issues

- Concerns regarding drainage and flooding;
- Flooding already occurs at Beaufort Gardens;
- There appears to be no SUDs;
- There is a natural spring within the site;
- Concern regarding impact on ditch between 31 and 31a Julien Court Road.

Design and Layout Issues

- Inappropriate back land development;

- Loss of greenspace;
- Concern regarding private bin collection;
- Increased noise;
- Detrimental impact on outlook;
- Increase of head lights at night into my property;
- Cramped development;
- Concern regarding impact on setting of Listed Building;
- Impact of vibration during construction.

Trees and Wildlife Issues

- Loss of trees;
- No biodiversity report has been provided;
- Concern regarding impact on wildlife;
- Concern regarding threat to Oak trees.

10. PRINCIPLE OF DEVELOPMENT

10.1 National Planning Policy Framework (NPPF)

- 10.1.1 As set out in Paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF explains that achieving sustainable development means that the planning system has three overarching objectives: economic; social; and environmental; which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).
- 10.1.2 Paragraph 9 of the NPPF outlines that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. In addition, paragraph 38 of the NPPF prescribes that local planning authorities should approach decisions on proposed development in a positive and creative way and that decision makers at every level should seek to approve applications for sustainable development where possible.
- 10.1.3 Paragraph 12 of the NPPF sets out that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. In addition, paragraph 47 of the NPPF states that planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 10.1.4 The NPPF underlines the Government's objective of significantly boosting the supply of homes. In this regard, Paragraph 60 of the NPPF highlights the importance of ensuring that there is a sufficient amount and variety of land that can come forward where it is needed, that specific housing requirements are met, and that land with permission is developed without unnecessary delay. Paragraph 74 of the NPPF outlines that local planning

authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against (in the case of Braintree District) our 'local housing need' plus the relevant buffer.

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

10.2 5 Year Housing Land Supply

- 10.2.1 The Council has an up-to-date Local Plan which has an approved minimum housing target of 716 new homes per year in the District between 2013 and 2033.
- 10.2.2 To this annual supply the Council must add the backlog which it has not delivered at that level since the start of the Plan period. This figure is recalculated each year and as of April 2022 stands at 1,169 across the 5 Year Housing Land Supply.
- 10.2.3 The Council must also apply a buffer to the housing land supply based on the results of the Housing Delivery Test. In the latest results published on the 14th January 2022, the Council had delivered 125% of the homes required. This means that the Council is required to apply the lowest level of buffer at 5%.
- 10.2.4 Taking the above into account, the Council's latest 5 Year Housing Land Supply position for 2022-2027 shows a supply of 4.86 years. This position is marginal and with a number of strategic sites starting to deliver homes alongside other permissions, that situation is likely to change.
- 10.2.5 Nevertheless, as the Council cannot demonstrate the required 5 Year Housing Land Supply, the 'tilted balance' pursuant to Paragraph 11d) of the NPPF is engaged. It also means that the most important Development Plan policies relevant to the provision of housing are out-of-date. However, this does not mean that Development Plan policies should be completely disregarded. It is for the decision-maker to determine the weight to be attributed to the conflict with those policies.

10.3 The Development Plan

- 10.3.1 Currently the Council's statutory Development Plan consists of the Adopted Local Plan 2013-2033 (July 2022).
- 10.3.2 Policy LPP1 of the Adopted Local Plan states, '*within development boundaries, development will be permitted where it satisfies amenity,*

design, environmental and highway criteria and where it can take place without material adverse detriment to the existing character and historic interest of the settlement’.

- 10.3.3 Policy LPP35 of the Adopted Local Plan states, *‘density and massing of residential development will be well related to all of the following criteria: the character of the site and its immediate surroundings, adequacy of the access, existing vegetation including trees onsite, onsite amenity space to accord with standards and appropriate standard of residential accommodation for the occupants’.*
- 10.3.4 Policy SP1 of the Adopted Local Plan states, *‘when considering development proposals the Local Planning Authorities will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. They will always work pro-actively with applicants to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Development that complies with the Plan will be approved without delay, unless material considerations indicate otherwise’.*
- 10.3.5 The site is situated within the defined development boundary. The principle of development is therefore accepted subject to accordance with the criterion of the above policies and all other relevant material planning considerations. This is assessed below.

11. SITE ASSESSMENT

11.1 Location and Access to Services and Facilities

- 11.1.1 Where concerning the promotion of sustainable transport, the NPPF in Paragraph 105 states that the planning system should actively manage patterns of growth; and that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions and improve air quality and public health.
- 11.1.2 Policy SP7 of the Adopted Local Plan seeks to provide development in, *‘well connected places that prioritise the needs of pedestrians, cyclists and public transport services above the use of the private car’.*
- 11.1.3 The site is situated approximately 1 mile (according to Google Maps) from the town centre of Braintree where there is a range of services and facilities available. This is within a reasonable walking/cycling distance. There is a primary school within 0.3 miles of the site. There are bus stops situated along Marlborough Road (number 30) within walking distance which provide connections to the railway station, supermarkets and schools.

- 11.1.4 The site is located within a sustainable location with access to alternative modes of travel which would reduce the reliance on the private vehicle to access services and facilities.
- 11.1.5 The proposal accords with the NPPF and Policy SP7 of the Adopted Local Plan.
- 11.2 Design, Appearance and Impact upon the Character and Appearance of the Area
- 11.2.1 Paragraph 126 of the NPPF highlights that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable developments, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 130 of the NPPF states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.
- 11.2.2 Policy SP7 of the Adopted Local Plan states that all new developments must meet high standards of urban and architectural design and provides a number of place shaping principles.
- 11.2.3 Policy LPP52 of the Adopted Local Plan seeks a high standard of design and layout in all new development stating, *'the scale, layout, height and massing of buildings and overall elevation design should reflect or enhance local distinctiveness and shall be in harmony with the character and appearance of the surrounding area'*.
- 11.2.4 During the course of the application, revised plans have been submitted reducing the scheme from 4 to 3 dwellings. The application proposes 3 single storey detached dwellings with attached garages, associated access and landscaping. Access is proposed between 13 and 15 Beaufort Gardens to serve the proposed dwelling with a size 3 turning head. In the previously refused scheme (Application Reference 17/00870/FUL) access was proposed off Julien Court Road.
- 11.2.5 Given the site levels within the site, Plot 1 would be situated at a lower level than Plots 2 and 3. A site section drawing (9168.006A) has been submitted with the application which illustrates the site levels evident within the site and the relationship with Julien Court Road.
- 11.2.6 The proposed floor space for Plots 1 and 2 are 128sq.m and for Plot 3 135sq.m (2/3 bedrooms) which exceed the Nationally Described Space Standards and therefore accords with Policy LPP35 of the Adopted Local Plan which states, *'all new development should be in accordance with the national technical housing standards'*.
- 11.2.7 The proposed dwellings have a 'T' shaped footprint with two bedrooms and a further bedroom/study/dining room. There is an open plan living

room/kitchen proposed. For Plots 1 and 2 a single attached garage is proposed, and for Plots 3 a double garage is proposed. The submitted Block Plan proposes electric vehicle charging within the garages. There is an area of amenity space proposed to the front of the plots with a low picket fence to the front of Plot 2 and a new beech hedge proposed to be planted along the frontage of Plot 3. 1.8-metre-high close boarded fencing is proposed to separate the rear gardens and boundaries of the site.

- 11.2.8 Plot 1 and 2 are situated to the west of the site with Plot 2 set back slightly from the building line with Plot 1 to the north. The proposed floor plan for each is identical albeit the orientation of the dwelling differs. The proposed dwelling for Plot 1 is situated 11.6 metres from the rear boundary and 2.3 metres from the northern boundary of the site. The proposed dwelling for Plot 2 is situated approximately 2.3 metres from the dwelling for Plot 1 and approximately 17.4 metres from the rear boundary. Plot 3 is situated in the southern part of the site with the proposed dwelling approximately 7.8 metres from the rear boundary and approximately 16 metres from the eastern boundary of the site.
- 11.2.9 The submitted elevations propose the dwellings to have a modest unassuming appearance. A natural slate roof finish is proposed, with a predominately brick exterior. The elevation with the front door is proposed to be rendered. The proposed dwellings have a height to the ridge of 6 metres and 2.2 metres to the eaves.
- 11.2.10 The eastern part of the site (to the front of Plot 1) is proposed as an area of landscaping providing an area of ecological and biodiversity net gain. There is an existing pond which is proposed to be retained adjacent to this area.
- 11.2.11 The Essex Design Guide 2005 refers to a minimum of 100sq.m of amenity for 3-bedroom dwellings. The submitted Block plan proposes 218sq.m of amenity space for Plot 1, 355sq.m of amenity space for Plot 2 and 480sq.m of amenity space for Plot 3. It further illustrates that adequate amenity space (207sq.m) is retained for 31a Julian Court Road. The scheme provides adequate amenity space to accord with the standard.
- 11.2.12 The proposed scale, layout, and appearance of the dwellings is considered acceptable and in harmony with the character and appearance of the surrounding area. The proposal accords with Policies LPP52 and SP7 of the Adopted Local Plan.

11.3 Heritage

- 11.3.1 The NPPF states in Paragraph 206 that Local Planning Authorities should look for opportunities for new developments within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or better reveal its significance) should be treated favourably. Paragraph 189 of the NPPF states that '*Local Planning Authorities should*

require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting’.

- 11.3.2 Policy LPP47 of the Adopted Local Plan states that the ‘*Council will promote and secure a high standard of design and layout in all new development and the protection and enhancement of the historic environment where development may affect the setting of listed buildings’.*
- 11.3.3 The site is situated within the setting of Grade II listed Thorpe Lodge, 33 Julien Court Road located to the south of the site. The Design and Access Statement includes a Section (12) on the setting of the heritage asset.
- 11.3.4 The Historic Buildings Consultant has been consulted on the application and stated that, ‘*historically the farmhouse would have been surrounded by an open landscape of agricultural fields. This openness has been progressively lost through the centuries with the expansion of Braintree. The Listed building is now set within modern suburban development but with the open area of playing fields to the south and the undeveloped site to the rear or north with its mature trees. This still provides the Listed building with a sense of separation from the adjacent urban settlement’.*
- 11.3.5 The Historic Buildings Consultant initially raised concern that the proposed development would have a detrimental impact on the setting of the Grade II listed Thorpe Lodge resulting in less than substantial harm to its significance. During the course of the application, revised plans have been submitted reducing the scheme from 4 to 3 dwellings. The Historic Buildings Consultant sought further clarification regarding the derelict outbuilding situated on the boundary between the Listed Building and the site. The Applicant provided further information in response to this. The Historic Buildings Consultant concluded that, ‘*the screening and trees between the Listed building and site are substantial. The number of dwellings proposed has been reduced from 4 to 3 this is sufficient to effectively reduce the density of development at the site’.*
- 11.3.6 The Historic Buildings Consultant also indicated that although the dilapidated outbuilding does not have a heritage value of its own and it does not directly contribute to the significance of the Listed buildings setting, it is directly on the curtilage. Its reconstruction would ‘preserve or enhance the setting’ to accord with the NPPF guidance. The Applicants submitted a letter dated 4th August 2022 indicating they are proposing to remove the structure on safety grounds and not to replace it. However, they indicated that if the Historic Buildings Consultant, ‘*deemed it essential to rebuild the dilapidated shed on the development side then this can be carried out as part of the approved development’.* During the Officer site visit it was noted that the dilapidated structure straddles the site and there is an existing outbuilding on the adjoining site (within the plot of Listed building). Officers do not consider it reasonable to insist on the rebuilding of the dilapidated structure as it does not directly contribute to the significance of the Listed Buildings setting.

- 11.3.7 The submitted site section drawing illustrates that the ridge height of the nearest proposed dwelling at Plot 3 would be significantly lower level than the Listed dwelling therefore reducing the impact and harm on the setting particularly when viewed from Julien Court Road. The existing dense landscape boundary between the listed building and site is proposed to be retained further reducing the impact.
- 11.3.8 The proposal is therefore considered to accord with Policy LPP47 of the Adopted Local Plan and the NPPF.
- 11.4 Archaeology
- 11.4.1 Paragraph 205 of the NPPF requires developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible.
- 11.4.2 Policy LPP59 of the Adopted Local Plan states, *'Where archaeological potential is identified but there is no overriding case for any remains to be preserved in situ, development which would destroy or disturb potential remains will be permitted, subject to conditions ensuring an appropriate programme of archaeological investigation, recording, reporting and archiving, prior to development commencing. There will be a requirement to make the result of these investigations publicly accessible'*.
- 11.4.3 The Archaeology Consultant has stated that, *'the proposed development lies east of the main Roman road leading from the small Roman town at Braintree and west of known Roman settlement activity centred around Marlborough Road. The development site lies on the slopes above the valley of the Blackwater where prehistoric implements have been recovered and in a location which would have been favourable for prehistoric activity. The site borders the property known as Thorpe Lodge, a mid 17th century listed building formerly known as Hanging Hill Farmhouse. There is potential for further Roman activity and prehistoric evidence to survive which will be impacted upon by the proposed development.'*
- 11.4.4 A condition is proposed to be imposed requiring a programme of archaeological investigation.
- 11.4.5 The proposal would therefore accord with the NPPF and Policy LPP59 of the Adopted Local Plan.
- 11.5 Ecology
- 11.5.1 Policy LPP64 of the Adopted Local Plan states that, *'where there is a confirmed presence or reasonable likelihood of protected species or priority species being present on or immediately adjacent to a development site, the developer will be required to undertake an ecological survey and will be required to demonstrate an adequate mitigation plan is in place to ensure no harm to protected species and no net loss of priority species'*.

- 11.5.2 Policy LPP63 of the Adopted Local Plan seeks to ensure that development proposals take available measures to ensure the protection and enhancement of the natural environment, habitats, biodiversity and geodiversity of the District to be acceptable, also taking climate change and water scarcity into account in their design.
- 11.5.3 An Ecological Appraisal (prepared by Adonis Ecology Ltd dated February 2022) has been submitted as supporting documentation with the application.
- 11.5.4 The report has been reviewed by the Council Ecology Officer who has confirmed they are satisfied that sufficient ecological information has been provided for determination of the application. This provides certainty for the Local Planning Authority of the likely impacts on designated sites, protected and priority species and habitats and with appropriate mitigation measures secured the development can be acceptable.
- 11.5.5 The Ecology Officer has raised no objection to the proposal subject to the mitigation measures identified in the appraisal being secured through condition and implemented in full. The mitigation measures include installation of bat boxes, bird nesting boxes, bee/insect boxes, and hedgehog friendly fencing.
- 11.5.6 The Ecological Appraisal concludes that the proposal would have a low risk of indirect impact to likely low numbers of foraging and or/commuting bats and bats roosting in retained trees, from additional lighting. Very low risk of impact to badgers, hedgehogs and common toads during site clearance and ground works. There is a high risk of impact to nesting birds in trees, hedgerows and shrubs if site clearance works are undertaken between March and August. The appraisal further concludes there to be a low risk of impact to the Bocking Blackwater Local Nature Reserve from pollution to the spring which runs through the proposed development site into the River Blackwater. With the impact avoidance measures implemented as proposed in the appraisal it was concluded that the development could proceed with minimal risk of impact to protected or Section 41 species or local biodiversity.
- 11.5.7 The proposal would accords with Policies LPP63 and LPP64 of the Adopted Local Plan.
- 11.6 Impact upon Neighbouring Residential Amenity
- 11.6.1 The National Planning Policy Framework sets out that decisions should seek to ensure a high-quality amenity for all current and future occupiers of dwelling-houses. Policy LPP52 of the Adopted Local Plan states that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties. Unacceptable impacts are considered as any factors that can carry the potential to degrade the enjoyment of neighbouring properties in terms of overlooking,

overshadowing, loss of light or loss of privacy. The National Planning Policy Framework also seeks a high-quality amenity for existing and future occupiers of neighbouring dwellings.

11.6.2 Given the sites position it straddles a boundary with 8 neighbouring residential properties. However, as the proposed development is for single storey dwellings it is not considered that the proposal would have a detrimental impact in terms of overlooking, overshadowing, loss of light or loss of privacy. Furthermore, there is adequate distance between the dwellings of the neighbouring properties and the site to ensure there is no detrimental impact for prospective occupiers.

11.6.3 The proposal accords with Policy LPP52 of the Adopted Local Plan and the NPPF.

11.7 Highway Considerations

11.7.1 Paragraph 109 of the NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residential residual cumulative impacts on the road network would be severe. Policy LPP43 of the Adopted Local Plan seeks to ensure sufficient vehicle/cycle parking is provided within new developments.

11.7.2 The submitted Block Plan proposes a new 5.5 metre wide vehicular access from Beaufort Gardens this crosses over a Public Right of Way (footpath 53). There are 2 x 450mm wide rumble strips proposed either side of the Public Right of Way as a traffic calming measure. One vehicular access point is proposed.

11.7.3 The Essex Design Guide 2005 states, that '*private drives are vehicular and pedestrian access ways not suitable for adoption as highways maintainable at public expense. They may give access to a maximum of five dwellings.*' The access road will not be subject to adoption by Essex County Council.

11.7.4 The Highway Authority have been consulted and raised no objection to the proposal subject to the submission of a construction management plan prior to commencement, implementation of traffic calming measures/ traffic features and implementation of a travel information pack. Informatives are also proposed relating to maintaining rights and ease of passage over the Public Right of Way.

11.7.5 In terms of parking, each dwelling will be provided with 2 on plot parking spaces (to include garage space) in accordance with the Adopted Vehicle Parking Standards. The dwellings will be provided with electric vehicle charge facilities (EVC), the provision of which will be secured via a planning condition.

11.7.6 The proposal accords with Policies LPP42 and LPP43 of the Adopted Local Plan.

11.8 Habitat Regulations Assessment (HRA / RAMS)

11.8.1 Policy SP2 of the Adopted Local Plan states, '*contributions will be secured from development towards mitigation measures in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy 2018-2038 (RAMS).*'

11.8.2 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.

11.8.3 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.

11.8.4 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.

11.8.5 The proposed mitigation measures would consist of the securing of a financial contribution of £137.31 per dwelling erected towards offsite visitor management measures at the above protected sites.

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

11.8.7 The proposal accords with SP2 of the Adopted Local Plan.

11.9 Refuse Collection

11.9.1 The Essex Design Guide 2005 states that, '*refuse collection will be made only from those dwellings within 25 metres of an adopted road*'.

11.9.2 The proposed residential properties are over 30 metres from an adopted road. This is an unreasonable distance for prospective occupiers to take their bins for collection.

11.9.3 The submitted Design and Access Statement states that, '*individual areas for refuse and recycling have been provided in each garden. A private refuse collection company will be employed with smaller vehicles than a standard refuse vehicle for collection of refuse and recycling*'.

- 11.9.4 As the Applicant is proposing that the collection of waste will be provided by a private contractor a condition is proposed to be imposed requiring a refuse management plan to be prepared and submitted to the Council for approval prior to occupation of the development. This is to ensure proper waste management to safeguard the living conditions of existing and future occupiers of the site and neighbouring occupiers and highway safety.

11.10 Trees/Landscaping

- 11.10.1 Policy LPP65 of the Adopted Local Plan states that, *'prominent trees which contribute to the character of the local landscape and are considered to have reasonable life expectancy will be protected by tree preservation orders particularly if they are considered to be under threat from removal. Trees which make a positive contribution to the character and appearance of their surroundings will be retained unless there is good Arboricultural reason for their removal for example they are considered to be dangerous or in poor condition. Similarly, alterations to trees such as pruning or crown lifting should not harm the tree or disfigure it'*.
- 11.10.2 An Arboricultural Report and Impact Assessment (prepared by Moore Partners Ltd dated February 2022) has been submitted as supporting documentation with the application. The Arboricultural Report states that, there will be 10 trees removed that have been given a 'C' rating, 4 trees to be removed that have been given a 'B' rating and 3 others to be removed that have been given a 'U' rating. It is proposed that the 2 'A' category Oak trees are to be retained. The report states that, *'Oak T7 would require a reduction on the new house side of 2 metres to facilitate the build. The second oak T22 would have a new road running over the root zone. This should be a no dig construction'*.
- 11.10.3 The Landscape Officer has reviewed the Landscaping Plan, Arboricultural Report and Impact Assessment. A concern was initially raised regarding the positioning of the proposed turning head and the encroachment into the root protection zone for T22 (Cat 'A' Oak tree). Revised plans have repositioned the turning head to the south of the site. The Landscape Officer stated that the proposed reductions to T7 (Cat 'A' Oak tree) is acceptable and the lifting of the lower canopy to T22 is also acceptable.
- 11.10.4 The Landscape Officer noted that most trees being removed are either category 'C' or 'U' and requested a Planting and Landscaping Plan be submitted with proposed planting and mitigation. The Applicants subsequently submitted a plan which has been reviewed by the Landscape Officer. The Landscape Officer commented that, *'the plan indicates planting and various areas of grass, along with an area for ecology and biodiversity net gain'*. It is noted in his response that the use of Silver Birch trees and Beech hedging to mitigate loss, *'has the feeling of missing an opportunity to expand upon the variety of the areas tree scape, but it is appreciated that there is a limited amount of space to allow for experimentation of specimen planting within the development site'*.

11.10.5 Conditions are proposed to be imposed relating to implementation of the planting and landscaping scheme and irrigation measures.

11.10.6 The proposal accords with Policy LPP65 of the Adopted Local Plan.

11.11 Flood Risk and Drainage

11.11.1 Policy LPP75 of the Adopted Local Plan states, *'The Council will require development to have regard to and contribute positively towards delivering the aims and objectives of the Braintree and Witham Surface Water Management Plan as updated. Developments located in Critical Drainage Areas (CDAs), Local Flood Risk Zones (LFRZs) and for redevelopments of more than one property or area greater than 0.1 hectare should seek betterment to a greenfield runoff rate. All developments in Critical Drainage Areas (excluding minor housing extensions less than 50m²) which relate to a net increase in impermeable area must include at least one 'at source' SUDs measure (e.g. water butt, permeable surface). This is to assist in reducing the peak volume of discharge from the site.'*

11.11.2 The site is situated within Flood Zone 1 (an area of low flood risk). There is a natural spring on the site. The Council Safeguarding maps have identified critical drainage areas outside of but adjacent to the site.

11.11.3 The Lead Local Flood Authority (LLFA) have reviewed the proposals and requested that a high level drainage strategy be submitted for consideration. The Applicants subsequently submitted a report (prepared by D.J Barton Associates dated November 2022). The LLFA were re-consulted on this report however, they submitted a holding objection requesting further detail to be provided including a maintenance management strategy. The Applicants provided this additional information and a maintenance management strategy. The LLFA reviewed the revisions and additional information provided and raised no objection.

12. PLANNING OBLIGATIONS

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

12.2 The size and scale of the proposed development does not trigger a requirement for planning obligations to be secured.

13. PLANNING BALANCE AND CONCLUSION

- 13.1.1 The presumption in favour of sustainable development sits at the heart of the NPPF. The Framework is clear in its instruction at Paragraph 11d, that for decision-taking this means where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in Paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years), granting permission unless:
- i. The application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 13.1.2 As the Council cannot currently demonstrate a 5 Year Housing Land Supply, the 'titled balance' pursuant to Paragraph 11d) of the NPPF is engaged. As a consequence, the most important Development Plan policies relevant to the provision of housing are currently out-of-date due to a lack of 5 Year Housing Land Supply. However this does not mean that Development Plan policies should be completely disregarded. It is for the decision-maker to determine the weight to be attributed to the conflict with those policies. In this regard it is considered that Policy LPP1 of the Adopted Local Plan, which seeks to restrict development outside defined development boundaries to uses appropriate to the countryside, can only be afforded moderate weight. Similarly, it is considered that Policy SP3, which sets out the spatial strategy for North Essex, can only be afforded less than significant, but more than moderate weight.
- 13.1.3 In this case, it is not considered that pursuant to Paragraph 11d) (i) that the application of policies in the Framework provide a clear reason for refusing the proposed development.
- 13.1.4 As such, pursuant to Paragraph 11d) (ii) it is necessary to consider whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposed development, when assessed against the policies in this Framework taken as a whole. Such an assessment must take account of the economic, social and environmental impact of the proposed development and these matters must be considered in the overall planning balance.
- 13.1.5 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 given to these factors are set out below:

Harm to Trees and Hedgerows

13.2.2 The proposal requires the removal of 10 trees that have been given a 'C' rating, 4 trees that have been given a 'B' rating and 3 others to be removed that have been given a 'U' rating. Although this removal does weigh against the proposal, it is considered that any adverse impact in relation to removal of lower quality trees can be mitigated through new planting and additional landscaping to be secured via a condition. Limited adverse harm is therefore attributed to this.

13.3 Summary of Public Benefits

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

The Development Plan

13.3.2 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".

13.3.3 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 defined development boundary where the principle of development is acceptable. The proposal therefore accords with Policy LPP1 of the Adopted Local Plan and this weighs in favour of the proposal in the overall planning balance in accordance with the presumption in favour of sustainable development.

Delivery of Market and Affordable Housing

- 13.3.4 The development would deliver 3 market dwellings. This benefit is afforded limited weight given the scale of the development.

Location and Access to Services and Facilities

- 13.3.5 The site is located within a sustainable location with access to alternative modes of travel which would reduce the reliance on the private vehicle to access services and facilities for prospective occupiers of the development. The proposal accords with Policy SP7 of the Adopted Local Plan. This benefit is afforded moderate weight given the scale of the development.

Economic and Social Benefits

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

13.4 Summary of Neutral Factors

- 13.4.1 There is no identified harm in terms of heritage assets and their settings, neighbouring residential amenity or ecological impacts. These are considered to be neutral factors in the planning balance.

13.5 Conclusion

- 13.5.1 Taking into account the above, while there are conflicts with the Development Plan which weigh against the proposal, it is considered that the proposal complies with the Development Plan when taken as a whole. Officers consider that there are no material considerations, that indicate that a decision should be made other than in accordance with the Development Plan. The Planning Balance is concluded below.

13.6 Planning Balance

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

14. RECOMMENDATION

- 14.1 It is RECOMMENDED that the following decision be made:
Application GRANTED for the reasons 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)

Plan Description	Plan Ref	Plan Version
Proposed Elevations and Floor Plans	9168.007	N/A
Proposed Site Plan	9168.003	L
Landscape Masterplan	9168-009	N/A
Existing Site Plan	9168 001	A
Arboricultural Report	N/A	A
Section	9168.006	A
Proposed Elevations and Floor Plans	9168.008	A
Tree Plan	N/A	A
Management plan	Drainage System Maintenance Plan	2402E

Condition(s) & Reason(s)

Condition 1

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

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

Condition 2

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

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

Condition 3

A) No development, including any preliminary groundworks or demolition, shall commence until a Written Scheme of Investigation (WSI), which shall include details for a programme of archaeological investigation, has been submitted to and approved in writing by the Local Planning Authority.

B) No development, including any preliminary groundworks or demolition, shall commence until the approved WSI as required by this permission has been fully implemented and a report of the findings including any mitigation strategy and/or preservation strategy has been submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved mitigation strategy and / or preservation strategy.

C) Within six months of the completion of the fieldwork in connection with the WSI a post excavation assessment of the findings shall be submitted to an appropriate

depository and the Local Planning Authority shall be notified in writing. This will result in the completion of post excavation analysis, preparation of a full site archive and report, and publication report.

Reason: To enable full investigation and recording of this site of archaeological importance. The details are required prior to the commencement of development to ensure that the site is appropriately recorded prior to loss of any details of archaeological significance.

Condition 4

Prior to the commencement of the development a Construction Management Plan shall be submitted to, and approved in writing by, the Local Planning Authority. The Plan shall provide for:

- I. Vehicle routing.
- II. The parking of vehicles of site operatives and visitors.
- III. Loading and unloading of plant and materials.
- IV. Storage of plant and materials used in constructing the development.
- V. Wheel and underbody washing facilities.
- VI. Before and after condition survey to identify defects to highway in the vicinity of the access to the site and where necessary ensure repairs are undertaken at the developer expense where caused by developer.

The approved plan shall be adhered to throughout the construction period.

Reason: In order to mitigate the impact of the development during the construction process in the interest of residential amenity, highway safety and the visual amenity of the locality.

Condition 5

Prior to the commencement of the development details shall be submitted to and approved in writing by the Local Planning Authority to show the provision of a traffic calming/traffic management feature where PROW Footpath 53 Bocking and Braintree crosses Beaufort Gardens. The development shall be carried out in accordance with the approved drawings.

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway to protect the PROW network and users in the interests of highway safety and in accordance with policies DM1 and DM11 of the Highway Authority's Development Management Policies February 2011.

Condition 6

Prior to commencement a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method

statements).

- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

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

Condition 7

No above ground development shall commence until samples of the materials to be used on the external finishes of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details and permanently retained as such.

Reason: To ensure that the development does not prejudice the appearance of the locality or setting of the Listed building.

Condition 8

Prior to the erection of any means of enclosure, details of all gates / fences / walls or other means of enclosure details shall be submitted to and approved in writing by the Local Planning Authority. The details shall include position, design, height and materials of the enclosures. The enclosures as approved shall be provided prior to the occupation of the relevant plot and shall be permanently retained as such.

Reason: In order to secure the satisfactory development of the site and in the interests of visual amenity, neighbouring residential amenity and the setting of the Listed Building.

Condition 9

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no enlargement of the dwellinghouse, as permitted by Class A of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the Local Planning Authority.

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

Condition 10

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no addition or alteration to the roof of a dwellinghouse, as permitted by Class B of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the Local Planning Authority.

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

Condition 11

The garages hereby permitted shall be used for the parking of motor vehicles, bicycles, and powered two wheelers associated with the dwelling.

Reason: To ensure adequate parking and garage space is provided within the site in accordance with the standards adopted by the Local Planning Authority.

Condition 12

A lighting design scheme to protect biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstance should any other external lighting be installed without prior consent from the local planning authority.

Reason: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species), as updated by the Environmental Act 2021.

Condition 13

No above ground development shall commence until an Electric Vehicle Charging Strategy to demonstrate the provision of at least one Electric Vehicle Charging point to every dwelling hereby permitted has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented for each dwelling prior to the occupation of that dwelling and thereafter retained.

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

Condition 14

No above ground development shall commence until a strategy to provide fastest available broadband access has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to occupation and thereafter retained.

Reason: To ensure that all new dwellings/commercial units are provided with appropriate internet connectivity that will improve commercial opportunities and facilitate working from home and improve residents' connections to essential online services and social networks.

Condition 15

Prior to occupation a Biodiversity Enhancement Layout, providing the finalised details and locations of the proposed biodiversity enhancements, as contained in the Preliminary Ecological Appraisal (Adonis Ecology Ltd, February 2022), shall be submitted to and approved in writing by the local planning authority. The enhancement measures shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To enhance Protected and Priority Species and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

Condition 16

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of the above Site Investigation Condition, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of the above Site Remediation Condition, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme, a verification report must be prepared and submitted to and approved in writing by the Local Planning Authority in accordance with the above Verification and Remediation Condition.

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

Condition 17

Prior to the implementation of the landscaping scheme hereby approved, a strategy for the watering and maintenance of the landscaping shall be submitted to and approved in writing by the Local Planning Authority. Once approved the watering and maintenance of the landscaping scheme shall be carried out in accordance with the approved details. The scheme of landscaping indicated upon the approved plan, shall be implemented in accordance with the approved implementation programme. Any trees or plants which die, are removed or become seriously damaged, or diseased within a period of five years from the completion of the development shall be replaced in the next planting season with others of a similar size and species.

Reason: To ensure that the approved landscaping scheme is implemented and that

appropriate measures are put in place to ensure that new trees are suitably irrigated until they become established and in order to enhance the appearance of the development and in the interests of amenity and privacy.

Condition 18

The development shall be carried out in accordance with the Arboricultural Impact Assessment (AIA) (prepared by Moore Partners Ltd dated September 2022) and Tree Survey Plan (drawing HGN/JCR/01rev A).

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

Condition 19

All removal of trees, hedgerows, shrubs, scrub or tall herbaceous vegetation shall be undertaken between September and February inclusive. If this is not reasonably practicable then a suitably qualified ecologist shall check the areas concerned immediately prior to the clearance works to ensure that no nesting or nest-building birds are present. If any nesting birds are present then the vegetation shall not be removed until the fledglings have left the nest.

Reason: All wild birds, their nests and young are protected during the nesting period under The Wildlife and Countryside Act 1981 (as amended).

Condition 20

The scheme of landscaping indicated upon the approved plans, shall be carried out during the first available planting season after the commencement of the development. Any trees or plants which die, are removed or become seriously damaged, or diseased within a period of five years from the completion of the development shall be replaced in the next planting season with others of a similar size and species.

Reason: To enhance the appearance of the development and in the interests of amenity and privacy.

Informative(s)

Informative 1

This development will result in the need for a new postal address. Applicants should apply to the Street Naming & Numbering Officer using the application form which can be found at www.braintree.gov.uk/streetnaming. Enquiries can also be made by emailing streetnaming@braintree.gov.uk.

Informative 2

Sprinkler System

There is clear evidence that the installation of Automatic Water Suppression Systems (AWSS) can be effective in the rapid suppression of fires. Essex County Fire & Rescue Service (ECFRS) therefore uses every occasion to urge building owners and developers to consider the installation of AWSS. ECFRS are ideally placed to promote a better understanding of how fire protection measures can reduce the risk

to life, business continuity and limit the impact of fire on the environment and to the local economy.

Informative 3

The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath 53 Braintree and Bocking shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way. The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority. In the interests of highway user safety this may involve the applicant requesting a temporary closure of the definitive route using powers included in the aforementioned Act. All costs associated with this shall be borne by the applicant and any damage caused to the route shall be rectified by the applicant within the timescale of the closure. All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org.

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP3	Spatial Strategy for North Essex
SP4	Meeting Housing Needs
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP16	Housing Provision and Delivery
LPP35	Housing Mix, Density and Accessibility
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP46	Broabband
LPP47	Built and Historic Environment
LPP52	Layout and Design of Development
LPP63	Natural Environment and Green Infrastructure
LPP64	Protected Sites
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP67	Landscape Character and Features
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP71	Climate Change
LPP72	Resource Efficiency, Energy Generation and Energy Efficiency
LPP74	Flooding Risk and Surface Water Drainage
LPP76	Sustainable Urban Drainage Systems
LPP77	External Lighting

Other Material Considerations

Car Parking Standards – Design and Good Practice (2009)
Essex Design Guide (2005)

APPENDIX 3:

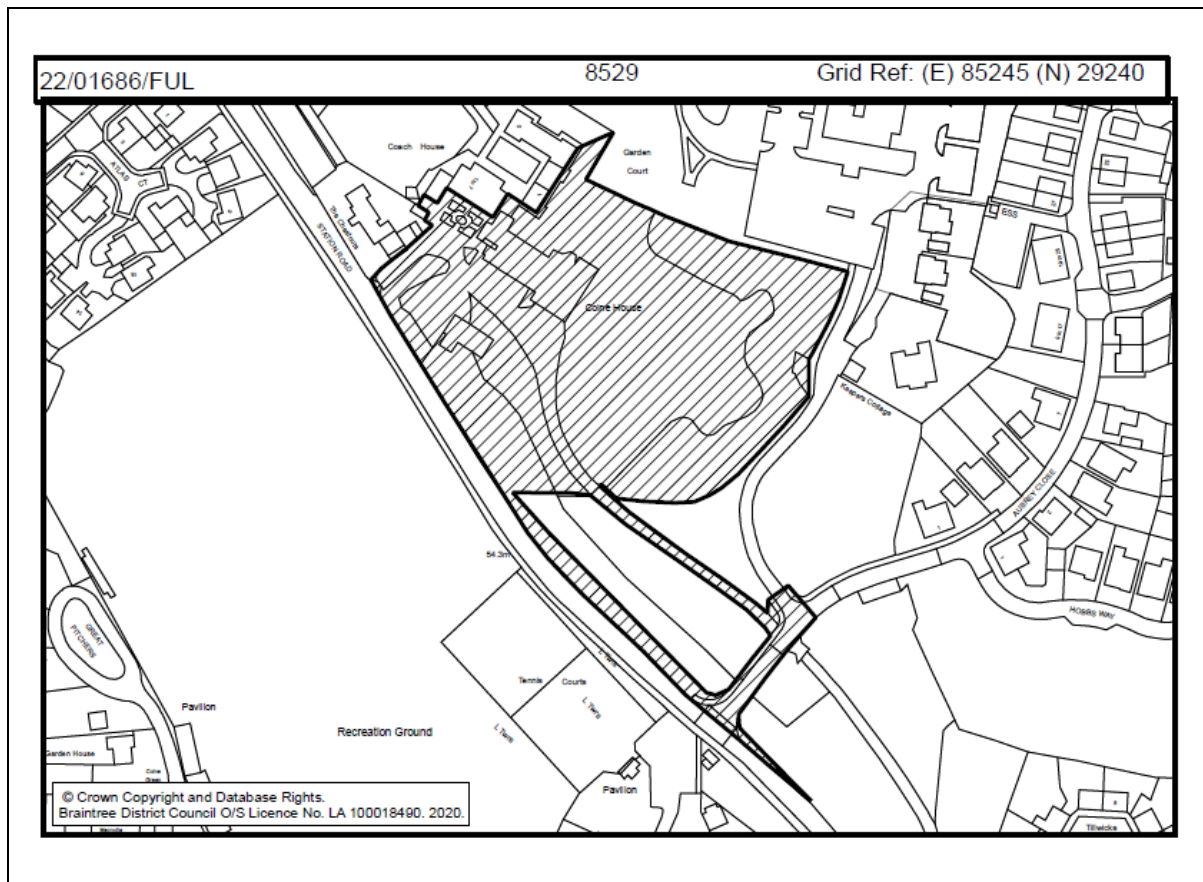
SITE HISTORY

Application No:	Description:	Decision:	Date:
16/00345/TPO	Notice of intent to carry out works to a tree protected by Tree Preservation Order 39/01 - Cut back branches from an Oak at roof level and close to side of dwelling at 15 Beaufort Gardens by approx 3 metres (subject to suitable cutting points and safe working) remove dead wood as identified from ground and as found	Granted	04.01.17
17/00870/FUL	Demolition of existing bungalow and erection of 4no. two storey detached dwellings, associated garages, private drive and access	Refused	11.09.17

Agenda Item: 5b

Report to: Planning Committee		
Planning Committee Date: 18th April 2023		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	22/01686/FUL	
Description:	Internal and external alterations to Colne House, demolition of existing 5 bed annex building, construction of two-storey extension with underground link to provide net 27 additional specialist care bedrooms with associated car parking, sustainable drainage and hard and soft landscaping enhancements.	
Location:	Colne House, Station Road, Earls Colne	
Applicant:	Kingsley Healthcare Ltd, C/O Agent, Trumpington Road, Cambridge, CB2 9LD	
Agent:	Miss Alice Maguire, Bidwells, Bidwell House, Trumpington Road, Cambridge, CB2 9LD	
Date Valid:	22nd June 2022	
Recommendation:	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.	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
Case Officer:	Kathryn Oelman For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2524, or by e-mail: kathryn.oelman@braintree.gov.uk	

Application Site Location:



Purpose of the Report:	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.
Financial Implications:	<p>The application has been 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>
Legal Implications:	<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 & 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>
Other Implications:	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.
Equality and Diversity Implications	<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"> a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act; b) Advance equality of opportunity between people who share a protected characteristic and those who do not; c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

	<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>
Background Papers:	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 22/01686/FUL.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan 2013 - 2033 § Neighbourhood Plan (if applicable) § Supplementary Planning Documents (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1 The site comprises 3.7 hectares of land currently used as a Care Home in Earls Colne. The site is operated by Kingsley Healthcare which provides nursing, residential and respite care for adults, including those with dementia and mental health needs (Use Class C2).
- 1.2 It is proposed to demolish the existing annexe building and construct a new two-storey extension with underground link to provide a net 27 additional specialist care bedrooms with associated car parking, drainage, and landscaping. Full planning permission is sought for these works.
- 1.3 The site lies outside the development boundary of Earls Colne but within the Earls Colne Conservation Area. Colne House is Grade II listed. The design and siting of the extension is considered to be sympathetic to both the special architectural and historic interest of the listed building and the character and appearance of the Earls Colne Conservation Area.
- 1.4 A total of 152 individual trees, 6 groups and 1 hedge have been identified within the site. One Category B Birch tree and 15 low quality (U or C) trees within the grassed area adjacent the house would need to be removed in order to build the extension. A further 8 in the tree belts to the boundaries of the site are proposed for removal for safety reasons. A comprehensive landscaping scheme is proposed providing 34 new trees and additional soft landscape features such as planting beds, hedging and species rich grassland.
- 1.5 Representations have been raised regarding highway safety and loss of amenity as a result of the construction works. However, a Construction Management Plan would be a requirement of a condition if permission were granted, and the application attracts no objections from statutory consultees or the Parish Council.
- 1.6 Officers consider that the proposal complies with the Development Plan and the Framework as a whole. It would give rise to economic and social benefits which would significantly and demonstrably outweigh the limited adverse impacts caused to the heritage asset, visual and residential amenity. There are no other material considerations which suggest a decision should not be made in accordance with the Development Plan. Consequentially, the application is recommended for approval.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

- 2.1 The application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation as it 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 comprises 3.7 hectares of land currently used as a Care Home and operated by Kingsley Healthcare. The business provides nursing, residential and respite care for adults, including those with dementia and mental health needs (Use Class C2).
- 5.2 The property is accessed via a private drive from the south which connects to Aubrey Close; a private residential road serving a recent housing estate (56 dwellings consented in 2019 under Application Reference 18/00371/REM). Aubrey Close connects to Station Road in the west.
- 5.3 Colne House sits in its own landscaped grounds but shares its boundaries with a number of residential properties to all sides. There are 12 dwellings to the north, the Coach Houses & Garden Court, leased by Kingsley Healthcare which share the same access drive. Colne Valley Golf Club located outside the site to the north-east has its own separate access.
- 5.4 The site lies outside the development boundary of Earls Colne but within the Earls Colne Conservation Area. Colne House is Grade II listed. The main building dates from the early 19th Century and is constructed of gault brick with slate roof. Features of significance include the original sash windows, internal detailing and stucco moulded canopy and pilasters to the entrance.
- 5.5 To the north of the main building lies a two-storey annexe building which provides 5 specialist care beds in addition to the 32 beds within the main building. The annexe was built in the 1980s (Application Reference 86/00770/P) and is of a faux Georgian appearance, constructed of red brick with slate roof.
- 5.6 In between Station Road and the internal driveway serving Colne House there is a large belt of trees which are the subject of an Area Tree Preservation Order (12/2012 – A1). Around the house itself to the north and east there are further belts of trees which do not fall under the tree

preservation order but are protected by virtue of the Conservation Area designation. The Arboricultural Survey identifies a total of 152 individual trees, 6 groups and 1 hedgerow within the site.

6. PROPOSAL

- 6.1 Planning Permission is sought to demolish the existing annexe building and construct a new two-storey extension with underground link to provide a net increase of 27 additional specialist care bedrooms with associated car parking, drainage, and landscaping.
- 6.2 Key design features of the extension include a lightweight glass structure connecting from the listed building via a sunken walkway to a new curved block whose front elevation is clad in a living wall. Elsewhere on the site, additional parking would be provided, with the existing 23 spaces (12 of which are allocated to the 12 dwellings which lie in the north) increased to 40. Bodpave grasscrete would be used to surface the new parking areas. Cycle parking would also be provided by way of 6 Sheffield stands.
- 6.3 The new building would provide 32 beds, with all rooms benefiting from ensuite wet rooms. The building would be designed to provide nursing care for residents with a higher level of dependency due to their frail nature and medical requirements. Day spaces such as a café, hair salon, quiet lounges and activity rooms to serve the existing residents in the main building would also be provided. In addition, a dedicated kitchenette and changing/shower rooms would provide enhanced facilities for staff.
- 6.4 The Applicants argue that the new purpose-built facilities will better meet current care standards, as this has been lacking in the existing buildings. Critically, the link will allow better access between the built elements on the site which would be highly beneficial from an operational perspective. The Applicants have chosen to position the building in the east of the site as this would preserve key views of the listed building whilst allowing plenty of space for the development and retaining views out to the neighbouring golf course.
- 6.5 The following documents have been submitted to support the application:
- § Design & Access Statement
 - § Planning Statement
 - § Health Impact Assessment
 - § Planning Needs Assessment
 - § Heritage Statement
 - § Flood Risk Assessment & Additional
 - § Drainage Calculations (Car Park)
 - § Draft Foul & Surface Water Drainage Strategy
 - § Biodiversity Checklist, Survey and Report
 - § Ecology Addendum (Bats & GCN) & Ecology Response Letter
 - § Arboricultural Survey and Impact Assessment Report
 - § Arboricultural Addendum Report

- § Drain Survey
- § Landscaping Statement
- § Statement of Community Involvement
- § Transport Assessment
- § Travel Plan
- § Green Wall Examples
- § Details of Green Wall Irrigation
- § Mobi Panel Specification
- § Irrigation Unit & Irrigation Details
- § Landscaping Plan
- § Location Plan
- § Proposed Site Plan
- § Roof & Floor Plans – Existing & Proposed
- § Elevations – Existing & Proposed
- § Street Scene Plans
- § CGI View

7. SUMMARY OF CONSULTATION RESPONSES

7.1 Anglian Water

7.1.1 No objections.

7.2 Essex Fire and Rescue Service

7.2.1 No objections.

7.3 Historic England

7.3.1 Confirm they do not wish to offer advice.

7.4 Joint Committee of the National Amenity Societies

7.4.1 No comments received (consultation expired).

7.5 NHS East of England Ambulance Service

7.5.1 No comments received (consultation expired).

7.6 BDC Building Control

7.6.1 No objections, request that demolition notification be condition of the planning permission [Officer comment: as this is the subject of separate legislation it would not be justified to impose a condition, however, an informative is recommended instead].

7.7 BDC Environmental Health

7.7.1 Confirm they have no objections, subject to conditions.

7.8 BDC Landscape Services

- 7.8.1 Confirm the Arboricultural Impact Assessment and Method Statement is suitable and consider that loss of the Category B Birch tree internal to the site is not considered to diminish the wider amenity of the setting. Recommend conditions to ensure tree protection, notably that demolition of the existing annexe does not harm the roots of existing trees (T13 to T17), detailed landscaping scheme including planting schedule and specification, and that the green wall to the care home is robust enough to overcome potential exposure to adverse weather conditions such as dry, scorching winds.

7.9 BDC Waste Services

- 7.9.1 Comment that the distance between the bin store and where a waste collection vehicle will stop is approximately 35m; which is well over the 15m stipulated drag distance for four wheeled bins and over the 20m stipulated for two wheeled bins. This route should be unimpeded by walls, car parking etc to allow safe manoeuvring of the bins.

7.10 ECC Archaeology

- 7.10.1 No objection, subject to conditions.

7.11 ECC Ecology

- 7.11.1 Initially objected. Following the submission of further information and revisions to the plans, ECC Ecology confirmed that they have no objections to the application, subject to conditions.

7.12 ECC Highway Authority

- 7.12.1 No objection. Request a condition to ensure the dimensions of parking spaces complies with the Essex Parking Standards. [Officer comment: the documentation confirms that all the parking bays measure at least 2.9m x 5.5m in accordance with these standards and therefore there is no necessity for this condition].

7.13 ECC Historic Buildings Consultant

- 7.13.1 Commented on 1st November 2022 as follows:

“Colne House is a Grade II listed building, located within the Earls Colne Conservation Area (list entry number: 1123200). The proposed alterations largely concern the setting of the listed building, with minor internal changes to the listed building. The submitted heritage statement goes into great detail regarding the impact of the proposals upon Colne House and surrounding heritage assets. Whilst two other listed buildings and a non-designated heritage asset have been scoped into the Applicant’s assessment (Thatched Cottages, South Lodge and Meadowcroft

respectively), which is best practice, only the Conservation Area and Colne House are affected. For ease, the various aspects of the application are itemised below.

Changes to the listed building

The proposed alterations to the listed building are largely superficial, involving redecorating and minor removal of historic fabric. The loss of a small section of brickwork on the rear elevation to facilitate the new link is necessary, however in terms of impact to the overall significance of the building, this loss is minor. In addition, the removal of the nib wall, extract flue and air conditioning units will benefit the listed building, removing incongruous elements.

Therefore, subject to the retention of the internal sash window at ground floor level and the door at first floor level as was discussed on site, I have no objection to the proposed changes to the listed building (see drawing 19-086-121, the window is located in the Med store and the door is in to room B10. Both elements could be retained and the rooms they serve closed/boarded without the loss of fabric). Amended floor plans should be submitted which indicate these elements will be retained.

Further detail should be provided regarding the changes to any fireplaces and their surrounds, including the reinstatement of hearths in the principal rooms (as shown on drawing 19-086-121), however this detail can be conditioned, should the planning applications be approved.

Demolition of the annexe

I have no objection to the demolition of the annexe building which, although sympathetically designed in the style of Colne House, is of no architectural or historic interest.

Construction of a new block

The proposed new block will be a curved structure, positioned to the side of the listed building. Due to its placement, the block will be partially concealed when the listed building is approached from the main entrance and its link to the main house also disguised in a ha-ha style which responds to the topography of the site.

Covered in a 'living wall', the proposed new block is a sleek design, with its façade punctuated by square windows in wooden cases. As a counterpart to the listed building, the proposed block is distinct and modern, contrasting to the classical appearance of Colne House. Whilst this would represent a distinct addition to both the setting of the listed building and the character of the Earls Colne Conservation Area, if well executed there should not be a negative impact upon the significance of either heritage asset. At most, the impact would be at the lower end of less than substantial harm, which, as per section 202 of the NPPF, should be considered against the public

benefits of the scheme. This harm would be caused by the introduction of a large imposing structure within the grounds of the listed building, which affects how its significance will be appreciated and understood, yet the proposed 'green wall' should negate this, helping the building to blend in to the surrounding treescape and landscaping of the listed building, when the two are viewed in conjunction.

The proposed material palette, using gault brick with a central band and sections of vertical wooden cladding, offers a contemporary approach which makes reference to the materiality of the listed building. If the applications are approved, I recommend that samples of all external materials are submitted to the local authority and approved in writing prior to their first use on site. Careful consideration must also be given to the discharge of any conditions, to ensure the design intent is not diminished through changes in the design. A large element of the building's acceptability/lack of impact in relation to the listed building's setting relies on the green wall element, and thus this should also be secured in perpetuity, to prevent additional harm to the setting of the designated heritage asset. Similarly, were the proposed landscaping amended, this too could affect the setting of the listed building, however the use of grasscrete for the additional parking as proposed will help to maintain a green, verdant appearance to the listed building's grounds.

The link structure and garden pavilion which connects the new block to the existing house will be positioned to the rear of the listed building, utilising an existing window opening to connect the two. Limited details are provided regarding the specifics of the link structure, and I recommend a condition which requires sectional and elevational drawings of this link to be submitted to the local authority and approved in writing, prior to installation, is imposed on any approval of the scheme. Details of all eaves, junctions, roof cladding, verges and cills of the garden pavilion should also be provided."

- 7.13.2 Following revisions to the plans to retain the internal window and doorway, the following comment was made on 23rd January 2023:

"I have no objection to the details of the proposed living walls, however further information is required regarding the internal changes and the proposed extension/link to the listed building. Please refer to my previous letter."

7.14 ECC Independent Living

- 7.14.1 No comments received (consultation expired).

7.15 ECC SuDS

- 7.15.1 No objections, subject to conditions.

8. PARISH / TOWN COUNCIL

8.1 Earls Colne Parish Council

8.1.1 Confirm they have no objections to the application.

9. REPRESENTATIONS

9.1 The application has attracted four representations, one in support and three in objection. The comments made are summarised below:

- Colne House has been a good neighbour and we support their ever-improving service to people in the locality.
- Plans are sympathetic and will provide much needed space for staff and residents.
- Change to the grounds of the building.
- Impact upon quality of life from disruptive construction activities.
- Poorly arranged and narrow access which is unsafe.

9.2 Comments have been made in relation to loss of property value but this is not a material planning consideration.

10. PRINCIPLE OF DEVELOPMENT

10.1 National Planning Policy Framework (NPPF)

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

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

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

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

10.3 The Development Plan

- 10.3.1 Currently the Council's statutory Development Plan consists of the Braintree District Local Plan 2013-2033 (Adopted July 2022).
- 10.3.2 Policy SP1 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 in the NPPF.
- 10.3.3 Policy SP3 sets out the special strategy for North Essex and explains that existing settlements will be the focus for additional growth and that development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role. Section 2 of the document classifies Earls Colne as a Key Service Village; by definition, Key Service Villages have the ability to meet the day to day needs of the communities they serve.
- 10.3.4 Policy LPP1 sets an overarchingly permissive approach towards development proposals for sites which lie within development boundaries. Within the countryside, the policy refers to the necessity for development proposals to meet the 2012 NPPF core planning principles and meet the tests of sustainable development. In this case, the site benefits from planning permission for the existing established C2 use as a care home and the general principle of this type of development on this site is established.
- 10.3.5 As set out in the Assessment below, it is considered that the proposal does not contradict the criteria as set out in Policy LPP33 (Specialist Housing) and therefore is not ruled out in principle for the following reasons.

11. SITE ASSESSMENT

11.1 General Principles

- 11.1.1 Planning Practice Guidance (Paragraph: 001 Reference ID: 63-001-20190626) states that: *"The provision of appropriate housing for older people is critical, as people are living longer lives and the proportion of older people in the population is increasing... Offering older people, a better choice of accommodation to suit their changing needs can help them live independently for longer, feel more connected to their communities and help reduce costs to the social care and health systems."*
- 11.1.2 The site already in a C2 use as specialist housing and therefore Policy LPP33 of the Adopted Local Plan is applicable which requires all specialist housing development to comply with the following criteria:
- a. Everyday services that users would expect to access, such as shops, should be available on site or should be located close by and be able to be accessed by a range of transport modes.

- b. Health services should be available on site or in close proximity and have capacity to accommodate the additional services required from residents, or proposals should provide appropriate mitigation.
 - c. Parking should be provided in line with the Council's adopted standards.
 - d. There is an appropriate level of private amenity space to meet the needs of residents.
- 11.1.3 Policy LPP33 does not rule out the possibility of major extensions to existing specialist housing within the countryside in principle. It does however specifically state that in addition to the above criteria, minor extensions to, or the expansion of existing specialist housing in the countryside, may be acceptable provided the following criteria are met:
- i. The scale, siting and design of proposals is sympathetic to the landscape character and host property.
 - ii. The Council will have regard to the cumulative impact of extensions on the original character of the property and its surroundings.
 - iii. A travel plan should be provided, which sets out how additional staff, visitors and residents will access the site and ways to minimise the number of journeys by private vehicle.
- 11.1.4 Policy LPP49 of the Adopted Local Plan requires that all applications for C2 development provide a Health and Wellbeing Impact Assessments (HWIA) and that any negative health impacts identified must be resolved in the development, or mitigation secured through planning condition(s) and /or a Section 106 Agreement.
- 11.1.5 The Local Health Profile within the submitted HWIA highlights that the percentage of older people within the population is rising and that the Braintree Area has the highest expected percentage increase in the numbers of people with dementia in the country. The recent closing of two care homes in the area has served to exacerbate this demand.
- 11.1.6 The HWIA explains that the development will generally have a positive impact upon existing/new residents, staff, and other users of the site. No negative impacts are identified. Generally, the development is identified to provide enhanced facilities for all residents, improve opportunities for social interaction, offer a wider range of green spaces and increase staff retention by offering a healthier work environment.
- 11.1.7 The nearest Health Services at The Pump House Surgery are a ten-minute walk or two-minute drive away. However, most residents receive most of their healthcare in the care home with GPs visiting on a weekly basis. NHS England and ECC Independent Living have been consulted but have not commented. There are no concerns over the capacity of existing health infrastructure to accommodate the additional services required by the additional residents proposed.

- 11.1.8 The Planning Needs Assessment which accompanies the application details the pressures being placed on the care home sector at the current time. It is generally accepted that possessing a competitive offer and achieving economies of scale do provide security for care homes within this climate. The application argues that an existing 36 jobs would be safeguarded because the existing business would be more viable, and a further 34 jobs are likely to be created if the proposal is granted permission.
- 11.1.9 The benefits of providing specialist housing for older people can be direct; by providing housing that meets the immediate needs of those who require it, and indirect; freeing up general housing as individuals move on leaving their larger sized family properties vacant.
- 11.1.10 Whilst, in general, planning policy is supportive, this is subject to compliance with the policies and key considerations detailed below.

11.2 Heritage Impact

- 11.2.1 Policy SP7 of the Adopted Local Plan requires that new development protect and enhance assets of historical value. Policy LPP47 of the Adopted Local Plan requires that, to protect and enhance the historic environment, all development must respect and respond to local context. LPP52 requires that designs shall be sensitive to the need to conserve and enhance local features of architectural, historic and landscape importance, particularly within Conservation Areas and in proximity to heritage assets.
- 11.2.2 Policy LPP53 of the Adopted Local Plan states that the Council will encourage the preservation and enhancement of the character and appearance of Conservation Areas and requires building materials to be of a high quality and appropriate to the local context. Policy LPP57 of the Adopted Local Plan states that the Council will seek to preserve and enhance the settings of heritage assets by appropriate control over the development, design and use of adjoining land.
- 11.2.3 Policy LPP54 of the Adopted Local Plan states that demolition of an unlisted building or structure in a Conservation Area will only be granted in the most exceptional circumstances and only provided that: its removal would not have a negative or neutral impact upon the street-scene, the structure to be demolished makes a negative or neutral contribution to the character and appearance of the Conservation Area, its removal would be beneficial to the local environment and a detailed redevelopment scheme is included which would preserve or enhance the character and appearance of the area.
- 11.2.4 Paragraph 199 of the NPPF advises that, when considering the impact of a proposed development upon 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 the level of harm to its significance. Paragraph 202 of the NPPF states that, where a 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.

- 11.2.5 The Local Planning Authority has a duty under Section 66 (1) and Section 72 (1) of the Planning (Listed Buildings & Conservation Areas) Act 1990 to, when considering whether to grant planning permission for development which affects a Conservation Area, listed building or its setting, it must pay special attention to the desirability of preserving or enhancing the character and appearance of the Conservation Area and have special regard to the desirability of preserving the listed building or its setting, or any features of special architectural or historic interest which it possesses.
- 11.2.6 In this case the annexe building to be demolished is of pastiche design and positioned in front of the listed building; currently it is, at best, making a neutral contribution to the character and appearance of the Conservation Area. It's removal, to re-provide and extend existing facilities on site, would be beneficial to the local environment and its demolition could be conditioned to occur as an integral part of the comprehensive redevelopment scheme proposed.
- 11.2.7 The Historic Buildings Consultant notes that the new block and its glazed pavilion element would cause harm to the significance of the listed building. They consider that this harm would be at the lower end of the scale provided conditions ensure the design ethos, living wall and high-quality finish of the proposal are realised.
- 11.2.8 In terms of its design, the simple form of the block, curving away from the listed building, its concealed underground link and overall modern appearance would assist it to appear separate, and not compete with, the listed building. The living wall is essential in helping to mitigate the mass of the building and help it to blend into the landscape. The parking has also been sympathetically designed with a grasscrete surface, screened by trees and landscaping, and situated to the side of the main building.
- 11.2.9 In general, Officers are satisfied that the harm caused by the development to the heritage assets has been minimised by careful design and siting. Officers consider that, having attributed great weight to the harm caused, the aforementioned public benefits of the development proposal would clearly outweigh this harm. Granting permission would not therefore be contrary to local or national policy and would also be consistent with the Council's fulfilment of its statutory duties under the Act.
- 11.3 Design, Appearance and Visual Impact upon the Character of the Area
- 11.3.1 Paragraph 130 of the NPPF requires among other things that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting. Paragraph 134 advises that development which is not well designed should be refused.

- 11.3.2 Policy SP7 of the Adopted Local Plan requires that new development responds positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy LPP52 of the Adopted Local Plan establishes that the Council will seek a high standard of layout and design in all developments and that there shall be no unacceptable impact upon the amenity of nearby properties. Policy LPP43 of the Adopted Local Plan requires parking to be in accordance with the Essex County Council Vehicle Parking Standards Adopted SPD.
- 11.3.3 The proposed new block would be on higher ground than the existing house, but its overall height would be technically lower due to the fact it has a flat roof whereas the main house has a pitched roof. Sections show that, in relative terms, the eaves of the new block would also remain below that of the existing house.
- 11.3.4 As can be seen in the sections provided, the new link would present as a sunken passageway invisible in views from the south but manifesting as a 'ha ha' style wall due to the ground level changes when looking from the opposite direction in the north. The glazed pavilion style extension would project from the rear of the existing main house to contain the staircase and lift. The lightweight design of this element would help to minimise its visual presence.
- 11.3.5 Materials for the new block would include brick, vertical timber cladding and glass. The building would have a green roof. This part of the extension would present as a modern standalone element, and its plain form and regular, square fenestration pattern would be consistent with this identity.
- 11.3.6 There would be a garden to the west of the new block which would be fully wheelchair accessible and offer increased opportunities for socialisation for residents. Whilst the garden would be shaded by the building and the tree belts which lie to the north and west, Officers judge it could still be carefully designed to offer a valuable amenity space. The Council's Arboricultural Officer raises no concerns in relation to pressures upon the adjacent trees and the Applicant notes that the cooling effects of the trees in summer months could be beneficial for residents.
- 11.3.7 The curved front façade of the block would be clad in a living wall, constructed of modular planting cassettes for native plants mounted on Mobipanel rails which are attached to the building façade. The wall would have a built-in automated feeding and irrigation system.
- 11.3.8 There is no denying that the footprint of the block is large, and its plan is deep. To an extent this is a consequence of its function - but not entirely. Whilst the overall scale of the building would be reduced by the flat roof, the mass is still extensive and towards the upper limits of what is acceptable on the site in order to represent good design.
- 11.3.9 The green cladding for this block is an integral part of the design and is critical to reducing the overall bulk of the building and softening its

presence. Without the living wall, the building would appear intrusively bland and monolithic. It is therefore essential that the green wall is retained and continues to operate successfully in the long term.

- 11.3.10 The living wall would attract ongoing costs in the long term, particularly as the climate seems to be becoming more demanding with hot summers and frequent drying winds. Nevertheless, if the green cladding were to be abandoned sometime in the future, providing there were a similar level of dedication to their cultivation and upkeep, other options could be pursued to clad the front façade such as evergreen climbing plants.
- 11.3.11 Taking the above considerations into account, if permission were granted, a condition is recommended in order to ensure the longevity of the living wall, or a suitable alternative should it fail. Having regard for the requirements of Policies LPP71 and LPP72, which seek to ensure resource efficiency and that schemes incorporate adaptations to climate change, a condition is also recommended requiring a scheme for rainwater harvesting. This will also help ensure that the living wall, having a relatively high-water consumption rate, remains viable and that the ongoing costs of watering it would be reduced.

11.4 Landscape and Trees

- 11.4.1 Policy LPP65 of the Adopted Local Plan states that the quality of trees is a material consideration and that, where trees are to be retained, suitable distances should be provided to ensure their continued wellbeing. Paragraph 131 of the NPPF states that trees make an important contribution to the character and quality of urban environments and advises that existing trees should be retained wherever possible. Paragraph 174(b) of the NPPF requires decisions to recognise the wider benefits of trees and woodland.
- 11.4.2 The submission includes an Arboricultural Impact Assessment and Method Statement, accompanied by Tree Survey, Tree Retention & Removal Plans and Tree Protection Plans. 152 individual trees, 6 groups and 1 hedge are included in the Tree Survey. Of these, 16 trees are required to be removed to facilitate development and 8 others for arboricultural reasons.
- 11.4.3 An itemised list of the trees to be removed is provided below:

No.	Report ID	Common Name	Classification	Reason
1	T53	Black Locust	C1	Extension
2	T54	Wild Cherry	U	Extension
3	T74	Silver Birch	C1	Extension
4	T75	Cherry sp.	C1	Extension
5	T78	Holly	U	Unsafe
6	T81	Holly	U	Unsafe
7	T84	Cherry sp.	C1	Extension
8	T85	Cherry sp.	C1	Extension
9	T89	Cypress sp.	U	Unsafe

10	T92	Cypress sp.	U	Unsafe
11	T95	Not recognised	U	Unsafe
12	T99	Wild Cherry	U	Unsafe
13	T106	Maple sp.	C1	Extension
14	T124	Cypress sp.	U	Unsafe
15	T130	Cypress sp.	U	Unsafe
16	T131	Birch	B	Extension
17	T135	Cockspur Thorn	U	Extension
18	T137	Chinese Juniper	U	Extension
19	T138	Japanese Maple	C1	Extension
20	T139	Holly	C1	SuDS
21	T140	Holly	C1	SuDS
22	T141	Cypress sp.	C1	Extension
23	T143	Cockspur Thorn	C1	SuDS
24	T144	Holly	C1	SuDS

- 11.4.4 None of the trees proposed to be removed or pruned are the subject of a Tree Preservation Order. A Landscaping Plan is submitted which shows how 34 trees, native hedges, border planting and additional soft landscape features such as species rich grass meadow areas could be delivered on the site.
- 11.4.5 The existing annexe building is partially within the Root Protection Areas (RPAs) of four trees (T13, T15, T16 and T17). A condition is proposed which would require submission of a detailed Arboricultural Method Statement to ensure these trees are suitably protected during the demolition. In a similar way, any incursions into the RPA of trees as a consequence of hard landscaping and construction of the access to the plant room can be appropriately managed using no-dig methods.
- 11.4.6 Ten trees are proposed to be crown lifted to facilitate access over proposed footpaths (T46, T63, T64, T71, T76, T83, T86, T87, T88 and T128). This is minor work which will not harm the trees. It is noted that the Council's Arboricultural Officer raises no objection in relation to the proposals.
- 11.4.7 Overall it is considered that trees have been retained wherever possible and that, whilst some limited harm would arise from their loss, this harm would not be significant to the wider visual amenity of the locality. This harm would also be outweighed by the benefits of the development and the scheme for additional compensatory planting that is proposed.
- 11.5 Ecology
- 11.5.1 Policy LPP66 of the Adopted Local Plan states that, if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for, then planning permission should be refused.

- 11.5.2 Policy LPP64 of the Adopted Local Plan requires that where there is a reasonable likelihood of protected or priority species being present on or immediately adjacent to the development site, the developer undertakes an ecological survey to demonstrate that an adequate mitigation plan is in place to ensure no harm or loss to such species.
- 11.5.3 Paragraph 174(d) of the NPPF requires that proposals minimise their impacts on, and providing net gains for, biodiversity. Paragraph 180 requires that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for, then planning permission should be refused.
- 11.5.4 The Applicant has submitted an Ecological Impact Assessment and further surveys for Bats and Great Crested Newts. Initially two trees were proposed to be felled for safety reasons (T18 & T57) and one to make way for the underground SuDS crates below the grass parking area (T29). The Ecologist objected as the bat surveys were not adequately undertaken for these trees.
- 11.5.5 The submission was revised to retain the trees and the BDC Ecological Consultant has confirmed there is sufficient information to enable determination of the application. The SuDS drainage calculations have been amended to allow retention of T29. The Applicant may subsequently choose to apply for Consent to remove the two unsafe trees once they have been fully surveyed. Whilst this permission would not grant consent for their removal, the plans would equally not need to be amended if Consent later authorised this.
- 11.6 Impact upon Neighbouring Residential Amenity
- 11.6.1 Policy LPP52 of the Adopted Local Plan highlights considerations of privacy, overshadowing, loss of light and overbearing impact as being key in the assessment of impacts upon nearby properties.
- 11.6.2 Paragraph 130 of the NPPF seeks to ensure good standards of amenity for existing and future users whilst Paragraph 185 seeks to ensure that new development is appropriate for its location taking into account the likely effects on living conditions including noise and light pollution.
- 11.6.3 There would be a separation of approximately 30m between the existing care home and the new extension, which is compliant with the Essex Design Guide. Distances to neighbours of properties along the access to the Golf Club would be in excess of 50m. Given the separation distances it is not considered that there would be a loss of light or privacy to these properties.
- 11.6.4 Residents of neighbouring properties who share the access, notably those at Garden Court and The Coach House situated in the north-west of the site, have raised concerns that construction activities would harm their amenity and quality of life. Construction activities would be temporary and

must conform to a Construction Management Plan which should be approved prior to commencement of development. Whilst it is not considered that it would be in the interests of the home to unacceptably disturb or inconvenience any of its residents, these controls will ensure any impacts are kept to a minimum. Given the temporary nature of the works, it is not judged that the impacts would be unusual or of such magnitude as to justify refusal of the development on this basis alone.

- 11.6.5 Residents in neighbouring properties to the north-west may also experience a change in their view of the grounds once the extension is built. However, these residents are some distance away and situated behind the existing house. It is not considered that their outlook would be so affected as to significantly harm the reasonable enjoyment of their properties and therefore the proposal is considered to be compliant with the above policies.

11.7 Accessibility to Services and Highway Considerations

- 11.7.1 NPPF 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.
- 11.7.2 Paragraph 110 of the NPPF requires that safe and suitable access to the site can be achieved for all users. Paragraph 111 advises that development should only be prevented or refused on highway grounds if there would be an unacceptable impact upon highway safety, or the residual cumulative impacts on the road network would be severe.
- 11.7.3 Policy LPP42 notes that developers may be required to provide Transport Assessments if considered appropriate by the LPA. This policy also requires provision of secure cycle parking where appropriate. Policy LPP45 of the Adopted Local Plan requires parking provision to accord with Essex Vehicle Parking Standards. As mentioned previously, Policy LPP33 of the Adopted Local Plan requires a Travel Plan and that everyday services such as shops are located close by and are accessible by a range of transport modes.
- 11.7.4 Albeit outside the village envelope, Colne House is located relatively centrally to the settlement, which is spread out. The main shops and services, including bus stops to Halstead and Colchester, are on the A1124 High Street which can be accessed via footways on Station Road and lie approximately 0.6km away.
- 11.7.5 Due to the nature of the care provided in the new building, which will have a dementia specific element and nursing facilities, residents do not often need to travel off-site. When they do, they would commonly be supported by staff where travel is required, for example on mini-bus trips. Staff have

the choice to walk or cycle to/from home or into the village centre and take ongoing busses from there. Whilst the proximity to these connections could be better, it is accepted that Colne House is an existing established business not a new one and the existing home is not so isolated as to only offer the option of long trips in a motor car.

- 11.7.6 Colne House is accessed via Station Road, which connects to Aubrey Close; a private road. From Aubrey Close there is a long access driveway to the Care Home. Some of this driveway is in separate ownership but is only used by the Care Home traffic and traffic to the 12 dwellings at the Coach House & Garden Court behind. Immediately north of this lies another private access serving Colne Valley Golf Club.
- 11.7.7 Concerns have been raised by the owner of the access driveway for which the home has a right of way. They consider that it is not safe for all types of traffic because it does not benefit from a bell mouth at the T-junction, or a width which meets current highway standards, and it lies in close proximity to the Golf Course access in the north. Objection is also raised that the surface of the driveway remains make-shift; constructed of a hoggins and gravel base which has been tar washed and overlain with grit.
- 11.7.8 The driveway is 143m long and varies in width – at its narrowest it is understood to measure 3.7m. As no works to the driveway are proposed, the driveway does not have to conform with existing standards, however, a judgement should be made whether the intensification of use and additional traffic using it would be safe and suitable for all users.
- 11.7.9 As the access driveway to Colne House and the residential road at Aubrey Close are private, they are not ‘highway’, and therefore the Highway Authority is unlikely to comment upon the safety of their use. However, the Applicant’s Transport Assessment predicts that the extension is likely to generate low numbers of additional trips from staff, visitors, services and medical staff over the course of a day.
- 11.7.10 The levels of additional traffic are not severe and are not likely to cause such congestion as to impede pedestrians or cyclists from sharing the use of the driveway. In fact, the introduction of accesses along the driveway to serve the parking areas will create passing places which were not previously present, and these benefits will be felt by all users.
- 11.7.11 It is noted that traffic speeds along the driveway and from the surrounding accesses are likely to be extremely slow. Visibility at the junction with Aubrey Close is clear and free from obstruction. The existing junction arrangement on Aubrey Close was deemed safe when this road was consented in 2019 for residential development. The Transport Assessment confirms there are no records of any accidents involving the driveway access.
- 11.7.12 It is likely that traffic from HGVs will be limited to the construction period and can therefore be overseen by the care home and managed as part of a

Construction Management Plan. Visits from refuse vehicles and food deliveries, cleaning, hairdressing, entertainment, and nursing care vehicles already occur to the property and are not likely to significantly intensify as a result of the development. The finish of the surface to the driveway at Colne House is judged to be of sufficient quality that it can accommodate the small rise in vehicular traffic associated with the new residents/staff.

- 11.7.13 It is noted from the Transport Assessment that postcode information gathered from the Care Home suggests 40% of existing staff already live in Earls Colne. If granted consent, a condition would require the home to appoint a Travel Plan Coordinator and implement the Travel Plan with a view to achieving a 5% reduction in single car occupancy within three years of the initial travel survey and to retain or improve this modal shift thereafter.
- 11.7.14 The vehicle and cycle parking provision would accord with Essex Parking Standards. ECC standards for vehicle parking consist of a maximum of 42 spaces for this type of development and 40 would be provided. Two spaces would be equipped with electric vehicle charging points. Standards require a minimum of 6 cycle parking spaces; these have also been provided.
- 11.7.15 The Construction Management Plan, to be approved prior to commencement of development, would help ensure that construction activity is carefully planned to maximise safety and the amenity of existing residents. It would however not be in the interests of the Applicant to inconvenience its existing residents, visitors, or staff at any rate.
- 11.7.16 The Applicant has confirmed that the home uses a private waste collection service due to the medical nature of much of its waste. Whilst BDC Waste Services have raised some concerns regarding the remote location of the proposed waste storage facilities, this would not be a matter that is likely to concern them. The home will need to reach a workable solution that satisfies its private waste collection provider, and there is limited reason for the LPA, who must only act within the public interest, to seek further resolution of the matter.
- 11.7.17 Therefore, taking the above considerations into account, it is not considered that the proposal would have a significant adverse impact upon the highway network or user safety within the vicinity of the site and therefore accords with the above-mentioned policies.

11.8 Flood Risk & Drainage

- 11.8.1 Policy LPP76 of the Adopted Local Plan requires all new development of ten dwellings or more to incorporate SuDS to provide optimum water runoff rates and volumes taking into account relevant local or national standards and the impact of the Water Framework Directive on flood risk issues, unless it can be clearly demonstrated this is impracticable.

- 11.8.2 The site is located in Flood Zone 1 and therefore is at low risk of flooding. The draft Drainage Strategy proposes to capture surface water in crates below the new car parking areas and then discharge these to a new SuDS area to the east of the entrance driveway enclosed by a low knee-rail fence. The SuDS scheme would cater for the 1 in 100 year storm event plus 45% climate change and the Lead Local Flood Authority raise no objections to the proposal.

11.9 Archaeology

- 11.9.1 The application is supported by an Archaeological Desk Based Assessment. This confirms that the site has archaeological potential with remains of a Roman amphora having been discovered within the grounds of the building and excavations to the west of Station Road having revealed both prehistoric and early Roman activity, possibly relating to a nearby Roman settlement.
- 11.9.2 The Council's Archaeological Advisor raises no objections provided trial trenching takes place to determine the nature of any potential archaeological remains prior to commencement of development. Conditions are also recommended to secure a programme of archaeological evaluation, subsequent investigation and recording for development in the grounds.
- 11.9.3 Provided the above conditions are adhered to, it is considered that the proposal would comply with the requirements of Paragraph 205 of the NPPF and Policy LPP59 of the Adopted Local Plan.

11.8 Habitat Regulations Assessment (HRA / RAMS)

- 11.8.1 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.
- 11.8.2 The Council's adopted Supplementary Planning Document, Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS SPD) (May 2020) sets out how the Council will strategically approach the management and mitigation of likely significant effects upon these sites. It explains that screening should be undertaken to establish whether such effects can be ruled out or not.
- 11.8.3 The RAMS SPD explains at Paragraph 3.10 that C2 Residential Institutions are initially scoped into the RAMS tariffs at a national level, however, locally application of the tariffs must be undertaken on a case by case basis; for example, if the development would not result in new residents visiting the coast then no 'in combination' recreational effects would arise.

- 11.8.4 In this case, the Council's Ecological Consultant does not make their recommendation of 'no objection' contingent upon the payment of the RAMS tariff. Given the obviously high dependency of residents, and the fact it has been clearly stated they rarely leave the home unsupervised, it is considered extremely unlikely residents of this development would be making trips to the designated sites and thus the development would not give rise to increased visitor pressure upon these sites.
- 11.8.5 Officers therefore advise that the development does not qualify for the tariff, and it is concluded that there would be no adverse effect on the integrity of the internationally designated sites, alone or in combination, in the event of planning permission being approved.

12. PLANNING OBLIGATIONS

- 12.1 There are no planning obligations associated with this proposal.

13. PLANNING BALANCE AND CONCLUSION

- 13.1.1 The presumption in favour of sustainable development sits at the heart of the NPPF. The Framework is clear in its instruction at Paragraph 11d, that for decision-taking this means where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in Paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years), granting permission unless:
- i. The application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 13.1.2 As the Council cannot currently demonstrate a 5 Year Housing Land Supply, the 'titled balance' pursuant to Paragraph 11d) of the NPPF is engaged. In this case, it is not considered that pursuant to Paragraph 11d) (i) that the application of policies in the Framework provide a clear reason for refusing the proposed development.
- 13.1.3 As such, pursuant to Paragraph 11d) (ii) it is necessary to consider whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposed development, when assessed against the policies in this Framework taken as a whole. Such an assessment must take account of the economic, social and environmental

impact of the proposed development and these matters must be considered in the overall planning balance.

13.1.4 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 given to these factors are set out below:

Heritage

13.2.2 The development would give rise to less than substantial harm to the significance of the listed building, Colne House, but this harm would be at the lower end of this scale. There would be a change to the character and appearance of the Conservation Area, but Officers judge that this would not result in harm to its significance. It is judged the proposal successfully minimises conflict between the heritage asset's conservation through careful siting and design.

13.2.3 Great weight is attributed to the conservation of the listed building and, having weighed this harm against the public benefits (as per Paragraph 202 of the NPPF), Officers consider the harm of granting permission would be outweighed by the public benefits of development. When the impacts are weighed in the wider planning balance, it is considered that, provided the living wall cladding to the extension is secured in perpetuity, this harm is attributed limited weight.

Visual Harm to the Character and Appearance of the Area

- 13.2.4 The proposal would result in harm to the visual amenity of the area due to the loss of trees and inevitably more urbanising presence of development. However, this harm would be mitigated by the design of the building; and the employment of the living wall; and further mitigated by the compensatory planting scheme which proposes 34 trees, native hedges, and additional soft landscape features such as border planting and species rich grass meadow areas on the site. As a consequence, the development would only result in very limited harm to the visual amenity of the area.

Harm to Residential Amenity

- 13.2.5 Residents of the existing home and neighbours may experience some temporary noise and disturbance as part of the works; however, this harm would be kept to a minimum through implementation of a Construction Management Plan and therefore would be very limited.

13.3 Summary of Benefits

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

The Development Plan

- 13.3.2 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”.
- 13.3.3 In this case, the proposal accords with the Development Plan and this weighs very significantly in favour of the proposal in the overall planning balance in accordance with the presumption in favour of sustainable development.

Delivery of Specialised Housing and Associated Benefits

- 13.3.4 The provision of a net 27 additional beds in specialist housing will help to address housing need and may also lead in turn to more general housing becoming available on the market. The development would also result in improved facilities and social environment for the existing residents and staff. It is predicted 34 new jobs would be created by the development and, as the security of the business would also be strengthened, existing jobs would be safeguarding too. Construction activities and the presence of additional staff would also bring general economic benefits by helping support existing businesses in the locality. Overall, the proposal would give rise to significant benefits.

13.4 Conclusion

- 13.4.1 The proposal complies with the Development Plan and the Framework as a whole. The harm to the heritage asset is outweighed by the public benefits of the development and the heritage balance therefore falls in favour of the proposal. In terms of the overall planning balance, the proposal would give rise to substantial economic and social benefits which would significantly and demonstrably outweigh the limited adverse impacts caused to the heritage asset, visual and residential amenity. There are no other material considerations which suggest a decision should not be made other than in accordance with the Development Plan. Consequently, it is recommended consent be granted for the proposed development subject to conditions.

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)

Plan Description	Plan Ref	Plan Version
First Floor Plan	19-086-121	A
Site Plan	19-086-110	I
3D Visual Plan	19-086-806	B
Drainage Details	60746-PP-007	N/A
Elevations	22-6015-0101	N/A
Landscape Masterplan	621111-102C	N/A
Location Plan	19-086-100	B
Proposed Ground Floor Plan	19-086-122	N/A
Proposed 1st Floor Plan	19-086-123	N/A
Proposed Roof Plan	19-086-124	N/A
Proposed Floor Plan	19-086-125	N/A
Proposed Elevations	19-086-150	N/A
Proposed Elevations	19-086-151	N/A
Proposed Elevations	19-086-152	N/A
Proposed Elevations	19-086-153	N/A
Street elevation	19-086-800	N/A
Street elevation	19-086-801	N/A
Street elevation	19-086-802	N/A
Street elevation	19-086-803	N/A
Street elevation	19-086-804	N/A

Condition(s) & Reason(s)

Condition 1

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

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

Condition 2

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

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

Condition 3

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any Order amending, revoking or/and re-enacting that order, the building/s hereby permitted shall only be used in association

with the Care Home, Colne House, and shall be used for no other purpose, including any other purpose within Class C2 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 (as amended) or any Order amending, revoking or/and re-enacting that Order.

Reason: In the interests of amenity; to ensure no ancillary use of the premises occurs without prior consent.

Condition 4

No development or preliminary groundworks of any kind shall take place until a Programme of Archaeological Investigation have been secured in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority. Development shall only proceed in accordance with the approved Written Scheme of Investigation and once the Programme of Archaeological Investigation has been completed.

Reason: To enable full investigation and recording of this site of archaeological importance. Failure to agree a method for investigation of the site prior to groundworks occurring may risk the loss or damage of archaeological assets.

Condition 5

No development shall commence, including any groundworks, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall be implemented as approved. The Plan shall provide details of the following:

- Management of construction traffic to ensure safe access for all users.
- Parking of construction workers/visitors' vehicles.
- Controls for loading and unloading of plant and materials.
- Storage of plant and materials used in constructing the development.
- Controls for the emission of noise, vibration dust and dirt.
- Provision of a dedicated telephone number(s) for members of the public to raise concerns/complaints, and a strategy for pre-warning residents of noisy activities/sensitive working hours.

Reason: In the interests of residential amenity; to ensure the construction phases of the development operate without causing unacceptable harm to the amenity of nearby occupants, notably residents within the home and in adjoining properties such as The Coach Houses, Garden Court and Aubrey Close. Agreement is required as the impacts arise from the point of commencement; it is not therefore possible to delay this agreement until a later point in time if the above interests are to be effectively protected.

Condition 6

A construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of development, in line with the details outlined in the Ecological Impact Assessment (Small Ecology Ltd, May 2022).

The CEMP (Biodiversity) shall include the following:

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

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

Reason: To conserve Protected and Priority species and allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species) for the duration of the development hereby approved. Agreement is required prior to commencement as the risks arise from the point of commencement; it is not therefore possible to delay this agreement until a later point in time if the above interests are to be effectively protected.

Condition 7

No development, including site clearance, preparatory works or construction, shall commence until an Arboricultural Method Statement (AMS) has been submitted to and approved in writing by the Local Planning Authority.

The AMS shall include a Detailed Tree Protection Plan (DTPP) showing the location of all trees and hedges to be retained or removed. The AMS and DTPP shall broadly accord with Draft Tree Plan - Overview of Proposed Layout - reference TCTC-1826-PL-02-01, Draft Tree Protection Plan - Overview - reference TCTC-1826-PL-03-01 and Arboricultural Addendum (TCTC-18286, 13.01.23); and, for the avoidance of doubt, shall not propose the removal of trees identified as T18, T29 and T57 in these documents. The AMS shall also include the precise location and design of protective barriers and ground protection; service routing and specifications; confirmation of works for crown lifting and/or pruning of trees; details of demolition within the Root Protection Areas of trees, areas designated for structural landscaping to be protected; and suitable space for access, operation of site machinery, site storage and other construction related facilities.

No works involving alterations to ground levels, operation of machinery or the digging of trenches and excavations of any kind, (including the laying or installation of drains, pipes, cables or other services) shall be carried out within the extent of the crown spread of any existing trees, shrubs, hedges unless expressly agreed within the AMS.

The AMS and DTPP shall include details of the appointment of a suitably qualified Project Arboricultural Consultant who will be responsible for monitoring the implementation of the approved DTPP, along with details of how they propose to monitor the site (frequency of visits, key works which will need to be monitored etc) and how they will record their monitoring and supervision of the site.

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

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

Reason: In the interests of amenity; to ensure the protection and retention of existing/remaining trees, shrubs and hedges. These details are required prior to the commencement of the development as the potential for harm to be caused arises from the point that construction begins.

Condition 8

No works except demolition shall take place until a detailed Surface Water Drainage Scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The Scheme should include but not be limited to:

- Provision of sufficient storage to ensure no off-site flooding as a result of the development during all storm events up to and including the 1 in 100-year rate plus 40% allowance for climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1:30 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved Scheme.

The Scheme shall subsequently be implemented prior to occupation.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, ensure the effective operation of SuDS features over the lifetime of the development and provide mitigation of any environmental harm which may be caused to the local water environment. Failure to provide the above required information before commencement of works may result in a system being installed

that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

Condition 9

Prior to installation of the living wall shown on drawing number 19-086-151 a Scheme for Rainwater Harvesting which details methods to be employed to store and provide rainwater to irrigate the living wall shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of protection of the listed building and its setting; to ensure that costs of watering the living wall are minimised, and its longevity safeguarded, also reflecting the requirements of Local Plan Policies which seek to ensure resource efficiency and that schemes incorporate adaptations to climate change.

Condition 10

The living wall shall be installed in accordance with drawing number 19-086-151 prior to first use of the building/s hereby permitted and shall thereafter be retained and maintained as such in good condition unless prior consent (planning permission) has been granted for an alternative means of planting/cladding to replace it.

Reason: In the interests of protection of the listed building and its setting; the living wall is essential to reducing the mass and bulk of the main block hereby approved and in the event of its failure a replacement should be fully considered and conditioned to ensure a similar mitigating effect can be achieved.

Condition 11

No development shall commence until a detailed Landscaping Scheme has been submitted to and approved in writing by the Local Planning Authority which shall include the following:

- A Scheme for Compensatory Planting which accords in principle with the Landscape Proposals Drawing 102C submitted 22nd June 2022.
- Details of plant/trees to be planted (location, type, size, number, and planting distances).
- Details of walls, fences and other boundary treatments (location, type, height, material).
- Written specifications including cultivation and other operations associated with plant and grass establishment.
- Details of hard surface areas (colour, material, method of laying).
- Method and frequency of irrigation for all newly planted trees.
- A programme for implementation for all the elements listed above.

All areas of hardstanding shall be constructed using porous materials laid on a permeable base, unless details have been submitted to and approved in writing by the Local Planning Authority.

All landscaping elements, including planting, seeding, turfing and hard surface areas shall be implemented in accordance with the implementation programme agreed.

Any trees or plants which die, are removed, or become seriously damaged, or diseased within a period of five years from the completion of the development shall be replaced in the next planting season in accordance with the approved Landscaping Scheme.

Reason: In the interests of good design; to ensure the development is visually sympathetic to its sensitive surroundings. Details are required prior to the commencement of development to ensure that provision for appropriate landscaping is made from the outset.

Condition 12

Prior to first use of the new building/s hereby approved, a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies shall have been submitted to and approved in writing by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long-term funding arrangements should be provided.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

Condition 13

Prior to first use of the new building/s hereby approved, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and be approved in writing by the Local Planning Authority.

The content of the LEMP shall include the following:

- a) Description and evaluation of all features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

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

Condition 14

Prior to first use of the new building/s hereby approved, a Lighting Design Scheme for Biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging and show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

The external lighting shall be installed in accordance with the specifications at the locations set out in the Scheme and maintained thereafter in accordance with the Scheme. Under no circumstance should any other external lighting be installed on the development hereby approved without prior consent from the Local Planning Authority.

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

Condition 15

Prior to first use of the new building/s hereby approved, a layout confirming the finalised location of the biodiversity enhancement measures shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: To allow the Local Planning Authority to discharge its duties under s40 of the NERC Act 2006 (Priority habitats & species).

Condition 16

Prior to first use of the new building/s hereby approved, the parking spaces and six new 'Sheffield' cycle storage stands shall be provided as shown on drawing number 19-086-110 Revision I and shall thereafter be retained and kept available for use for their specified purpose.

Reason: To ensure adequate parking, garage space and cycle storage facilities are provided within the site in accordance with the Essex Vehicle Parking Standards Supplementary Planning Document (2009).

Condition 17

Notwithstanding the details submitted, prior to first use of the development hereby permitted, a Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority. Prior to the first use of the development, the approved Travel Plan shall be implemented, and the use shall thereafter only operate in accordance with the approved Travel Plan.

Reason: In the interests of sustainability and highway safety; to ensure the efficient operation of the highway network and in order the development promotes public transport, walking and cycling and limits the reliance on the private car.

Condition 18

Prior to first use of any air extraction equipment, flue or ducting to serve the kitchen in the café hereby approved, full details shall have been submitted to and approved in writing by the Local Planning Authority. The equipment shall only be installed, operated, and maintained in accordance with the approved details.

Reason: In the interests of residential amenity; to ensure that odours from cooking processes do not cause unacceptable impacts upon local residents.

Condition 19

Within six months of first occupation of the new building/s hereby approved, the annex building shall cease to be used to provide residential accommodation and shall have been demolished in its entirety.

Reason: To protect the appearance and character of the Earls Colne Conservation Area, to ensure compliance with the Braintree District Local Plan 2013-2033 and to ensure the impacts of the scheme have been accurately assessed, having been based on a net increase of 27 bedrooms and the demolition of the annexe.

Condition 20

A Final Archaeological Report (or if appropriate a Post Excavation Assessment Report and/or an Updated Project Design Report) shall be submitted to, and approved by, the Local Planning Authority within six months of the completion of the fieldwork (unless otherwise agreed in advance with the Local Planning Authority); such term shall include details of the completion of post excavation analysis, preparation of a full site archive and report and an undertaking for deposition of a post excavation report at the local museum. The Report/s shall be deposited within six months of completion of the fieldwork, or such alternative timescales as agreed within in the approved documentation.

Reason: To enable full investigation and recording of assets of archaeological importance.

Condition 21

In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority and the following must be completed before development can continue:

- a) An investigation and risk assessment must be undertaken and submitted to and approved in writing by the Local Planning Authority.
- b) Where remediation is necessary, a Remediation Scheme must be prepared and submitted to and approved in writing by the Local Planning Authority.
- c) Following completion of any measures identified in the approved Remediation

Scheme, a Verification Report must be prepared and submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the risks from land contamination to the future users of the land and neighbouring land are minimised and to ensure that the development can be carried out safely without unacceptable risk to workers, existing users, neighbours or other offsite receptors.

Condition 22

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

Monday to Friday 0800 hours - 1800 hours

Saturday 0800 hours - 1300 hours

Bank Holidays & Sundays - No work.

Reason: In the interests of residential amenity; to ensure that the construction work associated with the development does not unacceptably harm the living conditions of occupants of adjacent properties.

Condition 23

The Applicant or any successor in title must maintain yearly Logs of SuDS Maintenance which should be carried out in accordance with any approved Maintenance Plan under condition 12 of this decision. The Logs of SuDS Maintenance must be available for inspection upon a request by the Local Planning Authority.

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

Condition 24

No demolition, conversion, alterations or groundworks shall commence until a Programme of Historic Building Recording has been secured and completed in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To enable full investigation and recording of this site of archaeological importance.

Condition 25

Within six months of the completion of works that are the subject of Historic Building Recording, a Historic Building Report shall have been submitted to and approved in writing by the Local Planning Authority and shall have been deposited with the Archaeological Data Service's Digital Archive.

Reason: To enable full investigation and recording of this site of archaeological importance.

Informative(s)

Informative 1

Notice to developer: You will be required by Braintree District Council Building Control to submit a Demolition Notice under Section 80 of The Building Act 1984 with sufficient information setting out the processes of demolition of the annexe and all issues relating to safety of the public and the workforce. A Method Statement and Risk Assessment should be provided along with full technical details of the existing building structure. Building Control are then required to issue a Section 81 Notice once the Council is in receipt of the Section 80 Notice. This sets out the statutory requirements that should be met by the developer to ensure compliance. Where asbestos materials are suspected or found to be present, a professional contractor should be employed and waste taken to a designated and registered disposal centre of excellence.

Informative 2

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

Informative 3

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

Informative 4

You are advised that trees on the site are the subject of a Tree Preservation Order. No tree, the subject of a Tree Preservation Order may be lopped, topped, felled or uprooted without permission under the Order. It is an offence to carry out any works to a preserved tree without such consent having previously been obtained from the Local Planning Authority.

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the

proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission, in accordance with the presumption in favour of sustainable development, as set out in the National Planning Policy Framework.

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP3	Spatial Strategy for North Essex
SP4	Meeting Housing Needs
SP6	Infrastructure & Connectivity
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP33	Specialist Housing
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP47	Built and Historic Environment
LPP48	An Inclusive Environment
LPP49	Health and Wellbeing Impact Assessment
LPP52	Layout and Design of Development
LPP53	Conservation Areas
LPP57	Heritage Assets and their Settings
LPP63	Natural Environment and Green Infrastructure
LPP64	Protected Sites
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP67	Landscape Character and Features
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP71	Climate Change
LPP72	Resource Efficiency, Energy Generation and Energy Efficiency
LPP75	Surface Water Management Plan
LPP76	Sustainable Urban Drainage Systems
LPP77	External Lighting

APPENDIX 3:

SITE HISTORY

Application No:	Description:	Decision:	Date:
02/01096/FUL	Erection of two storey extension incorporating existing office building providing additional bedroom and ancillary accommodation	Withdrawn	28.03.03
02/01097/LBC	Erection of two storey extension incorporating existing office building providing additional bedroom and ancillary accommodation	Withdrawn	28.03.03
03/02336/COU	Change of use of an existing ancillary storage building to be converted into accommodation for the elderly	Granted	14.05.04
03/02337/LBC	Change of use of an existing ancillary storage building to be converted into accommodation for the elderly	Granted	14.05.04
04/01771/FUL	Erection of conservatory	Refused	26.10.04
04/01772/LBC	Erection of conservatory	Refused	26.10.04
04/02279/FUL	Erection of conservatory	Granted	13.12.04
04/02280/LBC	Erection on conservatory	Granted	13.12.04
86/00883/LB	Erection of building to provide 5 no. living units for use in connection with residential home in lieu of units previously approved under BTE/356/85	Granted	29.07.86
86/00770/P	Erection of building to provide 5 no. living units for use in connection with residential home in lieu of units previously approved under reference BTE/356/85	Granted	28.07.86
86/00771/P	Change of use of existing squash court to food store and offices for use in	Granted	09.07.86

	connection with residential home		
86/00025/P	Erection of extension to existing building to provide 3 no. additional bedrooms at first floor level	Granted	25.03.86
86/00026/LB	Erection of extension to existing building to provide 3 no. additional bedrooms at first floor level	Granted	25.03.86
87/00316/P	Construction of 5 no. garages to be used in conjunction with residential home	Granted	05.06.87
85/00356/P	Conversion and extension of existing coach house to provide 11 no. self contained flats for the elderly (i.e. as re-submission of BTE/1541/84)	Granted	16.04.85
86/01580/P	Erection of extension to provide 2 no. additional toilets	Granted	15.12.86
86/01581/LB	Erection of extension to provide 2 no. additional toilets	Granted	11.12.86
84/01541/P	Conversion of coach house into 9 no. care flatlets for the elderly	Withdrawn	25.02.85
88/01256/P	Erection Of Single Storey Extension	Granted	02.08.88
09/00796/FUL	Erection of .900mm fence around patio area and new paving to match existing within the fence line	Refused	19.08.09
09/00797/LBC	Erection of .900mm fence around patio area and new paving to match existing within the fence line	Refused	19.08.09
11/00298/TPOCON	Notice of intent to carry out works to trees in a Conservation Area - Remove 9 Lime trees and remove other dead trees	Granted	02.12.11
12/01145/FUL	Extension to form laundry and bedroom for residents including internal	Granted	15.10.12

	alterations and improvements		
12/01146/LBC	Extension to form laundry and bedroom for residents including internal alterations and improvements	Granted	15.10.12
15/00192/DAC	Application for approval of details reserved by condition nos. 4, 5, 6 and 7 of approved application 12/01146/LBC	Granted	14.10.15
18/01861/LBC	Replacement of hall ceiling and cornice detailing due to existing being unsafe.	Granted	03.12.18
22/01013/LBC	Replacement of entire roof on a like-for-like basis.	Granted	28.06.22
22/01687/LBC	Internal and external alterations to Colne House, demolition of existing 5 bed annex building, construction of two-story extension with underground link to provide net 27 additional specialist care bedrooms with associated car parking, sustainable drainage and hard and soft landscaping enhancements.	Pending Decision	

Agenda Item: 5c

Report to: Planning Committee		
Planning Committee Date: 18th April 2023		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	22/01687/LBC	
Description:	Internal and external alterations to Colne House, demolition of existing 5 bed annex building, construction of two-storey extension with underground link to provide net 27 additional specialist care bedrooms with associated car parking, sustainable drainage and hard and soft landscaping enhancements.	
Location:	Colne House, Station Road, Earls Colne	
Applicant:	Kingsley Healthcare Ltd, C/O Agent, Trumpington Road, Cambridge, CB2 9LD	
Agent:	Miss Alice Maguire, Bidwells, Bidwell House, Trumpington Road, Cambridge, CB2 9LD	
Date Valid:	22nd June 2022	
Recommendation:	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.	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
Case Officer:	Kathryn Oelman For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2524, or by e-mail: kathryn.oelman@braintree.gov.uk	

22/01687/LBC

8529

Grid Ref: (E) 85245 (N) 29240

Coach House

Garden Court

Dorset House

Garden Cottage

Pavilion

Garden House

Recreation Ground

Tennis Courts

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Purpose of the Report:	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.
Financial Implications:	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.
Legal Implications:	<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 & 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>
Other Implications:	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.
Equality and Diversity Implications	<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"> a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act; b) Advance equality of opportunity between people who share a protected characteristic and those who do not; c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding. <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race,</p>

	<p>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>
Background Papers:	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 22/01687/LBC</p> <p>Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan 2013 – 2033 § Neighbourhood Plan (if applicable) § Supplementary Planning Documents (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1 The site comprises 3.7 hectares of land currently used as a Care Home and operated by Kingsley Healthcare. The business provides nursing, residential and respite care for adults, including those with dementia and mental health needs (Use Class C2).
- 1.2 Colne House is Grade II listed. Listed building consent is sought for internal and external works to Colne House. It is also proposed to construct a new two-storey extension with underground link to provide additional specialist care bedrooms within the grounds of the listed building.
- 1.3 The internal/external works to Colne House are largely beneficial and sympathetic to the listed building. In terms of the extension, its design and careful siting would minimise the impact upon the special architectural and historic interest of the listed building. Overall, Officers conclude the proposal would result in 'less than substantial' harm to the significance of the listed building and its setting.
- 1.4 It is judged that the harm lies toward the lower end of the scale. Having attributed this harm considerable importance and weight, it is considered the public benefits of the development would outweigh this harm and that the proposal would comply with the Development Plan and the Framework as a whole. Consequentially, the application is recommended for approval.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

- 2.1 The application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation as it is a listed building consent which is linked to 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 comprises 3.7 hectares of land currently used as a Care Home and operated by Kingsley Healthcare. The business provides nursing, residential and respite care for adults, including those with dementia and mental health needs (Use Class C2).
- 5.2 The property is accessed via a private drive from the south which connects to Aubrey Close, this in turn connects to Station Road to the west. Colne House sits in its own landscaped grounds but shares its boundaries with a number of residential properties to all sides.
- 5.3 Colne House is Grade II listed. The main building dates from the early 19th Century and is constructed of gault brick with slate roof. Features of significance include the original sash windows, internal detailing and stucco moulded canopy and pilasters to the entrance.
- 5.4 To the north of the main building lies a two-storey annexe building providing additional specialist care beds. The annexe was built in the 1980s and is not listed, therefore its demolition does not require listed building consent.

6. PROPOSAL

- 6.1 Listed Building consent is sought to for internal and external works to Colne House. Consent is also sought for a glazed extension which then connects via a sunken walkway to a new curved block whose front elevation is clad in a living wall, providing a total of 32 specialist care beds.
- 6.2 Internal and external works to the listed building include removal of modern partitions; creation of openings; new partitions; reinstatement of incomplete ceilings, hearths, fireplaces, and ironmongery to doors; removal of extract/AC/condenser flues and vents; reinstatement of brickwork/glazing; minor alterations to planting border wall; construction of extension works and alteration/removal of an original sash window to form a new access doorway to the new building.

- 6.3 All the bedrooms within the new extension block would benefit from ensuite wet rooms. The building would be designed to provide nursing care for residents with a higher level of dependency due to their frail nature and medical requirements. Day spaces such as a café, hair salon, quiet lounges, and activity rooms to serve the existing residents in the main building would also be provided. In addition, a dedicated kitchenette and changing/shower rooms would provide enhanced facilities for staff.
- 6.4 The Applicants argue that the new purpose-built facilities will better meet current care standards, as this has been lacking in the existing buildings. Critically, the link will allow better access between the built elements on the site which would be highly beneficial from an operational perspective. The Applicants have chosen to position the building in the east of the site as this would preserve key views of the listed building whilst allowing plenty of space for the development and retaining views out to the neighbouring golf course.
- 6.5 The following documents have been submitted to support the application:
- § Design & Access Statement
 - § Planning Statement
 - § Heritage Statement
 - § Biodiversity Checklist, Survey and Report
 - § Ecology Addendum & Response Letter
 - § Green Wall Examples
 - § Details of Green Wall Irrigation
 - § Mobi Panel Specification
 - § Irrigation Unit & Irrigation Details
 - § Location Plan
 - § Proposed Site Plan
 - § Roof & Floor Plans – Existing & Proposed
 - § Elevations – Existing & Proposed
 - § Street Scene Plans
 - § CGI View

7. SUMMARY OF CONSULTATION RESPONSES

7.1 Historic England

- 7.1.1 Confirm they do not wish to offer advice.

7.2 Joint Committee of the National Amenity Societies

- 7.2.1 No comments received (consultation expired).

7.3 ECC Historic Buildings Consultant

- 7.3.1 Commented on 1st November 2022 as follows:

“Colne House is a Grade II listed building, located within the Earls Colne Conservation Area (list entry number: 1123200). The proposed alterations largely concern the setting of the listed building, with minor internal changes to the listed building. The submitted heritage statement goes into great detail regarding the impact of the proposals upon Colne House and surrounding heritage assets. Whilst two other listed buildings and a non-designated heritage asset have been scoped into the Applicant’s assessment (Thatched Cottages, South Lodge and Meadowcroft respectively), which is best practice, only the Conservation Area and Colne House are affected. For ease, the various aspects of the application are itemised below.

Changes to the listed building

The proposed alterations to the listed building are largely superficial, involving redecorating and minor removal of historic fabric. The loss of a small section of brickwork on the rear elevation to facilitate the new link is necessary, however in terms of impact to the overall significance of the building, this loss is minor. In addition, the removal of the nib wall, extract flue and air conditioning units will benefit the listed building, removing incongruous elements.

Therefore, subject to the retention of the internal sash window at ground floor level and the door at first floor level as was discussed on site, I have no objection to the proposed changes to the listed building (see drawing 19-086-121, the window is located in the Med store and the door is in to room B10. Both elements could be retained and the rooms they serve closed/boarded without the loss of fabric). Amended floor plans should be submitted which indicate these elements will be retained.

Further detail should be provided regarding the changes to any fireplaces and their surrounds, including the reinstatement of hearths in the principal rooms (as shown on drawing 19-086-121), however this detail can be conditioned, should the planning applications be approved.

Demolition of the annexe

I have no objection to the demolition of the annexe building which, although sympathetically designed in the style of Colne House, is of no architectural or historic interest.

Construction of a new block

The proposed new block will be a curved structure, positioned to the side of the listed building. Due to its placement, the block will be partially concealed when the listed building is approached from the main entrance and its link to the main house also disguised in a ha-ha style which responds to the topography of the site.

Covered in a 'living wall', the proposed new block is a sleek design, with its façade punctuated by square windows in wooden cases. As a counterpart to the listed building, the proposed block is distinct and modern, contrasting to the classical appearance of Colne House. Whilst this would represent a distinct addition to both the setting of the listed building and the character of the Earls Colne Conservation Area, if well executed there should not be a negative impact upon the significance of either heritage asset. At most, the impact would be at the lower end of less than substantial harm, which, as per section 202 of the NPPF, should be considered against the public benefits of the scheme. This harm would be caused by the introduction of a large imposing structure within the grounds of the listed building, which affects how its significance will be appreciated and understood, yet the proposed 'green wall' should negate this, helping the building to blend in to the surrounding treescape and landscaping of the listed building, when the two are viewed in conjunction.

The proposed material palette, using gault brick with a central band and sections of vertical wooden cladding, offers a contemporary approach which makes reference to the materiality of the listed building. If the applications are approved, I recommend that samples of all external materials are submitted to the local authority and approved in writing prior to their first use on site. Careful consideration must also be given to the discharge of any conditions, to ensure the design intent is not diminished through changes in the design. A large element of the building's acceptability/lack of impact in relation to the listed building's setting relies on the green wall element, and thus this should also be secured in perpetuity, to prevent additional harm to the setting of the designated heritage asset. Similarly, were the proposed landscaping amended, this too could affect the setting of the listed building, however the use of grasscrete for the additional parking as proposed will help to maintain a green, verdant appearance to the listed building's grounds.

The link structure and garden pavilion which connects the new block to the existing house will be positioned to the rear of the listed building, utilising an existing window opening to connect the two. Limited details are provided regarding the specifics of the link structure, and I recommend a condition which requires sectional and elevational drawings of this link to be submitted to the local authority and approved in writing, prior to installation, is imposed on any approval of the scheme. Details of all eaves, junctions, roof cladding, verges and cills of the garden pavilion should also be provided."

- 7.3.2 Following revisions to the plans to retain the internal window and doorway, the following comment was made on 23rd January 2023:

"I have no objection to the details of the proposed living walls, however further information is required regarding the internal changes and the proposed extension/link to the listed building. Please refer to my previous letter."

8. PARISH / TOWN COUNCIL

8.1 Earls Colne Parish Council

8.1.1 Confirm they have no objections to the application.

9. REPRESENTATIONS

9.1 The application has attracted one representation. Comments made relate to the impacts noise and disturbance from construction activities upon residential amenity; these are not relevant within the limited considerations of a listed building consent application, however these comments have been taken into account when considering the associated application for planning permission (Application Reference 22/01686/FUL).

10. PRINCIPLE OF DEVELOPMENT

10.1 National Planning Policy Framework (NPPF)

10.1.1 Paragraph 194 of the NPPF states that, in determining applications, LPAs should require an Applicant to describe the significance of any heritage assets affected, including any contribution made to their setting.

10.1.2 Paragraph 195 of the NPPF states that LPAs should take account of the significance of a heritage asset when considering the impact of a proposal upon a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

10.1.3 Paragraph 199 of the NPPF states that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, irrespective of whether this harm amounts to substantial harm, total loss or less than substantial harm to its significance.

10.1.4 Paragraph 202 of the NPPF states that, where a proposed development 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 optimal viable use.

10.2 The Development Plan

10.2.1 Currently the Council's statutory Development Plan consists of the Braintree District Local Plan 2013-2033 (Adopted July 2022).

10.2.2 Policy SP1 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 in the NPPF.

11. SITE ASSESSMENT

11.1 Heritage Impact

- 11.1.1 Policy SP7 of the Adopted Local Plan requires that new development protect and enhance assets of historical value. Policy LPP47 of the Adopted Local Plan requires that, to protect and enhance the historic environment, all development respects and responds to local context. LPP52 requires that designs shall be sensitive to the need to conserve and enhance local features of architectural, historic and landscape importance, particularly within Conservation Areas and in proximity to heritage assets.
- 11.1.2 The Local Planning Authority has a duty under Section 66 (1) of the Planning (Listed Buildings & Conservation Areas) Act 1990, when considering whether to grant planning permission for development which affects a listed building or its setting, to pay special attention to the desirability of preserving the listed building or its setting, or any features of special architectural or historic interest which it possesses.
- 11.1.3 With the exception of the new extension, the internal and external works to the listed building are largely superficial and would generally confer a benefit by removing existing incongruous elements and replacing them with more sympathetic alternatives. Whilst some original brickwork would need to be removed to create access to the new extension, the Historic Building Consultant considers this would only have a minor impact upon the significance of the listed building.
- 11.1.4 The Historic Buildings Consultant notes that the new extension and its glazed pavilion element will cause harm to the significance of the listed building. They consider this harm would be at the lower end of the scale provided conditions ensure the design ethos, living wall and high-quality finish of the proposal are realised.
- 11.1.5 In terms of its design, the simple form of the block, curving away from the listed building, its concealed underground link and overall modern appearance would assist it to appear separate, and not compete with, the listed building. The living wall is essential in helping to mitigate the mass of the building and blend into the landscape.
- 11.1.6 In general, Officers are satisfied that the harm caused by the development to the heritage asset has been minimised by careful design and siting. Officers consider that, having attributed great weight to the harm caused, the aforementioned public benefits of the development proposal would clearly outweigh this harm. Granting permission would not therefore be contrary to local or national policy and would also be consistent with the Council's fulfilment of its statutory duties under the Act.

12. PLANNING BALANCE AND CONCLUSION

- 12.1.1 The development would give rise to less than substantial harm to the significance of the listed building, Colne House, but this harm would be at the lower end of this scale. It is judged that the proposal successfully minimises conflict between the heritage asset's conservation through careful siting and design. In addition, the application includes internal/external works to the main house which would be beneficial to the preservation of its special architectural and historic interest.
- 12.1.2 The provision of a net 27 additional beds in specialist housing would help to address housing need and may also lead in turn to more general housing becoming available on the market. The development would also result in improved facilities and social environment for the existing residents and staff. It is predicted 34 new jobs would be created by the development and, as the security of the business would also be strengthened, existing jobs would be safeguarding too. Construction activities and the presence of additional staff would also bring general economic benefits by helping support existing businesses in the locality. Overall, the proposal would give rise to significant benefits.
- 12.1.3 Great weight is attributed to the conservation of the listed building and, having weighed this harm against the public benefits (as per Paragraph 202 of the NPPF), Officers consider that the harm of granting listed building consent would be outweighed by the public benefits of the development.

13.2 Conclusion

- 13.2.1 The proposal complies with the Development Plan and the Framework as a whole. There are no other material considerations which suggest a decision should not be made in accordance with the Development Plan. Consequently, it is recommended listed building consent 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)

Plan Description	Plan Ref	Plan Version
Site Layout	19-086-110	I
Floor Plan	19-086-121	A
3D Visual Plan	19-086-806	B
Elevations	22-6015-01-01	N/A
Location Plan	19-086-100	B
Proposed Ground Floor Plan	19-086-122	N/A
Proposed 1st Floor Plan	19-086-123	N/A
Proposed Roof Plan	19-086-124	N/A
Proposed Elevations	19-086-152	N/A
Proposed Floor Plan	19-086-125	N/A
Proposed Elevations	19-086-150	N/A
Proposed Elevations	19-086-151	N/A
Proposed Elevations	19-086-153	N/A
Street elevation	19-086-800	N/A
Street elevation	19-086-801	N/A
Street elevation	19-086-802	N/A
Street elevation	19-086-803	N/A
Street elevation	19-086-804	N/A

Condition(s) & Reason(s)

Condition 1

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

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

Condition 2

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

Reason: This Condition is imposed pursuant to Section 18 of the Planning (Listed Building & Conservation Areas) Act 1990.

Condition 3

No construction of building/s hereby approved shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:

- a) A full topographical site survey showing existing roof, eaves and floor levels relative to a datum point used to calibrate the site levels and showing associated ground levels at regular intervals across the site.
- b) Full details of the proposed finished roof, eaves and floor levels of all buildings and any associated changes in ground levels within their vicinity.

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

Reason: In the interests of protection of the listed building: to ensure the development remains subservient in height and appearance to the existing building/s. The levels information is required prior to the commencement of this part of the development to ensure that the correct site levels are achieved from the outset of the construction phase.

Condition 4

Notwithstanding the submitted details, the works identified in each item listed below shall not commence until the corresponding details specified in that item below have been submitted to and approved in writing by the Local Planning Authority:

- a) Sectional and elevational drawings of the lower ground floor link structure.
- b) Large scale details (1:20 or 1:5) of all eaves, junctions, roof cladding, verges and cills of the Garden Pavilion and Frameless Glass Link.
- c) Large scale details and sections (1:20 or 1:5) of all fenestration to the new building/s including, where applicable, method of opening.
- d) Details of brickwork to the new building/s including bond and mortar mix.
- e) Materials and location of any rainwater pipes, gutters, flues, ductwork, soil stacks or vent pipes, or any other pipework to be fixed to the exterior of the new building/s hereby approved.
- f) Further details of changes to any fireplaces and their surroundings, including the reinstatement of hearths in the principal rooms.
- g) Large scale details (1:20 or 1:5 plans or details as appropriate) of all doors, skirting, architraves, ceilings, panelling, wall finishes and door/window ironmongery to be installed/replaced/alterd within the listed building, including their materials, colour, finish.

The works shall only be implemented in strict accordance with the approved details.

Reason: To ensure that the works hereby permitted will not harm the architectural and/or historic character of the existing buildings.

Condition 5

Construction of any building/s hereby permitted shall not precede beyond slab level until samples of the materials to be used on the external surfaces of the new building/s hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved

details.

Reason: In the interests of visual amenity and protection of the listed building: to ensure that the development does not prejudice the character and appearance of the locality or the setting of the listed building.

Condition 6

All new work and finishes or works of making good shall match the existing original work in respect of materials used, detailed execution and finished appearance, except where specifically indicated otherwise on the drawings or documents hereby approved.

Reason: To ensure that the works hereby permitted will not harm the architectural and/or historic character of the existing buildings.

Informative(s)

Informative 1

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

Positive and Proactive Statement

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

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan 2013 - 2033

LPP47	Built and Historic Environment
LPP57	Heritage Assets and their Settings

APPENDIX 3:

SITE HISTORY

Application No:	Description:	Decision:	Date:
02/01096/FUL	Erection of two storey extension incorporating existing office building providing additional bedroom and ancillary accommodation	Withdrawn	28.03.03
02/01097/LBC	Erection of two storey extension incorporating existing office building providing additional bedroom and ancillary accommodation	Withdrawn	28.03.03
03/02336/COU	Change of use of an existing ancillary storage building to be converted into accommodation for the elderly	Granted	14.05.04
03/02337/LBC	Change of use of an existing ancillary storage building to be converted into accommodation for the elderly	Granted	14.05.04
04/01771/FUL	Erection of conservatory	Refused	26.10.04
04/01772/LBC	Erection of conservatory	Refused	26.10.04
04/02279/FUL	Erection of conservatory	Granted	13.12.04
04/02280/LBC	Erection on conservatory	Granted	13.12.04
86/00883/LB	Erection of building to provide 5 no. living units for use in connection with residential home in lieu of units previously approved under BTE/356/85	Granted	29.07.86
86/00770/P	Erection of building to provide 5 no. living units for use in connection with residential home in lieu of units previously approved under reference BTE/356/85	Granted	28.07.86
86/00771/P	Change of use of existing squash court to food store	Granted	09.07.86

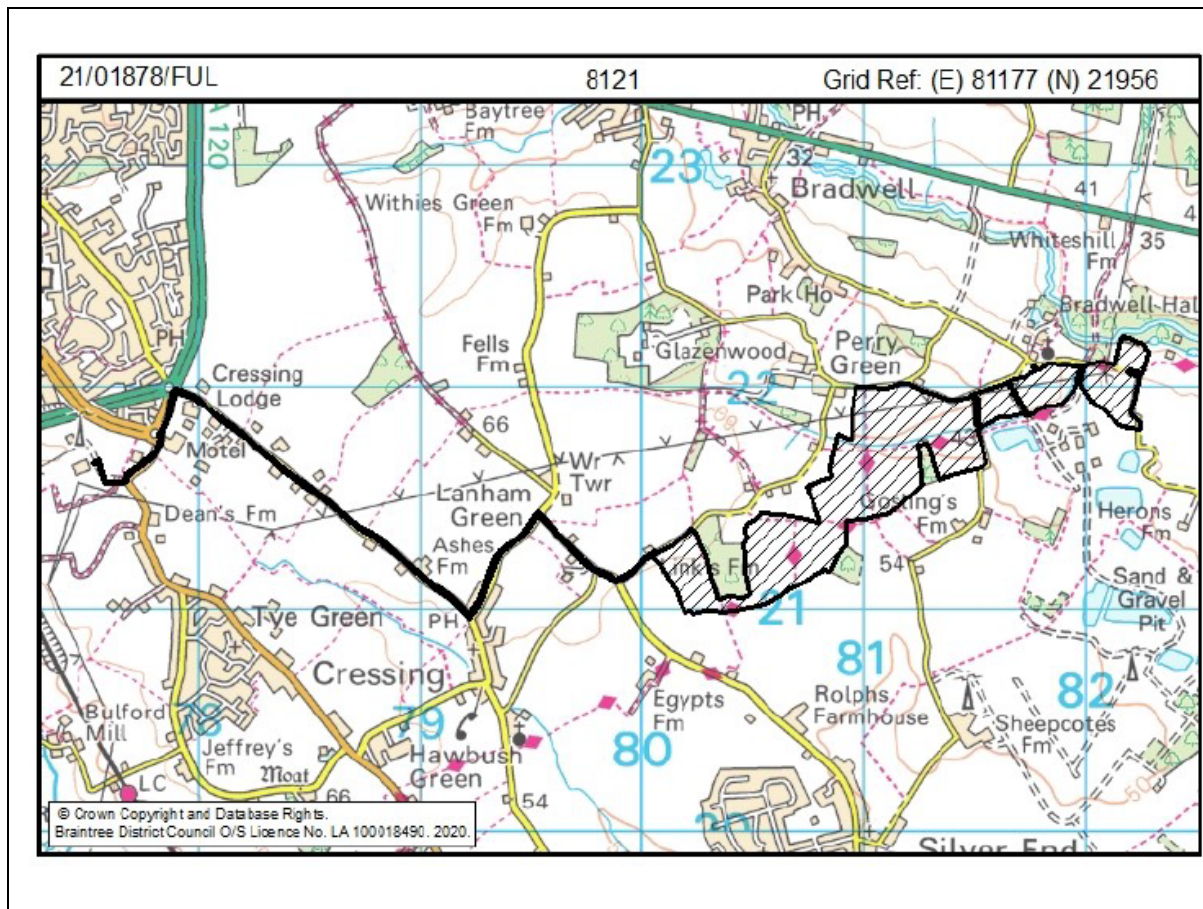
	and offices for use in connection with residential home		
86/00025/P	Erection of extension to existing building to provide 3 no. additional bedrooms at first floor level	Granted	25.03.86
86/00026/LB	Erection of extension to existing building to provide 3 no. additional bedrooms at first floor level	Granted	25.03.86
87/00316/P	Construction of 5 no. garages to be used in conjunction with residential home	Granted	05.06.87
85/00356/P	Conversion and extension of existing coach house to provide 11 no. self contained flats for the elderly (i.e. as re-submission of BTE/1541/84)	Granted	16.04.85
86/01580/P	Erection of extension to provide 2 no. additional toilets	Granted	15.12.86
86/01581/LB	Erection of extension to provide 2 no. additional toilets	Granted	11.12.86
84/01541/P	Conversion of coach house into 9 no. care flatlets for the elderly	Withdrawn	25.02.85
88/01256/P	Erection Of Single Storey Extension	Granted	02.08.88
09/00796/FUL	Erection of .900mm fence around patio area and new paving to match existing within the fence line	Refused	19.08.09
09/00797/LBC	Erection of .900mm fence around patio area and new paving to match existing within the fence line	Refused	19.08.09
11/00298/TPOCON	Notice of intent to carry out works to trees in a Conservation Area - Remove 9 Lime trees and remove other dead trees	Granted	02.12.11

12/01145/FUL	Extension to form laundry and bedroom for residents including internal alterations and improvements	Granted	15.10.12
12/01146/LBC	Extension to form laundry and bedroom for residents including internal alterations and improvements	Granted	15.10.12
15/00192/DAC	Application for approval of details reserved by condition nos. 4, 5, 6 and 7 of approved application 12/01146/LBC	Granted	14.10.15
18/01861/LBC	Replacement of hall ceiling and cornice detailing due to existing being unsafe.	Granted	03.12.18
22/01013/LBC	Replacement of entire roof on a like-for-like basis.	Granted	28.06.22
22/01686/FUL	Internal and external alterations to Colne House, demolition of existing 5 bed annex building, construction of two-storey extension with underground link to provide net 27 additional specialist care bedrooms with associated car parking, sustainable drainage and hard and soft landscaping enhancements.	Pending Decision	

Agenda Item: 5d

Report to: Planning Committee		
Planning Committee Date: 18th April 2022		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	22/01881/DAC	
Description:	Application for approval of details as reserved by condition 6 (Landscaping details) of approved application 21/01878/FUL - (Construction and operation of a solar photovoltaic farm)	
Location:	Land East Of Periwinkle Hall, Links Road, Perry Green	
Applicant:	Mr James Hartley-Bond, Stirling Square, 5-7 Carlton Gardens, SW1Y 5AD	
Agent:	Mr Jordan Martin, DWD Property And Planning, 6 New Bridge Street, London, EC4V 6AB	
Date Valid:	14th July 2022	
Recommendation:	It is RECOMMENDED that the following decision be made: § That Condition 6 (Landscaping) of Application 21/01878/FUL is Discharged	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Approved Plan(s) & Document(s) Condition(s) & Reason(s) & Informative(s)
	Appendix 2:	Policy Considerations
	Appendix 2:	Site History
Case Officer:	Mathew Wilde For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2512, or by e-mail: mathew.wilde@braintree.gov.uk	

Application Site Location:



Purpose of the Report:	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.
Financial Implications:	<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>
Legal Implications:	<p>Any legal implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
Other Implications:	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.
Equality and Diversity Implications	<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"> a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act; b) Advance equality of opportunity between people who share a protected characteristic and those who do not; c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

	<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>
Background Papers:	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 22/01881/DAC.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan (2013-2033) § Feering Neighbourhood Plan (if applicable) § Supplementary Planning Documents (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1 This application relates to a discharge of condition request for Condition 6 (Landscaping) attached to Application Reference 21/01878/FUL (erection of a 35MW solar farm).
- 1.2 The application is being reported to Planning Committee at Members request following the approval of Application Reference 21/01878/FUL on 14th December 2021. This is because application 21/01878/FUL for a 35mW solar farm was assessed at the time using 'Rochdale Envelope' principles, where finer detail was to be reserved by condition. These finer details have now been submitted for approval.
- 1.3 Officers have reviewed the submitted Landscape Plan and Landscape Maintenance Plan submitted in support of Condition 6. Overall, it is considered that the proposed landscaping plan aligns and builds upon the principles secured at the planning application stage (Application Reference 21/01878/FUL) to provide effective screening of the development. Moreover, it is considered that the submitted landscape management plan would ensure that the trees, hedges, and grassland are all suitably maintained at the site for the lifetime of the solar panel development.
- 1.4 It is therefore recommended that Condition 6 can be discharged.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

- 2.1 This application is being reported to Planning Committee at Members request following the approval of Application Reference 21/01878/FUL on 14th December 2021. This is because application 21/01878/FUL for a 35mW solar farm was assessed at the time using 'Rochdale Envelope' principles, where finer detail was to be reserved by condition. These finer details are now being submitted for approval – this application is to discharge the landscaping condition (Condition 6) attached to approved application 21/01878/FUL.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 The site comprises a number of parcels of agricultural land totalling 50.49 hectares. It is situated within the open countryside with Bradwell to the north-east, Coggeshall, to the north-west, Silver End to the south and Cressing to the south-west. The parcels therefore lie within the Silver End Farmland Plateau. There is no development currently on the site, aside from a large overhead electricity line (likely 400kv) with pylons that cross the northern section.
- 5.2 There are a number of smaller hamlets and standalone properties within the immediate vicinity of the site. An operational minerals extraction site is immediately adjacent to the north-eastern edge of the site. The Essex Way, and other Public Rights of Way, run through and are adjacent to the site.
- 5.3 Heritage asserts are also situated at various locations and distances from the red line site boundary. These include Holy Trinity Church (Grade I) at 0.34km from the western boundary; Bradwell Hall (Grade II) at 0.38km from the western boundary, Goslings Farm and structures (Grade II) at 0.25km from the south boundary, and Silver Birches (Grade II) at 0.1km from the northern boundary. All distances measured are from the shortest distance from the closest red line site boundary.
- 5.4 The site is also adjacent to 'Links Wood', a local wildlife site, and a Tree Protection Order woodland known as the Jubilee Plantation. The site also comprises hedges and trees on some of its boundaries.

6. PROPOSAL

- 6.1 This discharge of condition application seeks to discharge the requirements of Condition 6 (regarding landscaping and landscaping maintenance) of Application Reference 21/01878/FUL which approved the principle of erecting a 35mW solar farm at the site.

7. SUMMARY OF CONSULTATION RESPONSES

- 7.1 No consultation responses were received on this application.

8. PARISH / TOWN COUNCIL

8.1 Bradwell with Pattiswick Parish Council

- 8.1.1 Two consultations were sent to Bradwell with Pattiswick Parish Council however no comments were received.

9. REPRESENTATIONS

- 9.1 The application consulted the same neighbours at the original planning application (approximately 218). No representations have been received.

10. BACKGROUND & PRINCIPLE OF DEVELOPMENT

- 10.1 Application 21/01878/FUL sought approval for a solar farm which comprised solar panels (estimated to generate 35 megawatts (MW) of renewable energy per year), battery storage, and other associated infrastructure, including substation, switch room, inverters, security cameras, fencing, access tracks and landscaping. This application was submitted utilising Rochdale Envelope principles, meaning that it sought to secure the maximum parameters of where the solar panels would be, as opposed to securing their exact location. These details would then be submitted by way of discharge of condition once the layout of the panels had been optimised for electricity generation.

- 10.2 Members resolved to grant application 21/01878/FUL, on the basis that Conditions 3 (design and location) and 6 (landscaping) be reported to Planning Committee for consideration when submitted. Application 21/01878/FUL was subsequently approved following Planning Committee.

- 10.3 This report focuses on Condition 6 of application 21/01878/FUL, which states:

“No development shall commence until a detailed Landscape Scheme has been submitted to and approved in writing by the Local Planning Authority which provides details of the following:

A) How the principles contained within the Landscaping Plan (Reference: edp6971_d011j) have been followed)

B) Details of soft landscaping to include the plant type, size, planting numbers and distances, and a program detailing the timing of the landscaping works in relation to the phasing of construction.

C) Details of a long term management plan within the red line which allows for the hedgerows to be maintained at a minimum height of 3m at all times and confirmation of the maintenance regime to ensure that all the identified landscaping on the site is continually managed (including watering) for the lifetime of the development; to the objective of ensuring that the visual impact of the development is minimised from both close range views and those available from the wider surrounding landscape. Once approved the watering and maintenance of the landscaping scheme shall be carried out in accordance with the approved details.

Development shall only commence in strict accordance with the Landscape Scheme and Landscape Management Scheme, which shall subsequently be implemented only in accordance with the approved details for the lifetime of the use hereby approved. Any trees or plants which die, are removed, or become seriously damaged or diseased during the life of the development shall be replaced in the next planting season with others of a similar size and species.

Reason: In the interests of visual amenity and protection of the local environment: to ensure that existing landscaping on the site is protected and enhanced with the objective of ensuring that the visual impact of the development is minimised from both close range views and those available from the wider surrounding landscape. Failure to provide the above required information prior to commencement may result in harm to features of landscape interest and harm to visual amenity. To ensure that new trees are suitably irrigated until they become established and in order to enhance the appearance of the development and in the interests of amenity and privacy.”

- 10.4 The application seeks to discharge this condition by submitting a finalised landscape parameters plan which seeks to lock in the parameters secured by the original landscaping plan submitted with Application Reference 21/01878/FUL. It also submits a strategy to manage the new and existing planting around the site in order to provide an effective buffer for the solar panels.
- 10.5 This report therefore compares the approved landscape parameters plan against the proposed Landscape Plan, while also considering the species mix of the planting and the long term maintenance of the planting. These particulars are explored in more detail in the report below.
- 10.6 For the avoidance of doubt, this application is not a repeat of approved application 21/01878/FUL. It focuses very specifically on Condition 6 which is only to do with the landscaping associated with the solar panels. If

indeed the proposed landscaping plan follows the approved landscaping parameters principles, then issues such as neighbour impact, landscape impact and highway impact have already been assessed to be acceptable and are not re-assessed here.

11. SITE ASSESSMENT

11.1 Landscape Principles (approved via 21/01878/FUL) against Proposed Landscape Scheme

11.1.1 The landscape principles attached to Application Reference 21/01878/FUL were designed to ensure that the development had the minimal possible impact on a range of different areas including glint and glare and wider visual impact. These principles included inter alia:

- § Enhancing existing trees and hedges around the site – grow and maintained to 3m in height and fill up existing gaps where required.
- § Scatter new native trees on boundaries.
- § Retain and enhance species rich grassland.
- § Off-set panels Links Wood – no planting closer than 15m.
- § 15m wide offset from PROW route.

11.1.2 These principles were shown in the approved landscape principles plan around the approved maximum development zones for the solar panels.

11.1.3 The current landscape plan submitted with this application shows the proposed positioning of the solar panels and its associated paraphernalia, as sought by Condition 3 (subject to a separate report). The plan shows that the same principles have been applied as per the approved Landscape Parameters Plan:

- § Provision of new hedgerows to restore field boundaries managed at a 3m height.
- § Enhancement and gapping up with native species encouraged to grow and maintained at 3m height.
- § The scattering of new native trees at 20m intervals to create additional height to the screening.
- § Wide buffers either side of the public right of way and Links Wood – in these buffers there would be areas of wildflower and species rich grassland.

11.1.4 The mitigation was also updated during the life of the application to reflect the positioning of the panels; this primarily consisted of making sure new internal hedgerows were in the optimum positions to help mitigate the impact of the solar panels.

11.1.5 New hedgerow species would include: Hawthorn, Blackthorn, Field Maple, Hazel, Dogwood and Wych Elm. New trees would include Hornbeam, Hazel, Common Oak, Field Maple, Cherry and Crack Willow. The landscaping plan also sets out that all soft landscape works are to be

carried out in accordance with BS4428:1989 Code of Practice for General Landscape Operations and BS3936:1992 Recommends for cultivations and planting in the advanced nursery stock category.

- 11.1.6 Overall, it is considered that the proposed mitigation would align and build upon the principles that were established by the landscaping parameters plan attached to approved application 21/01878/FUL, minimising the impact of the development. However, while the landscaping scheme itself is important, the other relevant aspect is the maintenance of it, to ensure that the landscaping provides the mitigation and survives long term.

11.2 Maintenance of Landscaping

- 11.2.1 The importance of maintenance was recognised in condition 3 point (c), which required a long-term management plan to be submitted to allow for the hedgerows to be maintained at a minimum height of 3m at all times once established. Plus, the standard condition wording about replacing any trees or hedges that die within 5 years of planting.
- 11.2.2 In terms of the maintenance itself, a document has been provided which sets out the strategy for maintenance; specifically focusing on the establishment period in year 1 and aftercare in years 2-5. The management during the establishment period will be undertaken by a landscape contractor, while after final completion the management would be undertaken by the landowner. There is also a built-in review process should the management require updating based on site conditions.
- 11.2.3 This report will not delve into the depths of all of the maintenance plans, however, highlights some key notes:
- § In year 1 there would be maintenance visits at least twice in spring and autumn with failed trees and hedges replaced. Plants would be watered in the growing season. Weed control would be performed. Grassland cutting after period of seed sowing. An inspection of all planting would take place prior to final completion. A recommendation of procedures produced if anything additional was required to the long-term management plan.
 - § In years 2-5, quality control would be undertaken by a field inspection and assessment of any necessary changes to the programmed work would be made. The management includes many of the same things as year one but is specific in terms of the months that the activities would happen – e.g. watering would be in the summer months.
 - § A plan review would be carried out every five years and continued throughout the lifetime of the project.
- 11.2.4 Subject to the continued implementation of the maintenance plan, it is considered that the landscaping at the site would be sufficiently maintained in order to continue to provide effective screening during the lifetime of the development.

- 11.2.5 Overall, it is considered that the submitted landscape scheme and maintenance scheme satisfy the terms of Condition 6 of application 21/01878/FUL. It is therefore recommended that Condition 6 can be discharged.

12. CONCLUSION

- 12.1 The submitted landscape scheme (Figure LV1) dated 16/02/2023 and submitted schedule of Landscape Maintenance dated June 2023 are considered to be suitable to achieve the mitigation for the solar farm development. As such, it is considered that Condition 6 Condition 6 (Landscaping) attached to Application Reference 21/01878/FUL can be discharged.

13. RECOMMENDATION

- 13.1 It is RECOMMENDED that the following decision be made:
Application Approved and Condition discharged in accordance with the Approved Plans and Documents outlined within APPENDIX 1.

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

APPROVED PLAN(S) & DOCUMENT(S)

Approved Plan(s) & Document(s)

Plan Description	Plan Ref	Plan Version
Landscape Masterplan	LV1	N/A
Management plan	Schedule of Landscape Maintenance	N/A

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
LPP47	Built and Historic Environment
LPP52	Layout and Design of Development
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP67	Landscape Character and Features
LPP73	Renewable Energy Schemes

APPENDIX 3:

SITE HISTORY

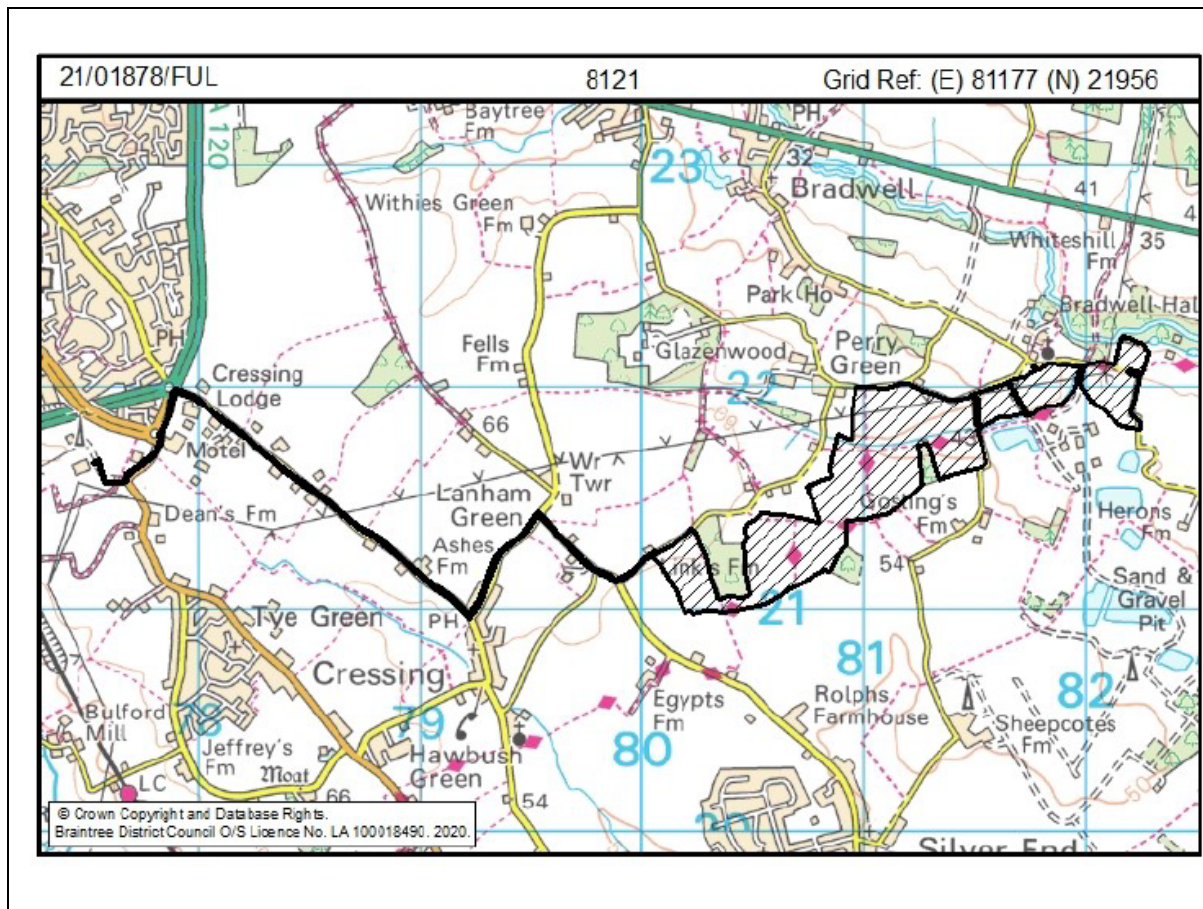
Application No:	Description:	Decision:	Date:
21/00560/SCR	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2017 - Screening Request (Regulation 6) - Proposed solar photovoltaic farm and associated infrastructure.	Screening/ Scoping Opinion Adopted	24.03.21
21/00665/SCR	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2017 - Screening Request (Regulation 6) - Proposed solar photovoltaic farm and associated infrastructure.	Screening/ Scoping Opinion Adopted	24.03.21
21/01878/FUL	Construction and operation of a solar photovoltaic farm, with battery storage and other associated infrastructure, including inverters, security cameras, fencing, access tracks and landscaping.	Granted	23.12.21
22/01545/DAC	Application for approval of technical details as reserved by conditions 13 (Construction Environmental Management Plan), 15 (Biodiversity Net Gain design stage report), 16 (Ecological Design Strategy) and 20 (Skylark Mitigation Strategy) of approved application 21/01878/FUL	Granted	14.11.22

22/01773/DAC	Application for approval of details as reserved by condition 9 of approved application 21/01878/FUL	Granted	17.03.23
22/01812/DAC	Application for approval of details reserved by condition 12b (Archaeology) of approval 21/01878/FUL	Granted	05.09.22
22/02192/DAC	Application for approval of details as reserved by condition 11 of approved application 21/01878/FUL	Granted	24.10.22
22/02862/DAC	Application for approval of details as reserved by condition 14 of approved application 21/01878/FUL	Granted	12.12.22
22/03258/DAC	Application for approval of details as reserved by condition 8 of approved application 21/01878/FUL	Pending Consideration	
23/00344/DAC	Application for approval of details as reserved by condition 18 of approved application 21/01878/FUL	Pending Consideration	
23/00395/DAC	Application for approval of details as reserved by conditions 3 (Full details) & 4 (Hard standing & internal vehicle routes) of approved application 21/01878/FUL	Pending Consideration	

Agenda Item: 5e

Report to: Planning Committee		
Planning Committee Date: 18th April 2023		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	23/00395/DAC	
Description:	Application for approval of details as reserved by conditions 3 (Full details) & 4 (Hard standing & internal vehicle routes) of approved application 21/01878/FUL.	
Location:	Land East Of Periwinkle Hall Links Road Perry Green	
Applicant:	Mr James Hartley-Bond, Links Solar Farm Limited, Stirling Square, 5-7 Carlton Gardens, SW1Y 5AD	
Agent:	Mr Jordan Martin, DWD Property And Planning, 6 New Bridge Street, London, EC4V 6AB	
Date Valid:	14th February 2023	
Recommendation:	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.	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overtake the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
	Appendix 4:	Committee Report & Appendix - 14th December 2021 Planning Committee
Case Officer:	Mathew Wilde For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2512, or by e-mail: mathew.wilde@braintree.gov.uk	

Application Site Location:



Purpose of the Report:	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.
Financial Implications:	<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>
Legal Implications:	<p>Any legal implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
Other Implications:	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.
Equality and Diversity Implications	<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"> a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act; b) Advance equality of opportunity between people who share a protected characteristic and those who do not; c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

	<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>
Background Papers:	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 23/00395/DAC.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan (2013-2033) § Feering Neighbourhood Plan (if applicable) § Supplementary Planning Documents (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1 This application relates to a discharge of condition request for Condition 3 (with regard to the final location of panels and associated paraphernalia) and Condition 4 (hard standing and internal vehicle routes) attached to Application Reference 21/01878/FUL (erection of a 35MW solar farm).
- 1.2 This application is being reported to Planning Committee at Members request following the approval of parent application 21/01878/FUL on 14th December 2021. This is because application 21/01878/FUL for a 35mW solar farm was assessed at the time using 'Rochdale Envelope' principles, where finer detail was to be reserved by condition. These finer details have now been submitted for approval.
- 1.3 For the avoidance of doubt, Condition 4 (hard standing and vehicular routes) was not required to be reported to Planning Committee, however it has been included within the submission of Condition 3, so has been added for completeness.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE
- 2.1 This application is being reported to Planning Committee at Members request following the approval of parent application 21/01878/FUL on 14th December 2021. This is because application 21/01878/FUL for a 35mW solar farm was assessed at the time using ‘Rochdale Envelope’ principles, where finer detail was to be reserved by condition. These finer details are now being submitted for approval – this application is to discharge the siting and design (Condition 3) attached to approved application 21/01878/FUL. Condition 4 was not required to be reported to Planning Committee, however it has been included within the submission of Condition 3, so has been added for completeness.
3. POLICY CONSIDERATIONS
- § See Appendix 2
4. SITE HISTORY
- § See Appendix 3
5. DESCRIPTION OF THE SITE AND SITE CONTEXT
- 5.1 The site comprises a number of parcels of agricultural land totalling 50.49 hectares. It is situated within the open countryside with Bradwell to the north-east, Coggeshall, to the north-west, Silver End to the south and Cressing to the south-west. The parcels therefore lie within the Silver End Farmland Plateau. There is no development currently on the site, aside from a large overhead electricity line (likely 400kv) with pylons that cross the northern section.
- 5.2 There are a number of smaller hamlets and standalone properties within the immediate vicinity of the site. An operational minerals extraction site is immediately adjacent to the north-eastern edge of the site. The Essex Way, and other Public Rights of Way, run through and are adjacent to the site.
- 5.3 Heritage asserts are also situated at various locations and distances from the red line site boundary. These include Holy Trinity Church (Grade I) at 0.34km from the western boundary; Bradwell Hall (Grade II) at 0.38km from the western boundary, Goslings Farm and structures (Grade II) at 0.25km from the south boundary, and Silver Birches (Grade II) at 0.1km from the northern boundary. All distances measured are from the shortest distance from the closest red line site boundary.
- 5.4 The site is adjacent to ‘Links Wood’, a local wildlife site, and a Tree Protection Order woodland known as the Jubilee Plantation. The site also comprises hedges and trees on some of its boundaries.

6. PROPOSAL

- 6.1 This discharge of condition application seeks to discharge the requirements of Condition 3 (with regard to the final location of panels and associated paraphernalia) and Condition 4 (hard standing and internal vehicle routes) of Application Reference 21/01878/FUL which approved the principle of erecting a 35mW solar farm at the site.
- 6.2 For the avoidance of doubt, it was only Conditions 3 and 6 that were required to be submitted to Planning Committee. However, Condition 4 has also been included within the submission of Condition 3, so is included within the parameters of this report for completeness.

7. SUMMARY OF CONSULTATION RESPONSES

7.1 Historic England

- 7.1.1 Chose not to offer advice on this occasion.

7.2 Essex Fire and Rescue

- 7.2.1 Essex Fire set out that the development is acceptable providing it that the arrangements are in accordance with the detailed contained within the approved document to building regulations B5. It also sets out a number of criteria, similar to that of their response to application 21/01878/FUL, that the development should meet:
- § The surface of the access road should be capable of sustaining a load of 18 tonnes for pumping appliances.
 - § Changes of direction by bends should accommodate a turning circle of 17.8m and a sweep circle of 19.0m.
 - § The overall width of the access path should not be less than 3.7m.
 - § Openings or gateways should not be less than 3.1m.
 - § Headroom should not be less than 3.7m.
 - § Where any changes of levels are involved, as in the case of a kerb, they should be ramped, or have a kerb height not exceeding 90mm.
 - § In addition, dead-end access routes longer than 20m require turning facilities as Fire and Rescue vehicles should not have to reverse more than this distance.

7.3 ECC Archaeology

- 7.3.1 No comments to make as conditions do not relate to archaeology.

7.4 ECC SuDS

- 7.4.1 No comments to make.

7.5 ECC Ecology

7.5.1 No comments to make but support use of proposed deer mesh fencing.

8. PARISH / TOWN COUNCIL

8.1 Bradwell with Pattiswick Parish Council

8.1.1 A consultation was sent to Pattiswick Parish Council, however no comments were received.

9. REPRESENTATIONS

9.1 The application consulted the same neighbours at the original planning application (approximately 218). No representations have been received.

10. BACKGROUND & PRINCIPLE OF DEVELOPMENT

10.1 Application 21/01878/FUL sought approval for a solar farm which comprised solar panels (estimated to generate 35 megawatts (MW) of renewable energy per year), battery storage, and other associated infrastructure, including substation, switch room, inverters, security cameras, fencing, access tracks and landscaping. This application was submitted utilising Rochdale Envelope principles, meaning that it sought to secure the maximum parameters of where the solar panels would be, as opposed to securing their exact location. These details would then be submitted by way of discharge of condition once the layout of the panels had been optimised for electricity generation.

10.2 Members resolved to grant application 21/01878/FUL, on the basis that Conditions 3 (design and location) and 6 (landscaping) be reported to Planning Committee for consideration when submitted. Application Reference 21/01878/FUL was subsequently approved following Planning Committee.

10.3 This report focuses on Condition 3 of application 21/01878/FUL, which states:

“No development shall commence until full details (which must be within the parameters set out in the submitted Planning Design and Access Statement dated June 2021 Ref 15407 and completed by DWD Property & Planning) of the final locations and dimensions, design, materials and colour (where appropriate) to be used for the panel arrays, inverters, substation, control building, switch room, CCTV cameras, fencing and any other components of the scheme shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details and thereafter retained as such for the lifetime of the use.

Reason: In order for the Local Planning Authority to further assess the impacts of the precise detail of the development once the location of these elements has been identified. This is required pre-commencement as the development has been approved in line with the Rochdale Envelope principles.”

- 10.4 It also includes Condition 4 of application 21/01878/FUL for completeness, which states:

“No development shall commence until full details have been submitted to and approved in writing by the Local Planning Authority regarding all proposed hard standing and internal vehicle routes of the development.

Reason: In order for the Local Planning Authority to be satisfied that sufficient fire safety measures have been incorporated. This is required pre-commencement as the development has been approved in line with the Rochdale Envelope principles.”

- 10.5 The application seeks to discharge this condition by submitting a plan which shows the finalised locations of the solar panels and associated paraphernalia including inverters, substation, control building, switch room, CCTV cameras, fencing and hard standing access routes. It should be noted that the development now does not propose any batteries. It was unclear whether batteries were required as part of the original application (21/01878/FUL) so were included as a possibility in the description of development for completeness. As above, it has now been confirmed that batteries are not required as part of this solar farm development.

- 10.5 For the avoidance of doubt, this application is not a repeat of approved application 21/01878/FUL. It focuses very specifically on Conditions 3 and 4 which is only to do with the siting of solar panels, its associated paraphernalia and hard standing internal routes. If indeed the proposed plans follow the approved parameters as set out in the Design and Access Statement attached to original application 21/01878/FUL, then issues such as neighbour impact, landscape impact and highway impact have already been assessed to be acceptable. As such, these impacts are not re-assessed as part of this discharge of condition.

11. SITE ASSESSMENT

11.1 Design Principles (approved via 21/01878/FUL) Against Proposed Detailed Development

- 11.1.1 Condition 3 requires that the solar panels and their associated paraphernalia be within the parameters of the Planning Design and Access Statement dated June 2021 Ref 15407 and completed by DWD Property & Planning submitted with approved application 21/01878/FUL. For ease of reference, a table is provided below showing the maximum agreed parameters of each item against what is now proposed:

Component	Maximum Parameter	Current Proposal
Solar Panels	Height – 3m at highest edge	Height – 3m
DNO substation	8m long, 6m wide and 4.1m high	8m long, 6m wide and 4.1m high
Customer Substation	10m long 4m wide and 3m high	10m long, 4m wide and 3m high
Inverters	12m long, 2.5m wide and 3m high	2.4m wide, 2.88m high and 6-7m long
Security	2m high fence with CCTV on 4m high poles	2m high with CCTV on 3-4m high poles
Q&M Cabin	Not Specified	6.1 long, 2.6m high and 2.44m wide
Spare Parts Cabin	Not Specified	2.6m high, 2.4m wide and 5.5m long

- 11.1.2 The proposed equipment would therefore not exceed the maximum parameters as required by the condition. In terms of materials and colours, these are proposed as follows:

Component	Materials	Colour/Finish
Solar Panels & Mounting Frames	Glass and Aluminium Steel components	Black with silver edging Galvanized
DNO substation	Container	Bottle Green
Customer Substation	Container	Moss Green
Inverters	Steel fabricated	Grey / White
Security	Wooden Posts and Wire Fence	Natural colour with galvanised mesh fence
Q&M Cabin	Steel fabricated	Bottle Green
Spare Parts Cabin	Steel fabricated	Bottle Green

- 11.1.3 The majority of the equipment on the site is made elsewhere and simply brought to the site as they are built for purpose. The colours have been chosen in order to assist in mitigating the visual appearance of the equipment, with greens and greys. It is considered that the colours and designs of equipment are acceptable.
- 11.1.4 While the equipment would not exceed the maximum parameters, an assessment is still required on the suitability of the panels and inverter locations.
- 11.2 Location of Equipment
- 11.2.1 The solar panels were required to be located within the development zones which were approved with parent application 21/01878/FUL. These comprised seven zones across the site, leaving gaps for existing vegetation, access, PROW's, and fencing.
- 11.2.2 Cross referencing the solar panel locations to the approved development zone plan, it is considered that the solar panels are all within the approved zones. This is important as the impacts of the solar panels were assessed at the time of application 21/01878/FUL using those maximum parameters. Any solar panels which exceeded the development zone would likely require a further assessment of the impact of the development.
- 11.2.3 Each parcel of panels would have an inverter barring one, this is usually near the edge of a parcel where vehicular access is to be secured. There are 6 proposed inverters in total. The Q&M building, spare part building and customer substation are allocated on the southern tip of the easternmost parcel. The DNO substation is located near to the vehicular access at the top of the easternmost parcel. All equipment, barring the DNO substation are located within the proposed fencing. All of the equipment on the site would be no higher than 4.1m, with most being between 2-3m high. These heights are similar to that of a single storey extension.
- 11.2.4 Overall, in conjunction with the landscaping plan, which is subject to Condition 6 (and subject to a separate Committee Report on this agenda), it is considered that the locations of the panels and equipment would not have a detrimental visual / landscape impact.
- 11.3 Access Plans
- 11.3.1 Condition 4 required details of hardstanding routes through the site. This was predominantly to do with ensuring that the criteria for the fire department had been met. Now there are no batteries to be located on site, the fire risk from the development is reduced. In any case, the developer has sought to ensure that the internal access track has been designed to meet the Essex fire standard, which are set out below:

- § The surface of the access road should be capable of sustaining a load of 18 tonnes for pumping appliances.
 - *The internal hardstanding areas are designed to accommodate articulated lorry movements with vehicles up to a length of 16.5m. These vehicles weigh up to 42 tonnes and the hardstanding is designed accordingly.*
- § Changes of direction by bends should accommodate a turning circle of 17.8m and a sweep circle of 19.0m.
 - *The internal roads and hardstanding is designed for a 16.5m articulated lorry to manoeuvre. The turning and sweep requirements of the 16.5m articulated lorry exceed those required for a fire tender (as would have a bigger turning and sweep circle).*
- § The overall width of the access path should not be less than 3.7m.
 - *The internal roads and hardstanding is designed for a 16.5m articulated lorry to manoeuvre. This requires a minimum width of 4.1m which is widened at bends to accommodate turning requirements.*
- § Openings or gateways should not be less than 3.1m.
 - *The clear width at the access gate is 7.11m*
- § Headroom should not be less than 3.7m.
 - *The site is an open field with no headroom restrictions.*
- § Where changes of levels are involved, as in the case of a kerb, they should be ramped, or have a kerb height not exceeding 90m.
 - *There are no kerbs.*

11.3.2 Furthermore, turning points have also been incorporated at all otherwise dead ends. As such, it is considered that the requirements of Condition 4 have also been met.

12. CONCLUSION

12.1 The proposed development would accord with the maximum parameters (location, height, and design) as set out by approved application 21/01878/FUL. Furthermore, it is considered that all of Essex Fire's criteria have been satisfactorily complied with for the internal access road. As such, it is considered that Conditions 3 and 4 can be discharged.

13. RECOMMENDATION

13.1 It is RECOMMENDED that the following decision be made:
Application Approved and Condition discharged in accordance with the Approved Plans and Documents outlined within APPENDIX 1.

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

APPROVED PLAN(S) & DOCUMENT(S)

Approved Plan(s) & Document(s)

Plan Description	Plan Ref	Plan Version
Site Plan	PLE-03	N/A
Fencing Layout/Details	SD 04.1	N/A
Proposed Plans	SD-01.01	N/A
Proposed Plans	SD-02.01 - substation	N/A
Proposed Plans	SD-06.01 - access track	N/A
Proposed Plans	SD-32	N/A
Proposed Plans	SD-33 - spare part container	N/A
Proposed Plans	SD-34 - transformer details	N/A
Proposed Plans	SD-35	N/A
Proposed Plans	SD-36 - Q_M Building	N/A
Proposed Elevations	SD-39-4	N/A

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
LPP47	Built and Historic Environment
LPP52	Layout and Design of Development
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP67	Landscape Character and Features
LPP73	Renewable Energy Schemes

APPENDIX 3:

SITE HISTORY

Application No:	Description:	Decision:	Date:
21/00560/SCR	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2017 - Screening Request (Regulation 6) - Proposed solar photovoltaic farm and associated infrastructure.	Screening/ Scoping Opinion Adopted	24.03.21
21/00665/SCR	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2017 - Screening Request (Regulation 6) - Proposed solar photovoltaic farm and associated infrastructure.	Screening/ Scoping Opinion Adopted	24.03.21
21/01878/FUL	Construction and operation of a solar photovoltaic farm, with battery storage and other associated infrastructure, including inverters, security cameras, fencing, access tracks and landscaping.	Granted	23.12.21
22/01545/DAC	Application for approval of technical details as reserved by conditions 13 (Construction Environmental Management Plan), 15 (Biodiversity Net Gain design stage report), 16 (Ecological Design Strategy) and 20 (Skylark Mitigation Strategy) of approved application 21/01878/FUL	Granted	14.11.22

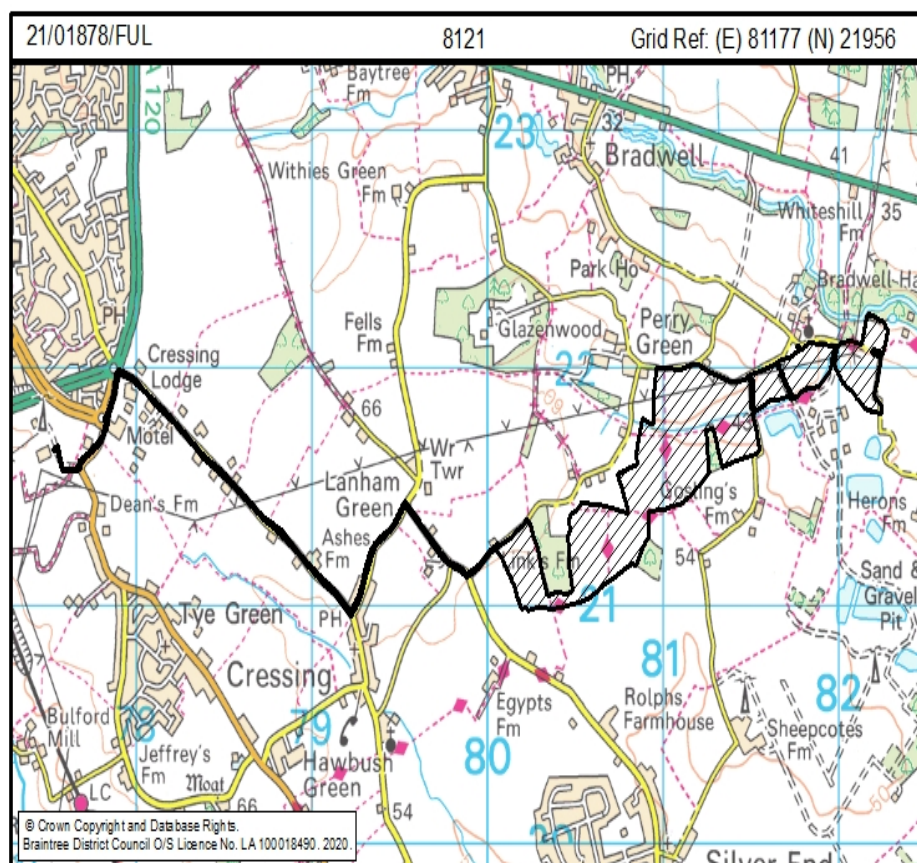
22/01773/DAC	Application for approval of details as reserved by condition 9 of approved application 21/01878/FUL	Granted	17.03.23
22/01812/DAC	Application for approval of details reserved by condition 12b (Archaeology) of approval 21/01878/FUL	Granted	05.09.22
22/01881/DAC	Application for approval of details as reserved by condition 6 (Landscaping details) of approved application 21/01878/FUL- (Construction and operation of a solar photovoltaic farm)	Pending Decision	
22/02192/DAC	Application for approval of details as reserved by condition 11 of approved application 21/01878/FUL	Granted	24.10.22
22/02862/DAC	Application for approval of details as reserved by condition 14 of approved application 21/01878/FUL	Granted	12.12.22
22/03258/DAC	Application for approval of details as reserved by condition 8 of approved application 21/01878/FUL	Pending Consideration	
23/00344/DAC	Application for approval of details as reserved by condition 18 of approved application 21/01878/FUL	Pending Consideration	

PART A

AGENDA ITEM NUMBER 5b

APPLICATION NO: 21/01878/FUL DATE: 09.06.21
 VALID:
 APPLICANT: Links Solar Farm Limited
 Mr James Hartley-Bond, Oxygen House, Grenadier Road,
 Exeter Business Park, Exeter, EX1 3LH
 AGENT: DWD Property + Planning
 Mr Nick Bowen, 6 New Bridge Street, London, EC4V 6AB,
 United Kingdom
 DESCRIPTION: Construction and operation of a solar photovoltaic farm,
 with battery storage and other associated infrastructure,
 including inverters, security cameras, fencing, access tracks
 and landscaping.
 LOCATION: Land East Of Periwinkle Hall, Links Road, Perry Green,
 Bradwell, Essex

For more information about this Application please contact:
 Mathew Wilde on:- 01376 551414 Ext. 2512
 or by e-mail to: mathew.wilde@braintree.gov.uk



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QUFWGYBF LWQ00>

SITE HISTORY

21/00560/SCR	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2017 - Screening Request (Regulation 6) - Proposed solar photovoltaic farm and associated infrastructure.	Screening/ Scoping Opinion Adopted	24.03.21
21/00665/SCR	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2017 - Screening Request (Regulation 6) - Proposed solar photovoltaic farm and associated infrastructure.	Screening/ Scoping Opinion Adopted	24.03.21

POLICY CONSIDERATIONS

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 has published main modifications for consultation. 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.

National Planning Guidance

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

Braintree District Local Plan Review 2005

RLP36	Industrial and Environmental Standards
RLP54	Transport Assessments
RLP62	Development Likely to Give Rise to Pollution or the Risk of Pollution
RLP64	Contaminated Land
RLP65	External Lighting
RLP67	Flood Risk in Undeveloped Areas
RLP69	Sustainable Urban Drainage
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodland Grasslands and Hedgerows
RLP84	Protected Species
RLP90	Layout and Design of Development
RLP91	Site Appraisal
RLP100	Alterations and Extensions and Changes of Use to Listed Buildings and their settings
RLP105	Archaeological Evaluation
RLP106	Archaeological Excavation and Monitoring

Braintree District Local Development Framework Core Strategy 2011

CS5	The Countryside
CS8	Natural Environment and Biodiversity
CS9	Built and Historic Environment
CS11	Infrastructure Services and Facilities

Braintree District Shared Strategic Section 1 Local Plan (2021)

SP1	Presumption in Favour of Sustainable Development
SP7	Place Shaping Principles

Braintree District Draft Section 2 Local Plan (2017)

LPP50	Built and Historic Environment
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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
LPP69	Tree Protection
LPP70	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP71	Landscape Character and Features
LPP73	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP74	Climate Change
LPP76	Renewable Energy Schemes
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

Bradwell Neighbourhood Plan

The Bradwell Neighbourhood Plan is fully adopted and comprises the following relevant policies:

- Policy 1 - Protecting and Enhancing the Natural Environment and Green Infrastructure
- Policy 2 - Protection of Special and Sensitive Landscapes
- Policy 5 - Protecting and Enhancing the Historic Environment
- Policy 6 - Drainage and Flood Management
- Policy 9 - Transport
- Policy 10 - Design
- Policy 11 - Developer Contributions

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

DESCRIPTION OF THE SITE AND SITE CONTEXT

The site comprises a number of parcels of agricultural land totalling 50.49 hectares. It is situated within the open countryside with Bradwell to the north-east, Coggeshall, to the north-west, Silver End to the south and Cressing to the south-west. The parcels therefore lie within the Silver End Farmland Plateau. There is no development currently on the site, aside from a large overhead electricity line (likely 400kv) with pylons that cross the northern section.

There are a number of smaller hamlets and standalone properties within the immediate vicinity of the site. An operational minerals extraction site is immediately adjacent to the north-eastern edge of the site. The Essex Way, and other Public Rights of Way, run through and are adjacent to the site.

Heritage assets are also situated at various locations and distances from the red line site boundary. These include Holy Trinity Church (Grade I) at 0.34km from the western boundary; Bradwell Hall (Grade II) at 0.38km from the western boundary, Goslings Farm and structures (Grade II) at 0.25km from the south boundary, and Silver Birches (Grade II) at 0.1km from the northern boundary. All distances measured are from the shortest distance from the closest red line site boundary.

The site is also adjacent to 'Links Wood', a local wildlife site, and a Tree Protection Order woodland known as the Jubilee Plantation. The site also comprises hedges and trees on some of its boundaries. 81% of the agricultural land has been classified as Subgrade 3b (moderate value) and 16% of the agricultural land has been classified as Subgrade 3A (good value and within the 'best and most versatile category'). 3% is classified as other land.

The nearest existing solar farm to this site is approximately 2.2km away, north- east of White Notley.

PROPOSAL

The application proposes a solar photovoltaic farm with a 40 year lifespan on the various parcels of agricultural land. The solar farm would connect into the sub-station near to Galleys Corner via an underground cable within highway land which would be installed to transfer the power generated into the electricity grid.

The application originally sought to develop 12 parcels of land with an overall site area of 65.8 hectares. However, through the consultation period a number of issues were identified (heritage impact and proximity to nearby properties). The developer sought to address these issues by removing developable zones 9-12 (on the eastern extent), which removed approximately 13 hectares, leaving 50.49 hectares as now proposed.

The development would comprise solar panels (estimated to generate 35 megawatts (MW) of renewable energy per year), battery storage, and other associated infrastructure, including substation, switch room, inverters, security cameras, fencing, access tracks and landscaping. The application is supported by a Development Zone Plan which sets out the maximum extent to which the solar panels and their associated paraphilia can extend to. All other details submitted (other than access) are indicative only and would be secured via condition if the application is approved. This is because the application follows the Rochdale Envelope Principles (see 'proposed development' section of report for explanation).

As well as a reduction in the site area, the maximum possible extent of the parcels were also reduced slightly during the life of the application to be further away from Public Rights of Way and allow for greater mitigation planting. A secondary access was also removed on the eastern aspect of the site, leaving only the access on Links Road near to Links Wood.

SUMMARY OF CONSULTATION RESPONSES

Highways England

No objection subject to a condition requiring a Construction Traffic Management Plan.

Essex Highways

Initially sought additional clarity regarding the site access arrangements and the arrangements for construction activities. An updated Transport Statement and new Construction Traffic Management Plan was subsequently submitted. The Highways Officer reviewed the documents and raised no objections, subject to conditions and informatives relating to an updated Construction Traffic Management Plan, access in accordance with details and no unbound materials within 15m of the access.

Historic Buildings Consultant

The Historic Buildings Consultant (HBC) considered the impact of the solar panels on the heritage assets identified in the site description.

For the Holy Trinity Church (Grade I) and Bradwell Hall (Grade II), the HBC concludes that there would be no direct impact on the significance of these buildings, but sets out the proposal would still constitute a degree of change to the assets wider setting. Therefore there would be less than substantial harm to these buildings. For Goslings Farm (and other listed buildings all Grade II) and Silver Birches (Grade II), the HBC sets out that the impact on these assets would be more tangible but remain in the realms of less than substantial.

If the development is approved, the HBC recommends conditions about landscaping, screening and planting to ensure the harm of the development is not exacerbated to these buildings.

Environmental Health

No objection subject to conditions regarding a noise report for the substation, inverters, heating and cooling units. Also a condition relating to working hours.

Essex Fire & Rescue

Commented with a number of requirements for the access to the development to ensure that a fire vehicle could adequately attend the site. These requirements are discussed in the fire risk section in the below report.

ECC SUDS

No objection subject to a number of conditions relating to drainage details and a soil management plan.

Anglian Water

No objection as no connection to Anglian Water Sewers.

Civil Aviation Authority

No response received.

ECC Archaeology

No objection following submission of an updated WSI which detailed an evaluation of the surviving archaeological deposits at the site.

Natural England

No objection.

Cadent Gas

No objection.

National Grid

No objection.

ECC Minerals and Waste

No objection following submission of additional information.

Independent Landscape Consultant, Wynne-Williams Associates (WWA) (Commissioned to provide specialist independent advice to BDC)

Initially raised concerns about the proximity of the solar panels to the Essex Way which runs through the site. Following changes which pulled the panels back from the boundary (and added some hedging) – WWA was more satisfied with the scheme's reduced impact. They did however say that any development on these parcels will change the experience of traversing the

Essex way which is a negative impact, but would reduce over time. These comments are discussed more in the report.

ECC Ecology

Initially raised a holding objection due to insufficient ecological information. Further information was subsequently submitted. The Ecology Officer assessed the additional information and raised no objection subject to securing skylark mitigation and conditions.

PARISH / TOWN COUNCIL

Bradwell Parish Council

Neither objects nor supports the application, setting out the following summarised comments:

- Supports projects which help the environment but some issues
- Traffic disruption caused by trenching for an underground HV cable will be intolerable - chosen route is not wide enough to allow closure of one lane for works and passage of HGVs
- Solar farm too close to dwellings at Perry Green
- Country lanes around the site cannot accommodate HGV traffic
- Should be no HGV on site while the roadworks to bury cable are taking place
- Temporary access requires hedgerow / tree removal
- Not clear how construction traffic will access the A120

REPRESENTATIONS

13 objections (some from the same address) have been received on the application, including from Cllr Walsh (one of the local Ward Councillors) setting out the following summarised comments:

- Green energy shouldn't be at the expense of green spaces and wildlife habitat;
- Should have been EIA development
- Premature to decide application now with SPD being considered by Braintree for Solar Energy Schemes
- Risk scheme might not actually connect into the network
- Not a 'farm' as 'solar farm' would suggest
- Significant impact on the character of the area – will change it to an industrial landscape with all associated paraphernalia (e.g. fencing cameras etc);
- Valued local landscape
- Ruin tranquillity of the area;
- Panels will be visible due to undulating landscape even with screening;
- Screening will take a number of years to mature and will weaken significantly in winter months;
- Will interrupt several established footpaths;

- Significant disruption during construction – local roads unsuitable for large construction traffic – possible safety implications with local people walking and cycling on route:
 - o Links Road, linking Links wood, the main access, is only 3m wide;
 - o Hard left bend from A120 to be negotiated – risk of HGV damaging properties;
 - o Visibility significantly restricted;
 - o No street lighting on the lanes;
 - o 6 metre wide easement under Links Road- not a good idea to put underground cable here
 - o May be better to have the power cable go above ground for a stretch
 - o Cabling not discussed with all local landowners (instead of utilising the road) to access the sub-station at Galleys Corner
 - o Significant traffic from the cable laying
- Wildlife detrimentally affected – light but also feeding habits;
 - o Area rich with wildlife – many bird species present, partly due to ‘shoot’ where feed is left out for game animals like pheasants
 - o Solar panels potentially unsafe for birds who might mistake them for water
- Increased flooding risk;
- Detrimental change to the Essex Way footpath;
- Significantly impact the setting of the ancient woodland
- Loss of Agricultural land – Grade 2 not predominantly grade 3b as stated:
 - o Not been demonstrated other sites are available with poorer quality land;
 - o Other brownfield site (old quarry land) nearby which would be less impactful
- Rooftops on brownfield sites should be considered instead
- Tenanted farmers being made redundant to facilitate the panels
- Cost benefit of the solar panels overstated
- Existing trees and hedges should be protected if development is allowed

REPORT

PROPOSED DEVELOPMENT

The application proposes to develop the site for use as a solar farm, utilising the Rochdale Envelope approach. The Rochdale Envelope approach is an acknowledged way of assessing renewable energy schemes and has been used by other Local Planning Authorities. The rationale for this approach is to allow flexibility once a contractor has been appointed to optimise the layout and design of the solar panels for maximum energy generation. The technology is also improving on a regular basis; committing to a detailed scheme at this early stage may mean that newer (and possibly less impactful) panels / associated paraphilia couldn't be included at a later stage.

This approach therefore involves assessing the maximum parameters for the elements where flexibility is required and provides a worst-case scenario. This is why the site has been split up into 8 ‘Development Zones’ as set out on the

Development Zone Plan. The Development Zones represent the maximum edge to which the solar panels could extend to; as well as the other associated paraphilia.

The extent of the Development Zones were reduced during the course of the application; the proposal originally included 12 parcels, but four were removed owing to heritage concerns regarding Listed Holy Trinity Church (this matter is discussed further in the heritage section below). The maximum distance of these areas were also reduced to have less impact on Public Rights of Way (this is discussed further in the landscape impact section below).

The exact details of development would therefore be secured through condition. Subject to planning permission being granted, when these details are submitted within a Discharge of Conditions Application (DAC), Officers would seek to follow the same process as a conventional planning application and undertake a public consultation on the detailed proposals. With regard to the determination of the DAC application(s), Officers would report the application(s) to Planning Committee for determination (just for detailed layout and elevations). Therefore in essence, while this application is a Full application, it is similar to an Outline application in scope with details to be secured later, similar to a residential development with Outline and subsequent Reserved Matters applications.

Despite the Rochdale Envelope approach, an indicative plan has been submitted which shows how the panels may be configured within the various plots, as well as the associated paraphilia for energy management and security purposes. The energy management items include:

- Solar Panels – No more than 3m high, with a gap of 3-4m between each panel. Approximately 1-2m deep;
- Inverters within shipping containers – Approx. size 12m long, 2.5m wide and 3m high – Approximately 7 in number;
- Batteries within shipping containers– Approx. size 12m long, 2.5m wide and 3m high – Approximately 3 in number;
- Substation (Customer) – Approximate size 10m long, 4m wide and 3m high – 1 in number;
- Substation (District Network Operator [DNO]) – Approximate size 8m long, 5.4m wide and 4.1m high – Approximately 3 in number.

These include inverters which would need to be located within each parcel; they would convert the direct current ('DC') generated by the solar panels into alternating current ('AC'). Transformers, contained within the inverter cabins, convert the low voltage output from the inverters to high voltage suitable for feeding into the local electricity distribution network. The batteries would store up electricity at peak times and then supply electricity to the grid when the solar output is lower.

The Customer (or Solar Farm) Substation is where all the power produced by the panels is amassed and readied prior to sending to the grid. There is some safety equipment in the Customer substation which is under the control of the

solar operator. There is then a cable which sends the power from the Customer substation to the District Network Operator (DNO) substation. In the DNO substation building there is safety equipment which is only accessible by the DNO which in this case is UK Power Networks. This makes sure the power is safe to send out to the wider network offsite. In essence, both contain similar equipment but give two points of control. All of the energy management equipment on site would be connected via underground gables.

The substations are of a more permanent construction on a concrete base than the inverters and batteries which are not. They receive electricity from the Inverters before transferring it to the local electricity distribution network (near Galleys Corner in this case). This would be via an underground cable on highway land. It is understood that the developer is seeking alternative arrangements to avoid temporary disturbance to the Highway network during installation, however this is not something that can be controlled by the Local Planning Authority as these would relate to separate agreements, and in any case, has yet to be secured. Notwithstanding this, to do any works to the highway the developer would need a S50 licence with the Highway Authority, who would make sure any disturbances are minimised as far as possible.

The solar panels would also need to be secured appropriately. This would include fencing approximately 2m high, gates for access and CCTV/Infrared Cameras on 3-4m high poles. These final details would all be secured by condition. It should be noted that plans have been submitted on the website for these various features, but all are indicative to give an idea of the maximum impact of the development. The only plans for approval would be the Development Zone Plan, Construction Traffic Management Plan (which includes the site access), and Landscape Strategy Plan.

The solar panels have a 40 year life expectancy. As such, this application seeks permission for 40 years to erect the solar panels with the associated paraphilia discussed above. However, at any time should solar electricity generation cease on the site for a period of 6 months or more, a condition is proposed which would require the equipment to be removed and the site reinstated to its former condition. This would ensure that in the long term, the agricultural character of the site remains when the use finishes.

Despite this, the impact of the solar panels must be duly considered as if they were not temporary, particularly given the extent of their lifespan. The principle of erecting the panels, as well as its associated impacts are discussed below.

PRINCIPLE OF DEVELOPMENT

Policy CS5 of the Core Strategy seeks to restrict development outside development boundaries exclusively to uses identified as being appropriate to the countryside. The objective being to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside. Such uses are defined in Paragraph 4.24 of the Strategy and do not include renewable energy development. However, Paragraph 3.4 of the Strategy

specifies the encouragement of renewable energy. Furthermore, Policy RLP76 of the Adopted Local Plan is generally supportive of solar power schemes and does not rule out their application in principle for locations across most of the District, subject to consideration of their impacts upon landscape, nature conservation and historic features.

The National Planning Policy Framework 2021 (NPPF) at Paragraph 152 requires the planning system to support renewable energy and associated infrastructure. Paragraph 158 of the NPPF goes further to say *“approve the application if its impacts are (or can be made) acceptable.”*

It is noted that the applicant estimates that the solar farm has the capability to generate circa 35 Megawatts of energy per year. A development of this scale would undoubtedly contribute to a reduction in emissions in sympathy with the national drive to establish a low carbon economy which is no longer reliant upon fossil fuels. The development would therefore generate a potential significant benefit. However, it should also be noted that Paragraph 158 of NPPF makes it clear that, when determining planning applications for renewable and low carbon development, local planning authorities should *“not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions”*.

It is observed that the considerations identified in Policy RLP76 of the Adopted Local Plan do in fact mirror those identified in the Planning Practise Guidance as to the criteria relevant for judging renewable energy projects. The NPPG does however advise specifically in relation to large-scale solar farms that one consideration amongst others should be whether land is being used effectively; recommending that solar farms are focused on previously developed and non-agricultural land, particularly where development would result in the loss of high quality agricultural land. This sentiment is amplified in the Policy LPP76 of the Section 2 Plan, which requires that large scale solar farms are accompanied by a sequential assessment which considers alternative brownfield sites and lower quality agricultural land, and requires a compelling justification for developments on high quality agricultural land.

It must be noted that any compliance, or non-compliance, with the sequential test requirement of Policy LPP76 is likely to carry significant weight but may not, of its self, be sufficient to render the proposal in compliance or contrary to the emerging plan as a whole. Therefore, whilst forming a determinative judgement on the basis of the precise wording of Policy LPP76 alone is not fully recommended, such general factors are material in their own right and should generally be factored into the consideration of the wider planning balance.

In any case, the application is supported by an Alternative Site Assessment, which is intended to act as a sequential test. This assessment looked at the availability of other sites situated on previously developed and/or non-agricultural land, or lower or equal grade agricultural land. Commercial rooftops were not accessed as there were none known which were of

comparable size, and in any case the Planning Practice Guidance does not mention rooftops when considering alternative sites for ground mounted solar farms.

The report reviewed 53 different sites within a 3.5km search radius of the point of connection (to a substation near Galleys Corner). It is reported that 3.5km is the maximum distance that an underground cable would be expected to travel to reach a substation, thus this is why this distance was chosen. This site is approx. 2.6km from the substation. It should be noted that a solar farm cannot operate appropriately if there is no existing or proposed new substation for the power to be sent to.

These 53 sites were found using Local Plan documents, the brownfield register and the estates gazette website (searching for commercial/industrial land within the search area). They were filtered into sites that are constrained (previously developed land) and unconstrained (lower or equal grade agricultural land) and assessed against a number of criteria. The sites which were below 50ha were filtered out as this is below the extent of the proposed application. Combining multiple sites to achieve 50ha were not considered as this wouldn't be realistic or comparable to the application proposal.

The remaining 4 sites (including the application site) were assessed against a number of criteria which included *inter alia*; land availability, topography, distance from connecting point, obstacles, size/shape, clear or not, PROWs, flood risk, and other considerations such as wooded areas. The other three sites (Land north east of Springwood Industrial Estate, Land south of Flitch Way and Land east of Great Notley) were found to have more constraints than the application site, while their availability for development was not apparent. The proposed application site was therefore chosen by the applicant as sequentially the most appropriate and feasible site.

Having reviewed the report, Officers consider that it generally provides a robust assessment of alternative sites. While further evidence could have been sought about the general availability of other sites, there were other factors which made the sites less suitable overall comparatively to the application site. As such, notwithstanding the weight to be attached to Policy LPP76 of the Section 2 Plan, it is considered that the site could be sequentially preferable.

However, whilst the site could be deemed to be sequentially preferable, this does not automatically mean that it is generally acceptable and complies with other relevant planning policies. A careful assessment of the impacts of the panels is required. This is set out in the remaining report below.

SITE ASSESSMENT

Landscape Impact

Policy CS8 of the Core Strategy requires *inter alia* that all development proposals have regard for the landscape and its sensitivity to change;

requiring that development enhances the locally distinctive character of the landscape in accordance with the landscape character assessment. Policy RLP80 of the Adopted Local Plan requires new development proposals to not be detrimental to the distinctive landscape features and successfully integrate into the local landscape.

Policy 1 of the Adopted Neighbourhood Plan states that development proposals should protect, and where possible, enhance the natural environment. Policy 2 of the Adopted Neighbourhood Plan states that development proposals within the Blackwater River Valley or the Silver End Farmland Plateau Landscape Character Areas should demonstrate that the proposal will:

- i. Protect and enhance the special features and the overall character of the Landscape Character Area;
- ii. Protect and where possible improve access to open countryside within the Landscape Character Area for recreation.

The site in this case is within the Silver End Farmland Plateau as identified within the Neighbourhood Plan. Due to the size of the development, there are potential implications on landscape character and visual amenity. As such, the application was accompanied by a Landscape and Visual Assessment (LVA), the content of which was assessed by the Council's external Landscape Consultant, Wynne Williams Associates (WWA).

For the avoidance of doubt, landscape character is a broader assessment which looks the distinctive features and characteristics of a given area, whereas visual effects/amenity is the more localised assessment from specific viewpoints which a person, building or other receptor would experience.

WWA conclusions upon review of the applicants LVA were that it was generally robust in terms of the methodology utilised. However, WWA identified a number of discrepancies between their opinion and the opinion of the applicants LVA; most often that the landscape and visual effects by year 15 would be higher than reported by the appellant. The main area of concern centred on the impacts of the development from the Essex Way.

In order to address these concerns, the Applicant increased the buffer between the PROW and the panels by approximately 5 metres, to achieve a minimum offset of 15m between the panels and the route. Hedgerows were also included along the boundaries of the southern section of the Site in response to WWA comments to assist in reducing landscape character and visual effects. An updated LVA was submitted to accompany this change, as well as an updated Landscape Strategy Plan and updated Development Zone Plan.

The updated LVA acknowledged that due to the very nature of the development, it would completely change the existing character of the land comparatively to the surrounding agricultural field parcels. The LVA sets out however that this change is not necessarily negative, with some beneficiary

impacts being accumulated due to increased vegetation planting which would be secured, especially in year 15. Overall, the applicants LVA concludes that in terms of landscape character and visual amenity, the development would only create localised visual effects in the long term which would not have an unacceptable impact on the landscape character of the wider area. The applicants LVA also considers that any impacts are outweighed by the beneficial landscape effects on both wildlife and landscape fabric due to the proposed implementation of the landscape strategy.

WWA considered that the updated LVA had been amended to provide an appropriate assessment of the potential landscape impacts and visual effects. WWA considered that the changes which had been made with regards to set backs and mitigation measures would help to reduce the impacts of the development. However, WWA still considered that there would be harm:

“Reviewing the latest proposals, it is our assessment that overall, the scheme will have minor adverse landscape character effects 15 years after completion. We also predict that the scheme will have major/moderate adverse visual effects on users of the Essex Way long distance footpath and two residential properties at Year 15. For most other visual receptors, visual effects will be limited to a minor adverse level by Year 15.”

So in terms of the wider landscape character, the overall impact would now be minor adverse at year 15 (after the development had been implemented) owing to the low height of the panels and paraphernalia in conjunction with existing and proposed trees/hedges. It is understood that this impact is the lowest level of adverse impact which could be attributed. It should be noted that this impact would be higher at year 1, until such time that the mitigation planting had time to become established.

Assessing the longer term impacts of the development as the baseline for the assessment is common practice in assessing landscape harm. This is in line with Paragraph 158 of the NPPF which states to *“approve the application if its impacts are (or can be made) acceptable.”* As such, in terms of landscape character, there would be some harm arising from the development albeit at a low level in the longer term.

In terms of more localised visual effects, the main issue still centres around the Essex Way PROW as set out by WWA. While the 5m increased separation (total approx. 15m) and additional hedge planting would help, WWA considers that there would still be a major/moderate adverse impact on users of the Essex Way. WWA sets out that to overcome this harm, there would need to be a significant reduction in the number of panels, which would of course limit the overall purpose and benefit of the scheme. There would also be a major/moderate adverse visual impact at year 15 on two residential properties ‘Links Cottage’ on the very western tip of the site, and ‘Ash House’ on the very north western edge of the site. It should be noted that this harm is purely in relation to landscape matters; the impact on these properties (including that of the landscape harm) is discussed further in the Neighbour

Impact section below. Any other visual receptor however has been categorised as 'minor adverse.'

As such, for the specific receptors of the Essex Way and the two residential properties, there would be a higher level of visual harm. However, it should be noted that as this harm is more localised, the overall weight it carries is less than if there was a moderate/significant landscape character harm, as this would have wider ramifications owing to its broader nature.

Overall, while the revisions have reduced the impact of the development, there would still be some low level landscape harm and moderate/significant harm to three receptors. The development would therefore introduce a partial conflict with Policy CS8 of the Core Strategy, Policy RLP80 of the Adopted Local Plan and Policy 1 of the Adopted Neighbourhood Plan. These harms would need to be weighed in the overall planning balance (at the end of this report).

Ecology, Biodiversity & Arboriculture

Policy CS8 of the Core Strategy requires that proposals create and enhance the biodiversity value of wildlife corridors and promote wildlife enhancements which contribute to the targets set out in the Essex Biodiversity Action Plan. Policy RLP84 of the Adopted Local Plan directs that planning permission is not granted for development which would have an adverse impact upon badgers or species protected by various UK and European legislation. Paragraph 174(d) of the NPPF requires that proposals minimise their impacts on, and providing net gains for, biodiversity as appropriate.

Policy RLP81 of the Adopted Local Plan states that the Planning Authority will encourage landowners to retain, maintain and plant, in appropriate locations, locally native trees, woodlands, grasslands and hedgerows.

Policy 1 of the Adopted Neighbourhood Plan states that development proposals should protect, and where possible, enhance the natural environment. It further states that all proposals should seek to deliver net biodiversity gain, in addition to protecting existing habitats and species. Any proposals which negatively affect, or have the potential to negatively affect, the natural environment should demonstrate that any negative impacts on biodiversity, including flora and fauna, and local wildlife (including wildlife habitats), will be adequately mitigated.

Ecology

An ecological assessment and extended phase 1 habit survey has been submitted with the application. The report identifies that the red line site is primarily in agricultural use which has a low ecological value. The site is however near to an ancient woodland (Links Wood) and plantation which has high ecological value. As alluded to in the Landscape Section above, steps have been taken to ensure that the high value ecological areas are not detrimentally affected; this includes a 15m stand off from Links Wood in

accordance with Natural England's advice for Ancient Woodlands, minimum 10m buffer zone from other established woodland features and trees and minimum 5m buffer from all other boundary features.

A Landscape Strategy Plan has also been submitted which sets out a principle to infill gaps in existing hedges with native planting, plant new hedgerows to provide more habitat and screening for the solar arrays, new wildflower meadows along the margins of the solar arrays, and additional ecotone (transitional) planting within the 15m development buffer zone to Links Wood. A landscaping plan condition is recommended to tie in all of these details. It should be noted that the land may also be able to be used for grazing in and around the solar panels. This would depend on agreement with the landowner and would not impact upon the proposed ecological habitats described above.

The Council's Ecological Consultant reviewed the ecological assessment and initially raised an objection due to insufficient information regarding Great Crested Newts and Skylarks. The Ecology Consultant therefore sought further information to ascertain the likely impacts of the development. The developer subsequently submitted an ecology addendum letter and licence to address these concerns. The Ecology Consultant reviewed the information and was satisfied that the additional information was sufficient to recommend no objection.

The Ecology Consultant sought the provision of 12 skylark plots to mitigate the impact of the loss of existing habitat. As these could not be delivered on site, Officers have suggested a condition to secure these skylark plots off site. The Ecology Consultant also advised that the development would demonstrate biodiversity net gains, and recommends a condition for a Biodiversity net gain assessment to ascertain how significant this would be.

The Ecology Consultant therefore recommended a number of conditions relating to the following; Construction Environmental Management Plan, Natural England Licence, Biodiversity Net Gain Assessment and Ecological Design Strategy. Officers have also included the Skylark plots condition. Overall, it is considered that the ecology impacts of the development would be more than mitigated and through conditions, enhanced overall. As such, it is considered the development would comply with the above ecology related policies.

Arboriculture

This application was not initially supported by an Arboricultural Impact Assessment, as the developer was confident that no trees or hedgerows would need to be removed to facilitate the development. However, Officers sought more certainty that this would indeed be the case. As such, the Appellants provided an Arboricultural Impact Assessment during the course of the application. This also included a Tree Protection Plan.

The report demonstrates that the development would not require the removal of any existing trees or hedgerows. The Development Zone Plan, which would secure the maximum extent of development, leaves sufficient gaps to existing vegetation to ensure that they would not be affected. The arboricultural report does however recommend the removal of an ash tree (T8) on the site boundary due to its poor condition. It should be noted however that this would not be a requirement of the development itself as it would be located in the gap between two development parcels.

Overall, it is considered that the development would maintain existing hedgerows/trees, and through the Landscape Strategy Plan which secures additional planting, would only strengthen and enhance the existing vegetation. As such, it is considered from an arboricultural perspective that the development is acceptable.

Heritage

Policy RLP100 of the Adopted Local Plan Review requires that proposals do not harm the setting of listed buildings, whilst Paragraph 199 of the NPPF provides guidance if harm to the setting of a listed building is identified to occur.

Policy 5 of the Adopted Neighbourhood Plan states inter alia that development proposals should protect and where appropriate enhance non-designated heritage assets, including those identified in Figure 8 of the Adopted Neighbourhood Plan (which identifies heritage features). Any proposal which could impact on a non-designated heritage asset should demonstrate how the significance of the asset has been acknowledged and addressed.

Focusing firstly on heritage assets; the development has the potential to affect a number of Listed Buildings/Structures. These include Holy Trinity Church (Grade I) by the western boundary; Bradwell Hall (Grade II) also by the western boundary, Goslings Farm and structures (Grade II) by the southern boundary and Silver Birches (Grade II) on the northern boundary. These buildings/structures are at various distances from the site (0.1km-0.4km), but none are within the site itself.

As stated above, originally the proposal included 12 parcels for development, but four were removed during the course of the application owing to heritage concerns regarding the listed Holy Trinity Church. These four parcels were at the very east of the site and wrapped around the top of the operational minerals extraction site. The overall site area for development was therefore reduced by some 13 Hectares. The application was also later supported by an additional heritage statement to explore the significance of the heritage assets and the likely impacts of development.

Looking at each heritage asset in turn; the first is the Grade I listed Holy Trinity Church and its associated Grade II listed building Bradwell Hall. The Historic Buildings Consultant (HBC) considers that with the removal of the four

parcels the development would have no direct impact on the significance of either building. However, the HBC still considers that the development would still constitute a change to the assets wider setting, resulting in less than substantial harm. Turning to the four Grade II listed Structures at Goslings Farm and the Grade II listed House Silver Birches; the HBC considers that the impact on these buildings would be more tangible than the Church (above), but would still remain in the realms of less than substantial harm.

Officers agree with the conclusions of the Historic Buildings Consultant; there will undoubtedly be some impact on these heritage assets, however this impact would not be substantial given the nature of the panels and the proximity of the heritage assets.

This harm however in isolation does not justify recommending the refusal of planning permission. As per Paragraph 202 of the NPPF, this harm needs to be weighed against the public benefits of the scheme in the overall planning balance. This is set out at the end of the report but specifically in relation to the heritage balance it is considered that the balance falls in favour of granting planning permission i.e. the clear public benefits of the scheme outweigh the limited heritage harm identified.

Design

Paragraph 131 of the NPPF requires *inter alia* that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting. Policy RLP90 of the Adopted Local Plan requires a high standard of design for all development and that the layout and height and overall design of development are in harmony with the character and appearance of the surrounding area.

Policy 10 of the Adopted Neighbourhood Plan states *inter alia* that all new development proposals should be of a high quality design which contributes positively to the character and appearance of the surrounding area and they should include a high-quality design which will contribute positively to the character and appearance of the surrounding area in accordance with the Bradwell with Pattiswick Parish Village Design Statement. This policy also picks up a number of key issues around energy efficiency, protecting the natural environment, protecting trees and hedgerows and incorporating tree planting.

The proposed development is extensive and will be visible from surrounding roads at least until the proposed planting has had time to establish. The locations of the panels and associated paraphilia are not yet formalised, however Officers are satisfied in this case that through conditions, these elements can be adequately screened/mitigated in the wider landscape. Moreover, none of these elements would be of a size larger than single storey. A condition controlling colours as well as size/appearance of the ancillary structures such as the inverters, substation etc is recommended if the application is to be approved. This will assist in blending these ancillary

elements into the wider landscape, and also making sure they are appropriate for the rural location.

It is therefore considered that the proposals are likely to result in undesirable visual impacts in the short term, however, these could be minimised as much as possible through the above conditions and appropriate placement. As such, from a design point of view, it is considered that there would be an appropriate level of compliance with the aforementioned policies and that in pure design terms the development would not be harmful.

Impact on Neighbouring Residential Amenities

The site is located in the countryside with few residential properties around it. The only properties which would be directly opposite the red line boundary of the site are Links Cottage and Ash House. This is why in terms of visual (landscape) impact, these properties were classified as major/moderate adverse at year 15. All other properties in the area would be separated by intervening agricultural fields. This does not however mean that there would be no impact on these properties.

Furthermore, it is important to note that a “right to a view” is not a planning consideration. Therefore while in landscape terms these panels would have adverse visual impacts on Links Cottage and Ash House, this in itself is not tantamount to detrimental harm to the amenity of those occupiers. As such, for the purposes of assessing neighbour impact (not landscape analysis), an objective assessment is required as to whether the Solar Panels and other paraphernalia would unacceptably harm the amenity of occupiers by virtue of noise, pollution, overshadowing, overbearing or overlooking.

In terms of noise impact from the substations, the Environmental Health Officer is satisfied that there wouldn't be a detrimental impact on neighbouring properties. However to ensure that this is the case, a condition has been recommended to measure noise at the nearest sensitive receptor to determine that they will not be impacted by the final location of any proposed substation.

In this case, owing to the low nature of the panels and associated paraphilia, the only other impact (other than temporary during construction) would be that of light pollution, coming from the panels. This could come in the form of glint, which may be produced as a direct reflection of the sun in the surface of the solar PV pane, or glare, which is a continuous source of brightness, relative to diffused lighting. This is not a direct reflection of the sun, but rather a reflection of the bright sky around the sun. Glare is significantly less intense than glint.

In that regard, a glint and glare assessment has been submitted with the application. This looks at ground based receptors including residential dwellings as well as aviation assets. The assessment utilised a 750m study for ground receptors and a 30km study for aviation receptors. Aviation receptors are discussed later in the glint and glare section.

The impacts are split into four categories for ground based assessments:

- High - Solar reflections impacts of over 30 hours per year or over 30 minutes per day;
- Medium - Solar reflections impacts between 20 and 30 hours per year or between 20 minutes and 30 minutes per day;
- Low - Solar reflections impacts between 0 and 20 hours per year or between 0 minutes and 20 minutes per day;
- None - Effects not geometrically possible or no visibility of reflective surfaces likely due to high levels of intervening screening.

The report identified possible high impacts from glint and glare at 13 receptors, medium impacts at 4 receptors and low impact at 7 receptors within the study area from a desktop based assessment. Following completion of a site visit to determine impacts, this number was reduced to 3 high impact receptors, 2 low impact receptors and none for all remaining receptors.

The three 'high' impact receptors in this case are Links Cottage (Receptor 8 as identified in report), Green Pastures (to the south of the panels Receptor 17 as identified in the report) and Bromans (middle north of the site, Receptor 29 as identified in the report). The report however identifies that with the mitigation measures which it proposes, including 3m high hedge planting and infilling of existing hedge gaps, that the impacts of the development from glare would remain low for 2 receptors and reduce to none for all remaining receptors over time.

In this case, the mitigation measures proposed tally up with the landscape plan principles. A detailed landscape plan would follow by condition to provide the detail set out within these parameters.

One receptor which would not receive any glint or glare impact is Ash House; this is because of the southern orientation of the panels. This is confirmed within Appendix A, Figure 1 of the glint and glare report. As such, despite the panels being readily visible from Ash House, there would be little to no impact in terms of light pollution.

Overall, in terms of light pollution, there would be an initial glint/glare impact on three residential receptors which will be high. This impact will however be reduced significantly over time while mitigation planting becomes established. As such, the weight to be attached to this harm is less in the planning balance.

Taking all of the above into account, it is considered that a moderate harm should be applied to three residential properties, which would weigh against the application in the planning balance.

Highway Considerations

Policy 9 of the Adopted Neighbourhood Plan states that proposals for new development should:

- i. Provide parking in accordance with the adopted Essex County Council Parking Standards;
- ii. Protect public rights of way, including footpaths, cycle routes and bridleways; and
- iii. Not create a significant potential risk or be detrimental to the safety of the highway network.

The site is proposed to be accessed from Links Road near Links Cottage. Initially there were two accesses proposed, however the eastern access has since been removed from the proposal. In terms of the access from Links Road, the Highway Authority initially queried the visibility splays shown on the proposed access, as they appeared to be over third party land. The plans were amended to show the visibility splay outside of third party land and instead within highway owned land. The Highway Authority reviewed these access visibility splays and raised no objection, subject to a condition that the access is installed as shown.

The Highway Authority also requested that the developer submit vehicle tracking, to show that HGV's could access the site appropriately. A Construction Traffic Management Plan (CTMP) was also requested as part of the planning application documentation. This is usually asked for via condition, however because most of the traffic generation will be during construction, the Highway Authority considered that it would be appropriate to assess it as part of the planning application.

Having reviewed this additional documentation, the Highway Authority was satisfied with the tracking and principles set out in the CTMP. There were however a number of additional points which the Highway Authority wished to be included within the CTMP document. This included; a package of measures to protect users of the PROWs during construction, and a revised internal haul route so that no access point between the development parcels utilises a PROW (other than a crossing point). It should be noted that that the panel locations would not require diversion of any footpath, and there would be a minimum 15m offset from the Essex Way PROW.

Construction traffic in any case is temporary in nature; any disturbance will be short term. Once the panels are in operation, the site would have a very low output of vehicle movements. The Construction Traffic Management Plan required through condition, would form an approved document which the developer would need to adhere to during construction. Impacts on the local road network from the underground cabling to join up with the sub-station at Galleys Corner would also be temporary in nature, thus a short term disturbance.

Overall, having regard to the response received by the Highway Authority, Officers are satisfied that the proposal would not give rise to an unacceptable impact on highway safety, or that the residual cumulative impacts on the road network would be severe. The proposal is therefore compliant with the NPPF in this regard.

It should also be noted that the site is partly located with safeguarded land for the new A120. However, National Highways have not raised an objection to the development; presumably due to its temporary nature. As such, Officers do not raise any specific issue with this, as National Highways are the deciding body on such matters.

Impacts on Aviation

The glint and glare report also looks at the impact on Aviation receptors within 30km of the site. 11 Aerodromes are located within this area, however the report considers that only two airfields need consideration due to their size and location; these are the Earls Colne Airfield and the Andrews Field Airfield. The report found that there would be no impacts from the development on the four runways and two Air Traffic Control Towers combined at both airfields respectively.

Officers have considered the findings of the report and have no reason to disagree with its assessment or findings. Officers did also consult the Civil Aviation Authority, however no comments were received.

As such, from an aviation perspective, it is considered that the proposal is acceptable.

Best and Most Versatile Land

Policy CS8 of the Core Strategy requires *inter alia* that development should protect the Best and Most Versatile (BMV) agricultural land. In this case a minor proportion of the site (16%) is classified 3a (good value or 'best and most versatile') agricultural land, but the majority of the site is classified 3b (81%) which is poorer quality. 3% of the land is classified as other land (not in an agricultural use).

A number of comments were received suggesting that the site is actually primarily Grade 2 agricultural land (very good quality and within the 'best and most versatile category') as this is indicated on high level classification maps. However, in order to fully assess the agricultural quality of the site, the Applicant commissioned an agricultural quality survey which took place in March 2021. It used robust observations and soil sampling at various locations to determine the soil quality and its suitability for agriculture, in line with standard practice and the grading system. Therefore while the higher level maps might suggest Grade 2, Officers are satisfied that the detailed assessment carried out by the Applicant's report is a fair reflection of the conditions of the ground.

In any case, the loss of the small tract of BMV land would therefore weigh negatively in the planning balance against this proposal, but only to a limited extent given the fact that Braintree District has a proliferation of BMV land, and the loss of this small amount of BMV land would not significantly undermine the provision of such land throughout the District as a whole. This

consideration has been taken into account in the wider planning balance as detailed in the Conclusion to this report, however, for the reasons given below it is considered that the proposal still complies with the Development Plan as a whole in spite of the partial conflict with this policy.

Flood Risk

Policy 6 of the Adopted Neighbourhood Plan states that development proposals should where appropriate avoid and reduce the risk of flooding (including fluvial and surface) on site and elsewhere in the catchment, and manage water and waste water discharge.

A flood risk assessment was submitted with the application. The site is located exclusively in Flood Zone 1, therefore at low risk of flooding. Due to the limited amount of impermeable surfacing being created the applicant has demonstrated that the proposal would only have a small effect upon run-off rates from the site. ECC SUDS have raised no objection to the development subject to a drainage strategy condition which would employ sustainable urban drainage solutions to ensure that the surface water run-off rate will be reduced to less than the current rate. The proposal is therefore judged to comply with the requirements of Policy RLP69 of the Adopted Local Plan and Policy CS8 of the Core Strategy, as well as the Adopted Neighbourhood Plan.

Archaeology

The applicants in this case worked with the Archaeological Officer to assess the archaeological potential of the site through a written scheme of Investigation (WSI). This report comprised multiple stages and trial trenching. Often these requirements are by condition, however in this case these details were provided as part of the planning application. Overall, the Archaeological Officer raised no objection to the development and suggested conditions to cover sampling from specific areas.

Fire Risk

Fire risk has also been considered as part of this application. Officers consulted the Health and Safety Executive (HSE), Environmental Health Officer and Fire Service on the application.

The HSE raised no objection to the development as it would not be near to a potential major hazard site (e.g. control of hazards site or nuclear site). The application also passed the HSE self-assessment which is completed by the Local Planning Authority when required.

The Environmental Health Officer raised no objections with regards to possible fires, primarily commenting on possible noise impacts from the generators.

The Fire Service response was more targeted and provided a list of criteria that the development should adhere to in order to provide suitable access for

fire engines, in the unlikely scenario of a fire. It sets out that these requirements are covered under building regulations. At this stage the development is only approving the access and development parcels. However, the Applicants technical note sets out that all of the criteria as necessary can be met on site to ensure that the standards (as necessary) are complied with.

Officers are satisfied in this case that from a fire safety perspective, the proposal is acceptable in planning terms. A condition and linked informative is recommended to ensure that the relevant requirements discussed above are taken into account at the detailed layout stage.

Community Benefit

It should be noted that the developer has entered into discussions with the Parish Council to offer them a community benefit, should the application be approved. This benefit could amount to over £100,000+ during the life of the application. It is reported that this is a standard offer by the Developer on all similar solar farm applications.

Officers are however unable to attribute any weight to this benefit; it would be formed by way of legal agreement separate to Braintree District Council. Therefore Braintree, as the relevant Local Planning Authority, would not be the enforcing authority as it would not be party to the agreement. There is also no policy basis upon which to secure this benefit in planning terms. As such, Officers note the proposed community benefit, however no weight is given to it in the planning balance.

PLANNING BALANCE AND CONCLUSION

The starting point for decision making is the Adopted Development Plan. In this case the proposal is considered to comply in principle with the most important policies of the Development Plan, including Policy RLP76 of the Adopted Local Plan and Policy LPP76 of the Draft Section 2 Local Plan which support solar powered energy schemes. These Policies are also considered to be up-to-date by way of their consistency with the NPPF. Paragraph 11c of the NPPF therefore directs that such proposals should be approved without delay.

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 well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being);
- an environmental objective (to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy).

Summary of Public Benefits

Renewable Energy

The proposal is a renewable energy project, which in principle is supported by National and Local Policy on account of the benefits it would deliver by providing carbon free electricity to the network. The site would directly contribute to the government's aim to achieve their carbon net zero targets to limit the impacts of global warming. Overall, it is considered that the benefit of the solar panels would carry significant weight and the ability of the scheme to provide sustainable energy to the wider network weighs heavily in its favour.

Employment Opportunities

The proposal would also deliver moderate benefits by providing local employment opportunities in the construction phase and additional more limited employment opportunities during the operational phases in addition to generally contributing to sustaining jobs in the wider solar power industry.

Biodiversity Net Gain

Biodiversity net gain would also be achieved, with a richer and more varied ecological habitat being provided in comparison to the existing lower value agricultural fields which form the majority of the application site.

Summary of Adverse Impacts

Overview

The Solar Panels are not however without consequence. They would result in a higher level of harm to the landscape, visual receptors and heritage assets at year 1, while this harm would be reduced at year 15 owing to mitigation measures proposed. Paragraph 158 of the NPPF states when determining planning applications for renewable and low carbon development, local planning authorities should inter alia "(b) approve the application if its impacts are (or can be made) acceptable." It is therefore appropriate to assess the harm of the application primarily at a later stage once the mitigation measures have had some time to become established.

Landscape Impact

The development at year 15 would still have a low level of landscape harm and a moderate/significant visual harm (in landscape terms) to three receptors including users of the Essex Way. It is considered this harm should be given moderate weight in the overall balance as the impacts are more localised.

Heritage Impact

In terms of heritage assets, the impacts of the development would be less than substantial on a number of heritage assets and are outweighed by the public benefits of the proposal. Owing to the low level of harm on these assets, it is considered that these harms should also be given moderate weight.

Residential Amenity Impact

There would also be some short term impacts of glint and glare on three residential receptors, however these impacts would reduce significantly over time with specific mitigation measures proposed. As such, it is considered that this harm should also be given moderate weight.

BMV Agricultural Land

Finally, there would be a small loss of Grade 3a agricultural land as a result of the development. Owing to the small amount, and the remaining abundance of BMV agricultural land remaining in the district, it is considered that this impact is limited.

Planning Balance

Officers have taken into account the significant benefits that would arise from the solar panels and weighed this against the harms arising above to landscape/amenity, heritage, impacts on neighbours and loss of BMV agricultural land. In this case, it is considered that the significant benefits of the development would outweigh the cumulative harms that would arise from the development in the overall planning balance. As such, Officers recommend that planning permission be granted for the proposed development.

RECOMMENDATION

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

APPROVED PLANS

Location Plan	Plan Ref: SP-01	Version: 10
Land Use Parameter Plan	Plan Ref: LCS038 DZ-01	Version: 13
Landscape Masterplan	Plan Ref: edp6971_9011j	
Access Details	Plan Ref: 2102007-13	Version: F

CONDITIONS AND REASONS

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

Reason

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

- 2 The solar panels/solar array hereby permitted shall not exceed the limits contained within the approved Development Zone Plan Reference LCS038 DZ-01 13.

Reason

The development has been assessed against these parameters only therefore any expansion beyond this would require further assessment under a new planning application.

- 3 No development shall commence until full details (which must be within the parameters set out in the submitted Planning Design and Access Statement dated June 2021 Ref 15407 and completed by DWD Property & Planning) of the final locations and dimensions, design, materials and colour (where appropriate) to be used for the panel arrays, inverters, substation, control building, switch room, CCTV cameras, fencing and any other components of the scheme shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details and thereafter retained as such for the lifetime of the use.

Reason

In order for the Local Planning Authority to further assess the impacts of the precise detail of the development once the location of these elements has been identified. This is required pre-commencement as the development has been approved in line with the Rochdale Envelope principles.

- 4 No development shall commence until full details have been submitted to and approved in writing by the Local Planning Authority regarding all proposed hard standing and internal vehicle routes of the development.

Reason

In order for the Local Planning Authority to be satisfied that sufficient fire

safety measures have been incorporated. This is required pre-commencement as the development has been approved in line with the Rochdale Envelope principles.

- 5 The access shall be installed in accordance with the details contained within Plan Reference 2102007-13F and thereafter shall be retained as such. The visibility splays shall be retained free of obstruction above 600mm at all times.

Reason

In the interests of highway safety and for the avoidance of doubt, in the interests of proper planning.

- 6 No development shall commence until a detailed Landscape Scheme has been submitted to and approved in writing by the Local Planning Authority which provides details of the following:

A) How the principles contained within the Landscaping Plan (Reference: edp6971_d011j) have been followed)

B) Details of soft landscaping to include the plant type, size, planting numbers and distances, and a programme detailing the timing of the landscaping works in relation to the phasing of construction.

C) Details of a long term management plan within the red line which allows for the hedgerows to be maintained at a minimum height of 3m at all times and confirmation of the maintenance regime to ensure that all the identified landscaping on the site is continually managed (including watering) for the lifetime of the development; to the objective of ensuring that the visual impact of the development is minimised from both close range views and those available from the wider surrounding landscape. Once approved the watering and maintenance of the landscaping scheme shall be carried out in accordance with the approved details.

Development shall only commence in strict accordance with the Landscape Scheme and Landscape Management Scheme, which shall subsequently be implemented only in accordance with the approved details for the lifetime of the use hereby approved. Any trees or plants which die, are removed, or become seriously damaged or diseased during the life of the development shall be replaced in the next planting season with others of a similar size and species.

Reason

In the interests of visual amenity and protection of the local environment: to ensure that existing landscaping on the site is protected and enhanced with the objective of ensuring that the visual impact of the development is minimised from both close range views and those available from the wider surrounding landscape. Failure to provide the above required information prior to commencement may result in harm to features of landscape interest and harm to visual amenity. To ensure that new trees are suitably

irrigated until they become established and in order to enhance the appearance of the development and in the interests of amenity and privacy.

- 7 The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment dated L496-DOC01 and the following mitigation measures detailed within the FRA shall be provided in accordance with the FRA:

Provide attenuation storage (including locations on layout plan) for all storm events up to and including the 1:100-year storm event inclusive of climate change.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme.

Reason

To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site. To ensure the effective treatment of surface water runoff to prevent pollution.

- 8 No development shall commence until such time as a soil management plan has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

Reason

Soil compaction can cause increased run-off from the site. Therefore a soil management plan should show how this will be mitigated against. Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

- 9 Prior to the installation of any external lighting at the site, a lighting design scheme to protect amenity, the night-time landscape and biodiversity shall be submitted to and approved by the local planning authority.

The scheme shall identify those features on, or immediately adjoining the site, that are particularly sensitive for bats including those areas where lighting could cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas of the development that are to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and retained thereafter in accordance with the scheme.

Under no circumstances should any other external lighting be installed on

the site.

Reason

In order to protect biodiversity and protected species, the amenity of the locality and to avoid unnecessary light pollution and 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).

- 10 If use of the hereby approved development should cease for the purposes of energy generation for a concurrent period exceeding six months or more, all the equipment and structures hereby approved shall be removed from the land and the site reinstated to its former condition. In any case, the Panels shall be removed at the latest by the 31st December 2064. Prior to the removal of any panels a scheme (to include timescales) for the reinstatement of the site to agricultural land alongside any retained ecological habitat areas shall be submitted to and approved in writing by the Local Planning Authority. The site shall be reinstated in accordance with the approved details.

Reason

In the interests of amenity and protection of the local environment; to ensure the rural character of the site is reinstated when the solar panels reach the end of their lifetime if they are not replaced and to ensure that a balance is achieved between reinstating agricultural land and safeguarding established ecological habitat areas.

- 11 Prior to commencement of development a noise report shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that operational noise from inverters, substations, and from the heating ventilation and cooling units shall not cause any increase in the background noise level (15 minute LA90) when measured at the boundary of noise sensitive property.

Reason

To protect neighboring amenity.

- 12 A) All works carried out within the archaeological areas (1 to 4) identified in the WSI submitted (AOC, 2021) shall be carried out under archaeological control in accordance with the WSI.

B) No development or preliminary groundworks, beyond area 1 to 4, shall take place until a programme of archaeological evaluation has been secured in accordance with a written scheme of investigation which has been submitted by the applicant, and approved in writing by the Local Planning Authority.

C) No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological evaluation identified in the WSI defined in Part B) above and confirmed by the Local

Authority archaeological advisors.

D) A mitigation strategy detailing the excavation / preservation strategy for the site shall be submitted to and approved in writing by the Local Planning Authority following the completion of the archaeological evaluation.

E) No development or preliminary groundworks can commence on those areas containing archaeological deposits within the site until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been approved in writing by the local planning authority.

F) The applicant will submit to the Local Planning Authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Reason

The site may be of archaeological interest. Failure to provide the above required information prior to commencement may result in harm to interests of archaeological importance.

- 13 Prior to commencement of development, a Construction Environmental Management Plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority, in line with the Ecological Assessment (Landscape Science Consultancy Ltd, June 2021).

The CEMP (Biodiversity) shall include the following:

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

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

Reason

To conserve Protected and Priority species and allow the LPA to

discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species). Failure to provide the above required information prior to commencement may result in harm to protected species.

- 14 No development shall commence unless the Local Planning Authority has been provided with either:
- a) A licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
 - b) A GCN District Level Licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
 - c) A statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence.

Reason

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

- 15 No development shall commence until a Biodiversity Net Gain Design Stage Report, in line with Table 2 of CIEEM Biodiversity Net Gain report and audit templates (July 2021), has been submitted to and approved in writing by the Local Planning Authority, using the DEFRA Biodiversity Metric 3.0 or any successor.

The content of the Biodiversity Net Gain report should include the following:

- Baseline data collection and assessment of current conditions on site;
- A commitment to measures in line with the Mitigation Hierarchy and evidence of how BNG Principles have been applied to maximise benefits to biodiversity;
- Provision of the full BNG calculations, with detailed justifications for the choice of habitat types, distinctiveness and condition, connectivity and ecological functionality;
- Details of the implementation measures and management of proposals; and
- Details of the monitoring and auditing measures.

The proposed enhancement measures shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

Reason

In order to demonstrate measurable net gains and allow the LPA to discharge its duties under the NPPF (2021)

- 16 No development shall commence until an Ecological Design Strategy (EDS) has been submitted to and approved in writing by the Local Planning Authority. The EDS shall include the following:

- a) Purpose and conservation objectives for the proposed works.
- b) Review of site potential and constraints.
- c) Detailed design(s) and/or working method(s) to achieve stated objectives.
- d) Extent and location/area of proposed works on appropriate scale maps and plans.
- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g) Persons responsible for implementing the works.
- h) Details of initial aftercare and long-term maintenance.
- i) Details for monitoring and remedial measures.
- j) Details for disposal of any wastes arising from works.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason

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

- 17 The development hereby approved shall only be carried out in accordance with the recommendations and tree protection plan contained with the Arboricultural Report Reference: THL-R21-147, dated 23rd November 2021. The approved means of protection shall remain in place for the duration of construction and no machinery, materials, goods or articles of any description shall be operated stacked, stored or placed at any time within the limits of the spread of any of the existing trees, shrubs or hedges.

Reason

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

- 18 No development shall commence until the 'Construction Traffic Management Plan' is revised and submitted to and approved in writing by the Local Planning Authority to include the following:

- A) A package of signage and safety measures to protect the users of the PROW network within the site during the construction phase
- B) A revised internal haul route to that shown on planning application drawing 'Links Braintree Indicative Layout LCS038 PLE-01 Rev 23' (see linked informatives 3, 4 & 6).

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

Reason

To protect highway efficiency of movement and safety. This condition is required pre-commencement as it relates to safety measures that need to be put in place before development commences.

- 19 No unbound material shall be used in the surface treatment of the access within 15 meters of the Highway Boundary.

Reason

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

- 20 No development shall commence until a Skylark Mitigation Strategy, to secure 12 skylark mitigation plots to compensate for the losses arising from the development, has been submitted to and approved in writing by the Local Planning Authority.

The Skylark Mitigation Strategy shall include the following:

- a. Purpose and conservation objectives for the proposed Skylark nest plots;
- b. Detailed methodology for the Skylark nest plots following Agri-Environment Scheme option: 'AB4 Skylark Plots';
- c. Locations of the Skylark plots in nearby agricultural land by appropriate maps and/or plans;
- d. Persons responsible for implementing the compensation measure.

No development shall commence until the approved Skylark Mitigation Strategy has been implemented to the satisfaction of the Local Planning Authority, and thereafter all features shall be retained for a minimum period of 10 years.

Reason

To allow the Local Planning Authority to discharge its duties under the NERC Act 2006 (Priority habitats & species).

INFORMATION TO APPLICANT

- 1 In respect of Condition 4, the relevant Fire Service standards should either be exceeded or met and demonstrated as such in any

submission. Any development that does not meet this criteria as appropriate will not be supported.

The standards set out by the Fire Service are as follows:

- The surface of the access road should be capable of sustaining a load of 18 tonnes for pumping appliances.
 - Changes of direction by bends should accommodate a turning circle of 17.8m and a sweep circle of 19.0m.
 - The overall width of the access path should not be less than 3.7m.
 - Openings or gateways should not be less than 3.1m.
 - Headroom should not be less than 3.7m.
 - Where any changes of levels are involved, as in the case of a kerb, they should be ramped, or have a kerb height not exceeding 90mm.
 - In addition, dead-end access routes longer than 20m require turning facilities as Fire and Rescue vehicles should not have to reverse more than this distance.
 - For any proposed buildings on the site, access for a pumping appliance should be provided to within 45m of all points inside the building.
- 2 A professional archaeological contractor should undertake any archaeological investigation. An archaeological brief detailing the requirements can be produced from Essex County Council.
- 3 In respect of Condition 4, the indicative internal haul route shown on planning application drawing 'Links Braintree Indicative Layout LCS038 PLE-01 Rev 23' should be revised to avoid Footpath 30 Bradwell.
- 4 The applicant should obtain the PROW official width and alignment from PROWPlanning@essexhighways.org

It is incumbent upon the applicant to determine the exact location and full width of any PROW affected by the proposal

The PROW network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. Any Footpath affected by the proposal should be maintained free and unobstructed at all times to ensure the continued safe passage by the public. Any temporary closure of a route on the Definitive Map of PROW should be applied for under the Highways Act 1980. All costs associated with this should be borne by the applicant and any damage caused to the route should be rectified by the applicant within the timescale of the closure.

- 5 Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works. All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible). There should

be no drainage of surface water onto highway. All work within or affecting the highway should be laid out and constructed by prior arrangement with and to the requirements and satisfaction of the Highway Authority, details to be agreed before commencement of the works. An application for the necessary works should be made to development.management@essexhighways.org.

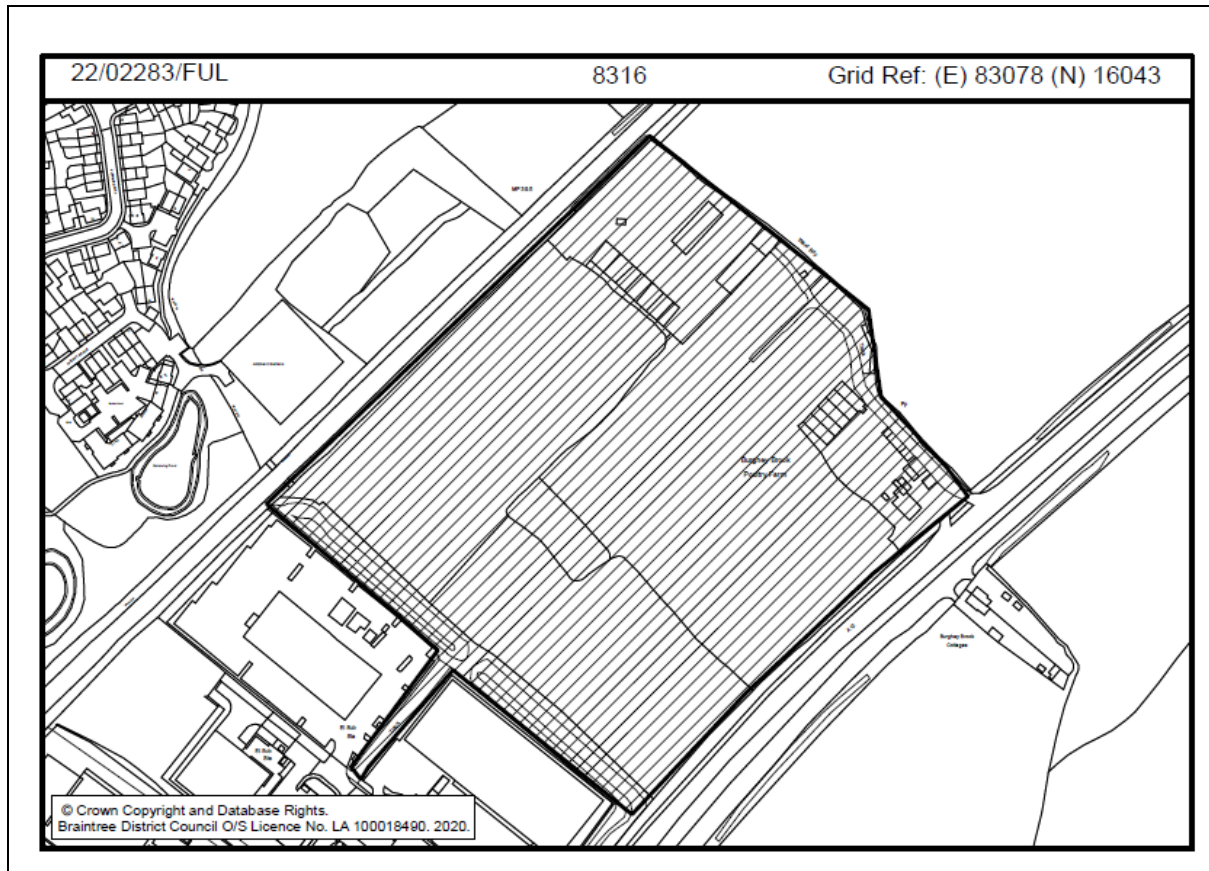
- 6 All costs associated with the implementation of the Construction Traffic Management Plan should be met by the applicant including but not limited to any Temporary Traffic Regulation Order(s) and signing and lining.

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

Agenda Item: 5f

Report to: Planning Committee		
Planning Committee Date: 18th April 2023		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	22/02283/FUL	
Description:	Erection of two B8 (storage / distribution) units with office space and associated infrastructure.	
Location:	Land North Of Colchester Road Witham	
Applicant:	C/O Agent	
Agent:	Mr Simon Garesse, Strutt And Parker, Coval Hall, Rainsford Road, Chelmsford, CM1 2QF	
Date Valid:	6th September 2022	
Recommendation:	It is RECOMMENDED that the following decision be made: § Application GRANTED subject to the completion of a Section 106 Agreement to cover the Heads of Terms outlined within the Recommendation section of this Committee Report, and subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overtake the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
	Appendix 4:	Committee Report & Appendix - 20th December 2022 Planning Committee
Case Officer:	Mathew Wilde For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2512, or by e-mail: mathew.wilde@braintree.gov.uk	

Application Site Location:



Purpose of the Report:	This update report seeks approval for changes to the previously agreed Heads of Terms following the Resolution from Planning Committee on 20th December 2022 to Grant Planning Permission for the proposed development, subject to the completion of a Section 106 Agreement. It is not a full re-consideration of the merits of the application.
Financial Implications:	<p>The application was subject to the statutory application fee paid by the Applicant for the determination of the application.</p> <p>As outlined above, it is recommended that the decision is subject to a Section 106 Agreement which seeks to mitigate the impact(s) arising from the proposed development. Any financial implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
Legal Implications:	<p>Any legal implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions & 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>
Other Implications:	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.
Equality and Diversity Implications	Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when

	<p>the Council makes decisions it must have regard to the need to:</p> <ul style="list-style-type: none"> a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act; b) Advance equality of opportunity between people who share a protected characteristic and those who do not; c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding. <p>The consideration of this application has not raised any equality issues.</p>
Background Papers:	<p>The following background papers are relevant to this application include:</p> <ul style="list-style-type: none"> § Planning Application submission: <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 22/02283/FUL.</p> <ul style="list-style-type: none"> § Policy Documents: <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan 2013 - 2033 § Neighbourhood Plan (if applicable) § Supplementary Planning Documents § (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. UPDATE REPORT

1.1 This application was reported to Planning Committee on 20th December 2022 (a copy of the published Committee Report is included as an Appendix to this report). Members resolved to grant planning permission subject to the completion of a S106 Agreement. Since the Planning Committee meeting, there have been modifications to the agreed S106 Heads of Terms. This application is therefore being re-reported to Members in order for the modifications to be considered and a further resolution made. For the avoidance of doubt, the re-reporting of this application is not a full re-consideration of the application, it is only to consider changes to the Section 106 Heads of Terms and Condition 4 as follows:

1. Changes to Biodiversity Net Gain off-site in Section 106 Agreement
2. Changes to linked Biodiversity Condition 4
3. Changes to Cycleway/footway provision

1.2 In terms of background, since Members resolved to grant planning permission at Planning Committee on 20th December 2022, Officers have been in discussions with the Applicant and respective solicitors acting for either side to finalise the Section 106 Agreement and issue the planning decision. However, during these discussions, it has transpired that the Biodiversity Net Gain and proposed Cycleway/Footway Schedules have to be updated. As such, these amendments would modify some of the Heads of Terms specified within the original Planning Committee Report which was considered by Members at Planning Committee on 20th December 2022. Moreover, as a result of the change to the Biodiversity Net Gain schedule, it is also proposed that Condition 4 (Biodiversity Net Gain on site) is also updated.

1.3 These particulars are discussed in detail in the report below.

2. Changes to Biodiversity Net Gain S106 Trigger

2.1 The Committee Report presented to Members at Planning Committee on 20th December 2022 stated inter alia:

- In Paragraph 11.3.14 - *“...A location for the biodiversity net gain would need to be agreed prior to the commencement of development”.*
- In the Heads of Terms paragraph – *“With the measures to be provided as part of this being provided prior to commencement of development and appropriate certificates being produced to the Council to show that this has been done.”*

2.2 Since the Planning Committee meeting, the developer has had difficulties securing a site to deliver the Biodiversity Net Gain (BNG) on. As such, the developer initially sought to change from an off-site provision of BNG as reported at Committee, to a financial contribution towards off-site BNG instead. This financial contribution would have been paid to the Council to

find and implement a BNG site. Officers however strongly rebutted this proposal given that the onus to find a BNG site should be on the developer, not the Council. Moreover, the Council does not have any of its own BNG schemes at this time.

- 2.3 In order to find a potential solution, Officers discussed with the Council's Ecology Officer whether the location and provision of the off-site BNG could be secured at a later trigger date (later than prior to commencement of development), to allow more time for the developer to secure a site, but not hold up the delivery of the development.
- 2.4 The Ecology Officer confirmed that habitat can be removed on site before it is replaced off-site, as irrespective of when its delivered, the new off-site BNG would likely take time to provide the full ecological benefits. However, for the avoidance of doubt, if a later trigger point is agreed for BNG, it doesn't change any statutory duty on the developer relating to protected species, nor does it absolve them of any protection measures for wildlife which would be secured via appropriate conditions.
- 2.5 The other complicating factor in finding a solution is that the Government are yet to release full details of how BNG will be secured off-site as part of the Environment Act 2021. It is anticipated that full details will be released on or before when the scheme becomes mandatory in November 2023. As such, there is currently much uncertainty around how to secure the BNG off-site and ensure that it is monitored and maintained for a 30 year period.
- 2.6 In order to provide a solution, Officers have agreed to reduce the specificity of the BNG schedule, so that it is similar to Skylark Mitigation, where a biodiversity offsetting scheme will required to be submitted to the Council to: identify a site for the off-site BNG; provide details of the BNG; and provide details of monitoring and auditing. The trigger for this biodiversity offsetting scheme to be submitted is now prior to the occupation of any part of the development, and not to occupy the second building until the biodiversity offsetting scheme has been approved. By the time that this biodiversity offsetting scheme is submitted, there will also be more certainty around the Government scheme, thereby the biodiversity offsetting scheme can be tailored to match it.
- 2.7 The developer was satisfied with this approach as it allowed for greater flexibility than was initially drafted by the Council. The developer did however ask that a clause is inserted so that if for whatever reason the BNG off-site could not be delivered, then they could buy into the Governments Biodiversity Credits (or similar name as it comes forward), which are understood to be coming forward as part of the Environment Act BNG. Officers consider that this fallback position is a reasonable compromise. There is also a last ditch clause where the developer would pay the Council to deliver the BNG, should a site not be found by the developer, and the Government Biodiversity Credits scheme not come forward.

- 2.8 Overall, while the trigger to submit a biodiversity offsetting scheme is now later, Officers are satisfied that the development would still provide 7.5 Area Habitat Units off-site as previously secured within the original Heads of Terms presented to Members at Planning Committee. Is therefore considered that the change to the Biodiversity Net Gain schedule in the Section 106 Agreement is acceptable and it is recommended that Members approve this change.

3. Changes to linked Biodiversity Condition 4

- 3.1 Condition 4 was approved by Members at committee as follows:

“No development shall commence until a finalised Biodiversity Net Gain Assessment is submitted to and approved in writing by the Local Planning Authority to demonstrate measurable biodiversity net gains. The content of the Biodiversity Net Gain Report should include the following:

- a) Baseline data collection and assessment of current conditions on site;*
- b) A commitment to measures in line with the mitigation hierarchy and evidence of how BNG Principles have been applied to maximise benefits to biodiversity;*
- c) Provision of the full BNG calculations, with detailed justifications for the choice of habitat types and their condition;*
- d) Details of the implementation measures and management of proposals;*
- e) Details of any off-site provision to be secured by a planning obligation;*
- and*
- f) Details of any monitoring and auditing measures.*

The proposed measures shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

Reason: This is required prior to the commencement of development in order to demonstrate measurable biodiversity net gains can be delivered by the development and allow the LPA to discharge its duties under the NPPF (2021).”

- 3.2 The Condition seeks to secure the Biodiversity Net Gain (BNG) on site, but does also refer to off-site provision in point e). In order to avoid any duplication, and to make it clearer that the Condition relates solely to on-site BNG, it is proposed that this off-site requirement be omitted from the Condition. Furthermore, it is proposed that on-site BNG is referenced to make it clearer that the condition relates to it, as opposed to any off-site BNG covered by the S106 agreement. Finally, after discussions with the Council's Ecology Officer, it is set out that criteria a) in the Condition is no longer necessary, as the baseline conditions will not change at the site comparatively to the previous BNG assessment prepared by the developer. As such, with the above modifications, it is proposed that Condition 4 be reworded as follows:

“No development shall commence until a finalised Biodiversity Net Gain report for the on-site provision of Biodiversity net gain is submitted to and

approved in writing by the Local Planning Authority. The content of the Biodiversity Net Gain Report should include the following:

- A) A commitment to measures in line with the mitigation hierarchy and evidence of how BNG Principles have been applied to maximise benefits to biodiversity;*
- B) Provision of the full BNG calculations, with detailed justifications for the choice of habitat types and their condition;*
- C) Details of the implementation measures and management of proposals;*
- D) Details of any monitoring and auditing measures.*

The proposed measures shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

Reason: This is required prior to the commencement of development in order to demonstrate measurable biodiversity net gains can be delivered by the development and allow the LPA to discharge its duties under the NPPF (2021)."

- 3.3 This revised condition wording has been approved by the Council's Ecology Officer and it is recommended that Members approve this change to the wording of this condition.

4. Changes to Cycleway/footway provision

- 4.1 The Committee Report presented to Members at Planning Committee 20th December 2022 stated inter alia:

- Paragraph 11.4.16 of report – *"Officers consider that a S106 obligation would be necessary to try and secure a future scheme for a cycleway/footway link through the Site from Eastways to the proposed new A12 cycleway/footway"*
- *This is also in g) of the Heads of Terms 14.1 – so some obligation to go off-site to make the connection in theory with the new A12 scheme*

- 4.2 Owing to uncertainties regarding the A12 widening works, the developer was not contented that they would be able to go off-site to deliver the proposed cycleway/footway, suggesting that they can only provide the cycleway/footway to their red line boundary. Furthermore, the developer refuted any suggestion of an alternative position of the footway/cycleway, other than that shown on the plans. Originally it was envisaged that the cycleway/footway could go to a different point on the plan in theory, however owing to the nature of the application and use, the developer was not agreeable to this.

- 4.3 Having considered this at length, Officers concluded that it would be unreasonable to insist on any off-site works, owing to the uncertainties around the A12 widening scheme. Indeed, it would be much more sensible if National Highways when completing the A12 works were able to make the connection. As such, the Schedule has been amended to remove any

reference to off-site works, but provisions put in place to permit National Highways/an appointed contactor to access their land to deliver the connection. Moreover, the shown location point is considered to be the only deliverable option for the connection to the A12. Discussions have also been had with National Highways about the connection and representations made at the A12 widening Examination Hearing regarding the connection.

- 4.4 Overall, it is considered that the change to the Cycleway/footway S106 Schedule to remove the requirement of the developer to complete off-site works is in this case acceptable.

5. CONCLUSION

- 5.1 The application is being re-reported to Planning Committee to seek approval from Members for three changes: the Biodiversity Net Gain and Cycleway/Footway S106 Schedules; and changes to the wording of Condition 4. Overall, it is considered that these changes are acceptable and would assist the developer in ensuring the timely delivery of the scheme, as well as appropriate mitigation.

6. RECOMMENDATION

- 6.1 It is therefore RECOMMENDED that subject to the Applicant entering into a suitable legal agreement pursuant to S106 of the Town and Country Planning Act 1990 (as amended) to cover the following Heads of Terms:

- **Open Space** - Financial contribution of £109,867.17 (index linked) to be used for a scheme in Witham. Trigger – 50% paid prior to occupation of a building. 100% paid prior to occupation of the second building.
- **Travel Plan Monitoring Fee** - £6,383 (index linked) secured by a covenant given to Braintree District Council to ensure payment to Essex County Council prior to the commencement of development and evidence to be produced to Braintree District Council of that payment.
- **Biodiversity Net Gain Off-Site** - The submission of a biodiversity off-setting scheme (including details of timescales for implementation) to be submitted prior to the occupation of any part of the development, and not to occupy the second building until the biodiversity offsetting scheme has been approved.
- **Provision of a Cycleway/Footway** - Prior to occupation of any building on the site, a scheme to include:
 - a) A minimum 3m wide footway/cycleway from Eastways through the site to the new A12 cycleway/footway (which route may partially be provided as a shared surface between pedestrians, cycles and motor vehicles on the site access road); and

- b) details to show that the On Site Cycleway/Footway will be constructed to the local highway authority's adoptable standards and include appropriate drainage, signage and street lighting and be available for use for the public on foot and with cycles in perpetuity, and
- c) a road safety audit to demonstrate that the On Site Cycleway/Footway is safe for use by the public; and
- d) details of arrangements for future maintenance to adoptable standards of the On Site Cycleway/Footway in perpetuity; and
- e) provision for a covenant to be given to the Council by the owners of the Site to secure the right for the public to use the entire approved cycleway/footway route at all times and for all purposes on foot or on pedal cycle, in perpetuity and.
- f) details to make provision for the Council to receive the On Site Cycleway/Footway Certificate by a chartered highway engineer; and
- g) a detailed programme of construction with a timescale for the completion of the On Site Cycleway/Footway

Not to Occupy the second building constructed on the Site as part of the Development unless and until the Scheme has been approved by the Council; and

To permit National Highways and/or their contractor access to the Protected Land and land within the Site in the vicinity of the Protected Land to enable National Highways and/or their contractor to construct the Off Site Cycleway/Footway and connect it to the On Site Cycleway/Footway

The Planning Development Manager or an authorised Officer be authorised to GRANT planning permission under delegated powers in accordance with the Approved Plans and Documents, and subject to the Condition(s) & Reason(s), and Informative(s) outlined within APPENDIX 1.

- 6.2 Alternatively, in the event that a suitable planning obligation is not agreed within three calendar months of the date of the resolution to GRANT planning permission by the Planning Committee, the Planning Development Manager may use his delegated authority to refuse the application.

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

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

Approved Plan(s) & Document(s)

Plan Description	Plan Ref	Plan Version
Location Plan	2745 - PL101	N/A
Proposed Plans	2745 - PL105	N/A
Proposed Site Plan	2745 - PL106	N/A
Proposed Floor Plan	2745 - PL201	N/A
Proposed Roof Plan	2745 - PL202	N/A
Proposed Plans	2745 - PL203	N/A
Proposed Elevations	2745 - PL204	N/A
Proposed Elevations	2745 - PL205	N/A
Proposed Sections	2745 - PL206	N/A
Proposed Plans	2745 - PL207	N/A
Proposed Plans	2745 - PL208	N/A
Refuse Information	2745 - PL209	N/A
Proposed Elevations	2745 - PL210	N/A
Proposed Floor Plan	2745 - PL301	N/A
Proposed Roof Plan	2745 - PL302	N/A
Proposed Floor Plan	2745 - PL303	N/A
Proposed Sections	2745 - PL306	N/A
Proposed Plans	2745 - PL307	N/A
Refuse Information	2745 - PL308	N/A
Proposed Elevations	2745 - PL309	N/A
Parking Strategy	2295-22-01 S5A	N/A
Landscape Masterplan	2295-22-02 S5C	N/A
Parking Strategy	2295-22-04 S5A	N/A
Landscape Masterplan	2295-22-01 S5H	N/A
Proposed Elevations	2745 - PL304	B
Proposed Elevations	2745 - PL305	B

Condition(s) & Reason(s)

Condition 1

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

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

Condition 2

The development hereby permitted shall be carried out in accordance with the approved plans listed above, except for the provisions relating to the provision of the cycleway/footway along the western boundary of the site as shown on Drawing Nos 2745 - PL105, 2745 - PL106, and 2295-22-01 S5H.

Reason: For the avoidance of doubt and the interests of proper planning. The reason for the exclusion of the provisions relating the cycleway/footway along the western boundary is that a connection to the new A12 scheme cannot be guaranteed. It may be that the cycleway/footway connection is required to be modified or in a different location. As such, until the A12 scheme is further advanced, and talks with National Highways further advanced, the cycleway/footway element of the scheme should be omitted from the Plans. A Cycleway/Footway Strategy is proposed to be secured by way of legal agreement.

Condition 3

No development shall commence until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall be in accordance with the details contained in the Preliminary Ecological Appraisal (Environmental Assessment Services Ltd, October 2022). The Development shall be carried out in accordance with the approved CEMP.

The CEMP (Biodiversity) shall include the following:

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

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

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

Condition 4

No development shall commence until a finalised Biodiversity Net Gain report for the on-site provision of Biodiversity net gain is submitted to and approved in writing by the Local Planning Authority. The content of the Biodiversity Net Gain Report should include the following:

- A) A commitment to measures in line with the mitigation hierarchy and evidence of how BNG Principles have been applied to maximise benefits to biodiversity;

- B) Provision of the full BNG calculations, with detailed justifications for the choice of habitat types and their condition;
- C) Details of the implementation measures and management of proposals;
- D) Details of any monitoring and auditing measures.

The proposed measures shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

Reason: This is required prior to the commencement of development in order to demonstrate measurable biodiversity net gains can be delivered by the development and allow the LPA to discharge its duties under the NPPF (2021).

Condition 5

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

- The parking of vehicles of site operatives and visitors;
- The loading and unloading of plant and materials;
- The storage of plant and materials used in the construction of the development;
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Wheel washing facilities;
- Measures to control the emission of dust and dirt during construction;
- A scheme for recycling/disposing of waste resulting from demolition and construction works;
- Delivery, demolition and construction working hours.

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

Reason: This is required prior to the commencement of development to ensure that on-street parking of these vehicles in the adjoining streets does not occur during construction and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and amenity.

Condition 6

No development shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented as approved.

Reason: This is required prior to the commencement of development as construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which

needs to be agreed before commencement of the development. Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

Condition 7

No development except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme should include but not be limited to:

- Limiting discharge rates to 15.5l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, to ensure the effective operation of SuDS features over the lifetime of the development and to provide mitigation of any environmental harm which may be caused to the local water environment. Failure to provide the above required information before commencement of above ground development may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

Condition 8

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

B) In addition, a mitigation strategy detailing the excavation/preservation strategy shall be submitted to and approved in writing following the completion of this work.

C) No development or preliminary groundworks of any kind shall take place on those areas containing archaeological or geoarchaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, which has been signed off by the Local Planning Authority through its historic environment advisors.

D) The applicant will submit to the Local Planning Authority a post-excavation assessment (to be submitted within six months of the completion of the fieldwork). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Reason: The potential for archaeological remains on the above site has been part evaluated through a programme of trial trenching and geoarchaeological investigation in accordance with a WSI that was approved. The fieldwork element has not yet been completed and a report has not yet been produced. This stage of fieldwork will need to be completed to determine a mitigation strategy. If works are not undertaken pre-commencement of development then archaeological remains have the potential to be disturbed.

Condition 9

Prior to any above ground development, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of the development, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme and thereafter shall be so retained.

Reason: To prevent environmental and amenity problems arising from flooding.

Condition 10

No above ground development shall commence until samples of the materials to be used on the external finishes of the buildings hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details and permanently retained as such.

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

Condition 11

A. Within 3 months of above ground works starting for each main B8 Storage/Distribution building on site, the BREEAM Interim (Design Stage) Certificate, issued by the Building Research Establishment (BRE) or equivalent authorising body, must be submitted to the Local Planning Authority and approved in writing to show that a minimum 'Very Good' rating will be achieved.

B. Prior to first occupation of each main B8 Storage/Distribution building on site, a BREEAM Final (Post-Construction) Certificate, issued by the BRE, must be submitted to the Local Planning Authority and approved in writing to demonstrate that an 'Very Good' rating has been achieved. All the measures integrated shall be retained for as long as the development is in existence.

Reason: To ensure the delivery of a more sustainable development.

Condition 12

The approved development shall be constructed in broad accordance with the approved Energy Strategy produced by Create Consulting Engineers Ltd (ref. AK/CS/P22-2683/02 dated August 2022). Details of the air source heat pumps and photovoltaic panels, and their positioning on the buildings, is to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any above ground development.

Reason: To deliver a more sustainable development.

Condition 13

All existing accesses to the site from the A12 shall be permanently closed off, including the access to the existing dwelling at Baughley Brook Farm prior to the first occupation of the units hereby permitted, or earlier if they are no longer required prior to this trigger point.

Reason: In the interests of highway safety as this access directly onto the A12 would cause significant issues if left open for use by HGV's etc at the site.

Condition 14

Prior to the first occupation of the development, a revised Travel Plan shall be submitted to, and approved in writing by the Local Planning Authority. No occupation of the development shall take place until the submitted workplace Travel Plan has been actively implemented and it shall continue to be implemented for a minimum period of 5 years thereafter.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

Condition 15

No occupation of the development hereby approved shall take place until the vehicle and pedestrian access arrangements as shown in principle on the planning application drawings are implemented.

Reason: In the interests of highway safety.

Condition 16

Prior to the first occupation of the development, a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by the Local Planning Authority. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.

h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan shall be implemented in accordance with the approved details.

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

Condition 17

Prior to first occupation of the development, a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

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

Condition 18

Notwithstanding what is shown on plan 2745-PL06, prior to their installation, details of the locations of electric vehicle charging points, and any potential future electric vehicle charging points (i.e. where the additional ducting would be) shall be submitted to and approved in writing by the Local Planning Authority. The charging points shall thereafter be permanently retained.

Reason: To deliver the sustainability credentials of the site that was promised within the application submission, and to ensure that the charging points are in the most appropriate position possible in the interests of achieving sustainable development.

Condition 19

A. Prior to the installation of any fixed plant / machinery to be operated at the site, full details of design, location and noise shall be submitted to and approved in writing by the Local Planning Authority. The cumulative noise level of fixed plant operated at the site shall not exceed 10dB(A) below background noise level (LA90,15 min) at any noise sensitive premises.

B. At the point when the fixed plant/machinery is first operational, confirmation of

compliance with the above noise limits in (A) for the lifetime of the plant/machinery shall be submitted to and approved in writing by the local planning authority.

Reason: To protect the amenity of residents in the locality.

Condition 20

The development shall only be implemented in accordance with the approved Arboricultural Report and associated Tree Protection Plan, undertaken by Underhill Tree Consultancy reference UTC-0710-03-AIA, dated 18th August 2022. For the avoidance of doubt, the tree protection measures shall be in place prior to the commencement of development.

Reason: To ensure existing trees, shrubs and hedges that are identified for retention are protected as they are considered essential to enhance the character of the development and for their ecological value.

Condition 21

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

Monday to Friday 0800 hours - 1800 hours

Saturday 0800 hours - 1300 hours

Sundays and Bank Holidays - no work

Reason: To protect the amenity of residents in the locality.

Condition 22

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

Reason: To protect the amenity of residents in the locality.

Condition 23

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority and the following must be completed before any further development takes place:

- a. An investigation and risk assessment must be undertaken and submitted to and approved in writing by the Local Planning Authority; and
- b. Where remediation is necessary, a remediation scheme must be prepared and submitted to and approved in writing by the Local Planning Authority; and
- c. Following completion of measures identified in the approved remediation scheme a verification report must be prepared and submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land

and neighbouring land are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Condition 24

Prior to the first occupation of the development, a noise assessment in accordance with the recommendations in Section 7 of the Noise Report (Reference EAS Ltd Noise Impact assessment August 2022) shall be submitted to and approved in writing by the Local Planning Authority. The development shall adhere to the agreed principles/recommendations within the approved Noise Report for the lifetime of the development.

Reason: In the interests of protecting residential amenity.

Condition 25

No development shall commence in phase 1 until the following information has been submitted to and approved in writing by the Local Planning Authority:

- A full topographical site survey showing existing levels including: the datum used to calibrate the site levels; levels along all site boundaries; levels across the site at regular intervals; and levels of adjoining buildings and their gardens;
- Full details of the proposed finished floor levels of all buildings, proposed garden levels, proposed levels along all site boundaries, and proposed levels for all hard and soft landscaped surfaces.

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

Reason: To avoid the excessive raising or lowering of ground levels and therefore any building(s) within the site which may lead to unneighbourly development with problems of overlooking and loss of privacy. To ensure that the development does not prejudice the appearance of the locality. The levels information is required prior to the commencement of development to ensure that the correct site levels are achieved from the outset of the construction phase.

Condition 26

No development shall commence in phase 2 until the following levels information has been submitted to and approved in writing by the Local Planning Authority:

- A full topographical site survey showing existing levels including: the datum used to calibrate the site levels; levels along all site boundaries; levels across the site at regular intervals; and levels of adjoining buildings and their gardens;
- Full details of the proposed finished floor levels for all hard and soft landscaped surfaces.

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

Reason: To ensure that the development does not prejudice the appearance of the locality. The levels information is required prior to the commencement of development in phase to ensure that the correct site levels are achieved from the

outset of the construction phase.

Condition 27

No above ground development in phase 1 shall commence until details of all gates / fences / walls or other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. The details shall include position, design, height and materials of the enclosures. The enclosures as approved shall be provided prior to the occupation / first use of the relevant plot and shall be permanently retained as such.

Reason: In order to secure the satisfactory development of the site and in the interests of visual amenity and neighbouring residential amenity.

Condition 28

No above ground development in phase 2 shall commence until details of all gates / fences / walls or other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. The details shall include position, design, height and materials of the enclosures. The enclosures as approved shall be provided prior to the occupation / first use of the relevant plot and shall be permanently retained as such.

Reason: In order to secure the satisfactory development of the site and in the interests of visual amenity and neighbouring residential amenity.

Condition 29

Prior to first occupation of the buildings hereby approved for phase 1, a lighting design scheme to protect amenity, the night-time landscape and biodiversity shall be submitted to and approved in writing by the Local Planning Authority.

The scheme shall identify those features on, or immediately adjoining the site, that are particularly sensitive for bats including those areas where lighting could cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas of the development that are to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and retained thereafter in accordance with the scheme.

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

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

Condition 30

No development shall commence in phase 2 until a lighting design scheme to protect amenity, the night-time landscape and biodiversity shall be submitted to and

approved in writing by the Local Planning Authority.

The scheme shall identify those features on, or immediately adjoining the site, that are particularly sensitive for bats including those areas where lighting could cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas of the development that are to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and retained thereafter in accordance with the scheme.

Under no circumstances should any other external lighting be installed in phase 2 without prior consent of the Local Planning Authority.

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

Condition 31

Prior to the implementation of the landscaping scheme for phase 1 hereby approved, a detailed strategy for the watering and maintenance of the landscaping including identify the expectations, constraints, and operation of the irrigation arrangements in establishing the landscape proposals within the site, shall be submitted to and approved in writing by the Local Planning Authority. The watering and maintenance strategy shall be broadly in accordance with the principles agreed within the submitted Irrigation Strategy dated 7th November 2022 and Irrigation Drawing Plan' Mega Group 3 November 2022. Once approved the watering and maintenance of the landscaping scheme shall be carried out in accordance with the approved details.

The scheme of landscaping indicated upon the approved plans, shall be implemented in accordance with the approved implementation programme. Any trees or plants which die, are removed or become seriously damaged, or diseased within a period of five years from the completion of the development shall be replaced in the next planting season with others of a similar size and species.

Reason: To ensure that the approved landscaping scheme is implemented and that appropriate measures are put in place to ensure that new trees are suitably irrigated until they become established and in order to enhance the appearance of the development and in the interests of amenity and privacy.

Condition 32

No development in Phase 2 of the development shall commence until a scheme of landscaping is submitted to and approved in writing by the Local Planning Authority. The scheme shall incorporate a detailed specification including plant/tree types and sizes, plant numbers and distances, written specifications including cultivation and other operations associated with plant and grass establishment, together with a strategy for the watering and maintenance of the new planting, colour and type of material for all hard surface areas and method of laying where appropriate and an

implementation programme.

All areas of hardstanding shall be constructed using porous materials laid on a permeable base, unless details have been submitted to and approved in writing by the Local Planning Authority.

All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in the agreed implementation programme.

All hard surface areas agreed as part of the scheme shall be carried out in accordance with the approved implementation programme.

Any trees or plants which die, are removed, or become seriously damaged, or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting season in accordance with the approved landscaping scheme.

Reason: To ensure that landscaping in phase two is agreed before works take place, as this relates to a small section of land once the A12 works are complete the details are required before they take place.

Informative(s)

Informative 1

This application is accompanied by a legally binding S106 Agreement, which has additional provisions / requirements to that in this conditions list. Special attention will be required to ensure that any obligations/conditions in the S106 are adhered to.

Informative 2

Cadent Gas Ltd own and operate the gas infrastructure within the area of your development. Prior to carrying out works, please register on www.linsearchbeforeudig.co.uk to submit details of the planned works for review, ensuring requirements are adhered to.

Informative 3

The developer/contractor should have regard to the Network Rail compliance strategy dated 7th November during construction.

Informative 4

(1) Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

(2) Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

(3) Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals

will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.

(4) Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.

(5) The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

Informative 5

For Travel Plan queries/revisions, please contact travelplanteam@essex.gov.uk.

Positive and Proactive Statement

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

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP3	Spatial Strategy for North Essex
SP5	Employment
SP6	Infrastructure & Connectivity
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP2	Location of Employment Land
LPP3	Employment Policy Areas
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP46	Broadband
LPP47	Built and Historic Environment
LPP48	An Inclusive Environment
LPP49	Health and Wellbeing Impact Assessment
LPP50	Provision of Open Space, Sport and Recreation
LPP52	Layout and Design of Development
LPP63	Natural Environment and Green Infrastructure
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP67	Landscape Character and Features
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP71	Climate Change
LPP72	Resource Efficiency, Energy Generation and Energy Efficiency
LPP73	Renewable Energy Schemes
LPP74	Flooding Risk and Surface Water Drainage
LPP75	Surface Water Management Plan
LPP77	External Lighting
LPP78	Infrastructure Delivery and Impact Mitigation

APPENDIX 3:

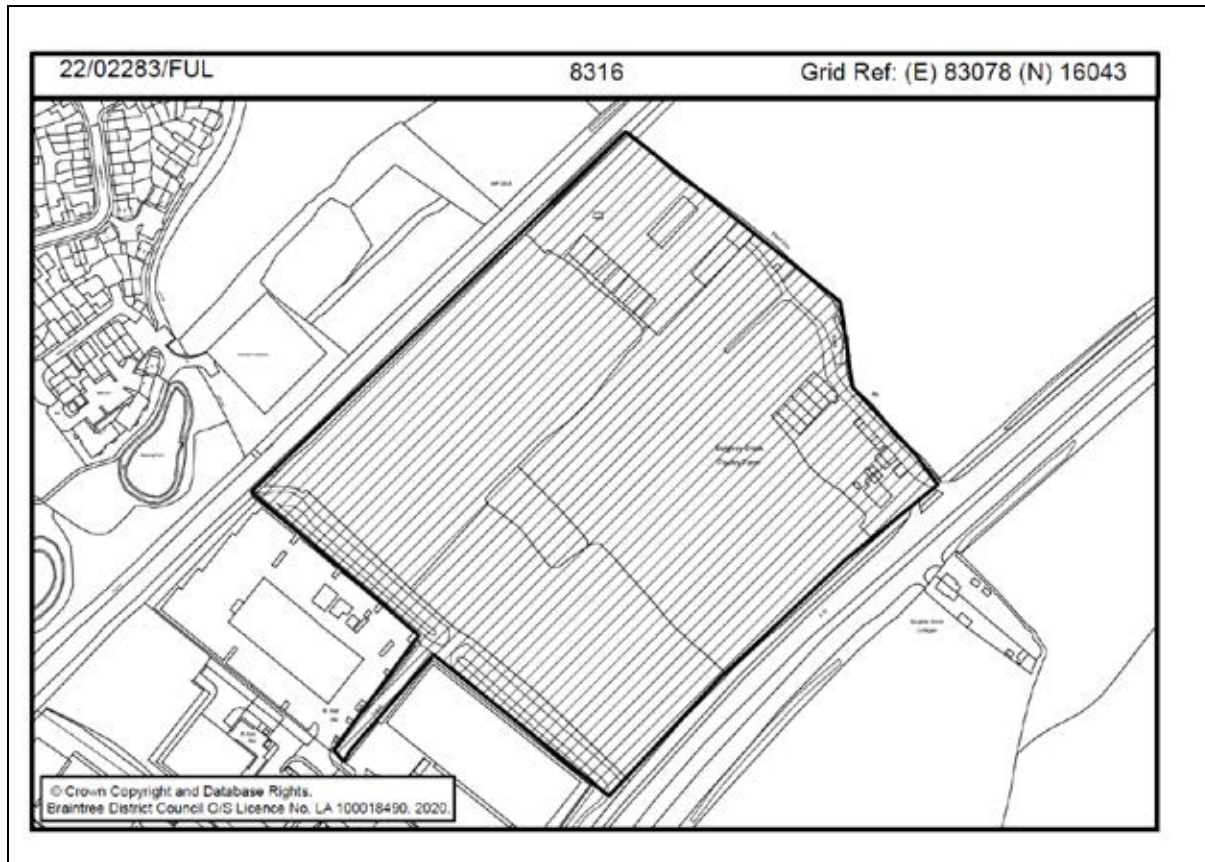
SITE HISTORY

Application No:	Description:	Decision:	Date:
20/00001/SCR	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2017 - Screening Request (Regulation 6) - Industrial and warehouse units with ancillary offices and associated car parking and parking/loading of HGV's	Screening/Scoping Opinion Adopted	12.02.20
20/00128/OUT	Outline planning permission for B2 (General Industry), B8 (Storage and Distribution) and Class E(g) (iii) (Light Industrial) use, and for future development of buildings up to a maximum building height to ridge of 43.00 AOD, comprising a maximum gross internal floor space of 15,470 square metres, (166,518 square feet) with associated service yards, HGV and trailer parking, car parking provision, new service road and access onto Eastways (all matters reserved except Access and Scale).	Granted with S106 Agreement	13.12.21
22/01921/PDEM	Application for prior notification of proposed demolition - Demolition of single-storey dwelling.	Permission not Required	24.08.22
20/00551/ELD	Application for a Lawful Development Certificate for an Existing Use - Use Class B8 (Storage and Distribution).	Granted	13.05.20
21/00930/FUL	Alterations to the Witham	Granted with	23.11.21

	Body Repair Centre site to include a two storey extension and associated servicing, car parking and landscaping works.	S106 Agreement	
21/00989/PLD	Application for Certificate of Lawfulness for proposed development - Change of use of site from Class B1(c) (Light Industrial) and Class B8 (Storage and Distribution), to a computer refurbishment and recycling company, falling within class E(g)(iii) and associated Class B8 and Class E(g).	Granted	19.05.21
21/01240/FUL	Change of Use from Use Class E (Commercial, Business and Service) and B8 (Storage or distribution), to allow a flexible use under Use Classes E (Commercial, Business and Service), B2 (General industrial) or B8 (Storage or distribution).	Granted	10.06.21
22/00377/ADV	Installation of: - 2 x non-illuminated 2440x1220mm landscape aluminium composite UV printed panels, above 'Goods In' and 'Goods Out' doors. - 1 x non-illuminated 3600x2100mm self-adhesive vinyl to window. - 1 x non-illuminated 4348x2416mm self-adhesive vinyl to window. - 1 x non-illuminated set of CNC cut aluminium composite letters covered with vinyl (total size: 3960x2228mm)	Granted	22.04.22

Report to: Planning Committee		
Planning Committee Date: 13th December 2022		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	22/02283/FUL	
Description:	Erection of two B8 (storage / distribution) units with office space and associated infrastructure.	
Location:	Land North Of Colchester Road Witham	
Applicant:	Tony Chambers (Aquila Estates LTD), 6a High Street, Chelmsford, CM1 1BE Simon Boulton (PFE), Foremost House, Waterside Business Park, Eastways, Witham, CM8 3PL	
Agent:	Mr Simon Garesse, Strutt And Parker, Coval Hall, Rainsford Road, Chelmsford, CM1 2QF	
Date Valid:	6th September 2022	
Recommendation:	It is RECOMMENDED that the following decision be made: § Application GRANTED subject to the completion of a Section 106 Agreement to cover the Heads of Terms outlined within the Recommendation section of this Committee Report, and subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
Case Officer:	Mathew Wilde For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2512, or by e-mail: mathew.wilde@braintree.gov.uk	

Application Site Location:



Purpose of the Report:	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.
Financial Implications:	<p>The application was subject to the statutory application fee paid by the Applicant for the determination of the application.</p> <p>As outlined above, it is recommended that the decision is subject to a Section 106 Agreement which seeks to mitigate the impact(s) arising from the proposed development. Any financial implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
Legal Implications:	<p>Any legal implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions & 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>
Other Implications:	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.
Equality and Diversity Implications	Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:

	<p>a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;</p> <p>b) Advance equality of opportunity between people who share a protected characteristic and those who do not;</p> <p>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.</p> <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that ‘marriage and civil partnership’ is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<p>Background Papers:</p>	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council’s Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 22/02283/FUL.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan 2013 - 2033 § Neighbourhood Plan (if applicable) § Supplementary Planning Documents (SPD’s) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council’s website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1 The site is allocated as an Employment Policy Area in the Adopted Local Plan (Ref: Rive362). It is located immediately to the north-east of the Eastways industrial Estate and is bounded by the A12 to the south, rail line to the north and arable land to the east. Topographically the site slopes down from the railway line to the A12.
- 1.2 The site benefits from two previous planning consents for B2/B8 use. The site was split up by these consents; Application Reference 21/00031/OUT covered the land predominantly by Burghley Brook Poultry farm and the A12, while Application Reference 20/00128/OUT predominantly covered the land adjacent to Eastways and the railway. Cumulatively these permissions allowed for a maximum of 32,185sq.m GIA across multiple buildings, with building maximum heights ranging from 15.5m to 20m.
- 1.3 This current application proposes two Use Class B8 (storage/distribution) buildings with associated office space across the entire site (combining both red line sites of the previous applications). The cumulative Gross Internal Area would be 25,854.75sq.m for both buildings, while the heights to the canopy of the buildings would be between approximately 13-14m. The scale of the two buildings proposed would therefore be significant, particularly comparatively to the existing development on Eastways.
- 1.4 The development would necessitate the removal of nearly all existing trees and hedges at the site (approx. 50-60), including a category A Oak tree. Their removal in this case would amount to a degree of harm to the character, amenity and landscape quality of the area. None of these trees in question are subject to a Tree Preservation Order. Attempts were made to amend the scheme to retain the Category A Oak tree, but this was not possible within the parameters of the buildings and built footprints sought by the developer for their required commercial needs.
- 1.5 The development seeks to mitigate the loss of trees by proposing new high density landscape planting on site, with an irrigation strategy to help secure the longevity of the planting. The extent of the proposed landscaping is limited by the available planting space on the site and a limited landscape buffer is proposed to partially mitigate the wider impacts of the development.
- 1.6 Following completion of the A12 widening scheme by National Highways, the developer would seek to extend their service yard and introduce a new boundary feature to the new A12 boundary. The developer also seeks to provide the principle of a cycleway/footway connection to the new A12, however this would be subject to a future agreement with National highways.
- 1.7 The development also seeks to provide 10% biodiversity net gain. In order to do so it would be necessary to secure land off site for an approximately 30 year period for biodiversity enhancement purposes.

- 1.8 The development would lead to additional vehicular movements, however these would be less than the two previous consented developments at the site (Application References 21/00031/OUT and 20/00128/OUT). Parking would be provided in accordance with the parking standards, including electric vehicle charging.
- 1.9 No detrimental impacts in relation to noise or air quality are envisaged with an appropriate condition to control any plant that is erected on the building.
- 1.10 The development is seeking BREEAM compliance for the external shell of the buildings as well as a number of other sustainability measures including ground source heat pumps and solar panels. The development is considered to have good sustainability credentials. The SuDS scheme at the site would utilise underground storage tanks for water storage.
- 1.11 Overall in the planning balance, the harms of the development are not considered to outweigh the benefits. It is therefore recommended that planning permission is granted subject to the following summarised Heads of Terms:
- Open Space – Financial contribution of £109,867.17.
 - Travel Plan monitoring fee - £6,383.
 - The provision of a cycleway/footway scheme defining a link through the Site from Eastways to the proposed new A12 cycleway/footway.
 - Biodiversity net gain off-site.

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 totality of the site measures 6.8ha. The site is allocated as an Employment Policy Area in the Adopted Local Plan (Ref: Rive362). It is located immediately to the north-east of the Eastways Industrial Estate and is bounded by the A12 to the south, rail line to the north and arable land to the east. There are no heritage assets near to the site. Beyond the immediate site boundaries, on the opposite side of the railway to the north is the recent Forest Road development and Rivenhall Oaks golf centre, while to the south of the A12 there is a mineral extraction site. Further to the east of the site is Rivenhall End.
- 5.2 Topographically the site slopes down from the railway line to the A12. The change in level is approximately 7m with an average gradient of 1 in 36 (for every 36m the level changes by 1m). Part of the site behind the Lancaster Body Shop on Eastways is in a ECC designated critical drainage area (as is most of Eastways). The site is also in an identified mineral safeguarding area.
- 5.3 The site contains a number of established trees and hedgerows along the site boundaries but also within the site itself, separating out the two distinct but unusually shaped, land parcels. The first land parcel comprises land which relates to Burghley Brook Poultry Farm. This parcel is to the north and east of the site (adjacent to arable fields in the direction of Rivenhall End and the A12), which as the name suggests has been used in a farming capacity, but also as arable land in part. This part of the site benefits from an outline planning permission (Application reference 21/00031/OUT) for the demolition of the existing farm and the erection of Use Class B8 Industrial units.
- 5.4 The other land parcel to the south and west (which adjoins the existing industrial estate and railway) is understood to be owned by the PFE building owners on Eastways. The land may historically have had some arable use but is currently unused other than for the grazing of some animals. This land also benefits from an outline planning permission

(Application reference 20/00128/OUT) for the erection of Use Class B8 Industrial units.

- 5.5 This current application seeks to combine both of these land parcels for a more comprehensive scheme.
- 5.6 In terms of general background, it should be noted that PFE are one of the two applicants for this development; they already occupy a building (Foremost House) on Eastways and are looking to relocate to a larger proposed building in order to expand and continue their operations within Braintree District without having to re-locate elsewhere. The building PFE are seeking approval for is the proposed smaller, northern building. Aquila are the other applicants on this project, they are a property investment company and have designed their larger southern proposed building specifically for a client who is understood to want to locate their new headquarters in Witham.

6. PROPOSAL

- 6.1 This application seeks full planning permission to erect two Use Class B8 (storage/distribution) buildings with associated office space. The site would be split into two; a smaller building with an external footprint of approximately 10,081sq.m would be on the northern aspect of the site adjacent to the railway, and a larger building with an external footprint of approximately 13,280sq.m would be on the southern aspect adjacent to the A12.
- 6.2 Each building also contains a small office in the form of a three storey block on the southern elevation of the northern smaller building, and a two storey office block on the western side elevation of the larger southern building. In total, in terms of gross internal floorspace for both buildings, this would amount to 25,854.75sq.m. By way of comparison to the previous two outline planning application consents, Application Reference 21/00031/OUT approved no more than 16,715sq.m of cumulative floorspace, while Application Reference 20/00128/OUT approved no more than 15,470sq.m cumulative gross internal floor space (a total of 32,185sq.m across multiple buildings).
- 6.3 A central access spine road would be created that would run across the site between the two proposed buildings. The spine road serves access roads which run along the site boundaries to the east and west, which serve as access points into the service yards into the respective buildings. It is understood the access roads have been configured in this way to navigate the change in levels at the site without requiring significant earth works. It should be noted however that retaining walls would be required.
- 6.4 Each building would also contain its own parking area for employees; the smaller northern building would have its car park adjacent to the estate road, in a long sequence of parking bays. The larger southern building

would have its parking area at the rear of the building in a smaller configuration.

- 6.5 Land at the very south of the site is also required to be set aside for National Highways with reference to the proposed A12 widening works. Once these works are complete, it is understood that the land will be returned to the applicant with the intention of creating a larger service yard area.
- 6.6 The proposal would necessitate the removal of nearly all existing trees and hedges at the site (approx. 50-60), including a category A Oak tree. None of these trees are subject to a Tree Preservation Order. The application however proposes to mitigate this loss as far as is possible by proposing new trees and hedges along the site boundaries, as well as some within the car parking areas.
- 6.7 The buildings are designed as large commercial B8 type structures with more contemporary office space attached. In terms of scale, the northern PFE building would have a total height of 13.17m to the top of the canopy, but would include a parapet on the top which would reach 15.75m in height. The southern Aquilla building would have a height of 13.75m to the top of the canopy. Internally, both buildings would have 12m clear height to the underside of the roof. These heights would align/be very close to the maximum heights previously agreed through Application References 21/00031/OUT and 20/00128/OUT. The development is also seeking BREEAM compliance for the external shell of the buildings, to hit sustainability credentials.

7. SUMMARY OF CONSULTATION RESPONSES

7.1 Anglian Water

- 7.1.1 No objection. Witham Recycling Centre will have capacity for the flows. Request condition for a detailed drainage strategy.

7.2 Cadent Gas

- 7.2.1 Cadent Gas initially raised a holding objection due to the sites proximity to one of their assets. Following a review of the information, and discussions with the developer, Cadent Gas removed their holding objection. Cadent Gas however advised that the development must comply with strict criteria in terms of the build stage to avoid affecting their pipeline and recommended that the developer consult with the Health and Safety Executive.

7.3 Essex Fire and Rescue

- 7.3.1 Did not raise any concerns with regard to fire safety and access.

7.4 Health and Safety Executive

- 7.4.1 Completing the HSE checklist, the advice received was that they do not advise against the grant of planning permission.

7.5 National Highways

- 7.5.1 Initially recommended that the application not be determined until a specific date while they reviewed the submitted transport information. Following an initial review, National Highways requested amendments to the Transport Assessment, which were subsequently completed by the applicants.
- 7.5.2 Having reviewed the updated information, National Highways raised no objection to the development.

7.6 Network Rail

- 7.6.1 Did not raise an objection, but raised a number of points with regard to the potential impact of the development on their assets, including some criteria which the developer needs to comply with. The developer has since reviewed the criteria and completed a response setting out how the development would not be in breach of Network Rail's requirements.

7.7 UK Power Networks

- 7.7.1 No response received.

7.8 BDC Ecology

- 7.8.1 Initially made a holding objection due to insufficient ecological information. Additional information was submitted and the Ecology Officer raised no objection subject to a number of conditions.
- 7.8.2 The Ecology Officer also accepted in principle the provision of biodiversity enhancements off-site, as these could not be provided on site. However the Ecology Officer suggested that further discussions were required prior to determination to see what land was available. At the time of writing these discussions are ongoing, but the principle of off-site BNG provision is accepted and an update will be provided to Members at Planning Committee.

7.9 BDC Environmental Health

- 7.9.1 No objection to the development subject to conditions regarding plant noise and noise from the development exceeding background levels. Other standard conditions requested regarding construction hours, no burning and no piling.

7.10 BDC Landscape Services

- 7.10.1 Did not raise an in principle objection to the proposed loss of existing trees and hedges on the site, commenting that none are subject to a preservation order.
- 7.10.2 Raised some concerns more broadly with the overdevelopment of the site which would necessitate the removal of the trees.
- 7.10.3 The Landscape Officer suggested some species amendments to trees and hedges to ensure that robust species were put in that would be more likely to survive harsher commercial environments. Also requested that an irrigation strategy be provided to help ensure that the proposed planting was sufficiently watered. These changes were made and an irrigation strategy provided.

7.11 BDC Waste Services

- 7.11.1 Raised no objection to the refuse arrangements proposed, commenting that they appear sufficient.

7.12 ECC Archaeology

- 7.12.1 No objection subject to appropriate archaeological conditions prior to the commencement of works at the site.

7.13 ECC Highways

- 7.13.1 Initially raised similar concerns to that of National Highways. However following receipt of additional information, Essex Highways raised no objection to the application, commenting that the trip rates would be less than the two previously consented schemes. They did however recommend a number of conditions including a Travel Plan.

7.14 ECC Minerals and Waste

- 7.14.1 Initially suggested that a MCA assessment was required as the site is located within 200m of an active quarry. However, it transpired that because the site was allocated in the Adopted Local Plan, no MCA was necessary. As such, ECC Minerals and Waste raised no objection.

7.15 ECC SuDS

- 7.15.1 Raised no objection to the development subject to securing a number of conditions relating to a surface water drainage scheme, a scheme to minimise the risk of surface water run-off, maintenance arrangements and a yearly maintenance log.

8. PARISH / TOWN COUNCIL

8.1 Witham Town Council

- 8.1.1 Recommended approval of the application subject to noise mitigation.

9. REPRESENTATIONS

- 9.1 7 representations of objection have been received and one general comment, setting out the following summarised concerns/comments:
- a) Welcome that new businesses are to locate at Eastways.
 - b) Concerns about more HGVs and the impact on traffic – lorries parked on side of the road already cause significant issues.
 - c) Likely increase wait times to leave the industrial estate which are already very long at peak times.
 - d) Existing Eastways access not wide enough for two HGVs to enter/exit at the same time safely.
 - e) Consideration should be given to an A12 access to the site.
 - f) Noise impact from the development on residential properties on the opposite side of the railway – worsened by proximity of building to railway line and reflective nature of sound.
 - g) Significantly larger than existing Eastways buildings – out of character.
 - h) Significant visual impact on properties in Rivenhall End and on the opposite side of the railway.
 - i) Loss of existing visual screen which was planted some time ago to mitigate against current buildings.
 - j) Lack of landscaping on the development.
 - k) Lighting issues and overspill.

10. PRINCIPLE OF DEVELOPMENT

10.1 National Planning Policy Framework (NPPF) 2021

- 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.

10.2 The Development Plan

- 10.2.1 Currently the Council's statutory Development Plan consists of the Adopted Local Plan 2013-2033. Policy SP5 of the Adopted Local Plan sets out that Braintree is required to allocate land for employment purposes to meet the growing demand in the District.

- 10.2.2 The site is allocated as an Employment Policy Area (Ref: Rive362) by Policy LLP2 of the Adopted Local Plan. Policy LPP3 of the Adopted Local Plan states inter alia that office (Use class Eg) and storage and distribution (Use Class B8) are permitted uses within designated employment policy areas.

- 10.2.3 The current application proposal seeks to erect two B8 Storage and Distribution buildings, with associated office space. As such, it is considered that the development would accord with the Adopted Development Plan in principle. Furthermore, there are two extant planning consents on the site which establish the principle of B8 Storage and Distribution use. The principle of development is therefore acceptable.

- 10.2.4 The proposal would still however require assessment against other national and local plan policies in the overall planning balance to determine whether it is acceptable or not. This assessment is carried out in the remainder of the report.

11. SITE ASSESSMENT

11.1 History & Proposal Overview

- 11.1.1 The site benefits from two previous extant planning consents (Application Reference 21/00031/OUT and 20/00128/OUT) which were considered at Planning Committee on 28/09/2021 and 09/11/2021 respectively. These applications were outline applications, meaning that the details of layout, scale, appearance, and landscaping had not been submitted for approval. Instead, they sought to achieve maximum built parameters at the site, as well as a maximum total floor space.

- 11.1.2 The site was split into its respective red line parcels; Application Reference 21/00031/OUT covered the land predominantly by Burghley Brook Poultry Farm and the A12, while Application Reference 20/00128/OUT

predominantly covered the land adjacent to Eastways and the railway. The parameters for both applications together showed that the site would be able to accommodate four buildings in total; two in each northern and southern part of the site. Each application would have used an internal spine road that was a commonality between both consents utilising a new access through Eastways. The current application by contrast has the red line around the entire site, encapsulating both of the red lines of Application References 21/00031/OUT and 20/00128/OUT.

- 11.1.3 Application Reference 21/00031/OUT approved no more than 16,715sq.m of cumulative floorspace, while Application Reference 20/00128/OUT approved no more than 15,470sq.m cumulative gross internal floor space (a total of 32,185sq.m across multiple buildings and sites). By comparison, this application proposes a total amount of floor space of 25,854.75sq.m across the two buildings on the site.
- 11.1.4 Application Reference 21/00031/OUT also approved maximum heights to ridge for the two areas it covered; these were 16.5m adjacent to the A12, and 15.5m adjacent to the railway. For Application Reference 20/00128/OUT, the maximum ridge heights were similar, adjacent to the railway the height maximum was 43 AOD, which translates to approximately 16.5-20m depending on the land level, while adjacent to the A12 and Eastways this was 37 AOD, translating approximately 15m to ridge. The current proposal is that the northern PFE building would have a total height of 13.17m to the top of the canopy, but would include a parapet on the top which would reach 15.75m high. The southern Aquilla building would have a height of 13.75m to the top of the canopy. Therefore to the ridge height (canopy), the proposed development would be close to, but ultimately below, the previously agreed maximum ridge heights.
- 11.1.5 However, the parapet to the proposed PFE building would be slightly higher by 0.25m than the maximum ridge height for the smaller building adjacent to the railway for Application Reference 21/00031/OUT. The marginal increase height of the parapet is therefore a material consideration.
- 11.1.6 The previous consents (Application References 21/00031/OUT and 20/00128/OUT) both sought to retain as many natural features and boundaries as possible on the site, including a Category A Oak Tree (approximately in the middle of the site). It is unclear however exactly how many of the trees / hedges would have remained once those proposals had got to the detailed Reserved Matters stage but the principle of vegetation retention where possible was established.
- 11.1.7 By comparison, this current application would seek to develop the whole site comprehensively. In doing so, it facilitates two larger buildings to be contained on the site with large service yards. The development of the site in this way would however necessitate the removal of the majority of existing trees and hedgerows at the site, including the Category A Oak Tree.

- 11.1.8 Application Reference 21/00031/OUT also had to grapple with the issue of the A12 widening works; which necessitated the removal of part of the Applicants site adjacent to the A12 for land to be utilised by National Highways for a temporary period while the A12 widening scheme was underway. This requirement is carried over in this current application.
- 11.1.9 Overall, this current application must, to a degree have regard to the two previous planning consents when assessing the overall merits of the proposals although each application must ultimately be considered on its own merits.
- 11.2 Design, Appearance, Scale & Landscaping
- 11.2.1 Paragraph 126 of the NPPF sets out that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. It then goes on to cite good design as a 'key aspect of sustainable development'.
- 11.2.2 Paragraph 130 of the NPPF details that planning policies and decisions should ensure that developments function well and add to the overall quality of the area not just for the short term but over the lifetime of the development. It sets out inter alia that:
- a) Developments need to be visually attractive as a result of good architecture layout and appropriate and effective landscaping;
 - b) Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - c) Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
 - d) Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
 - e) Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
 - f) Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 11.2.3 Paragraph 131 of the NPPF states that trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure

the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible.

- 11.2.4 Paragraph 134 states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. However, it sets out that significant weight should be given to: a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.
- 11.2.5 The above principles have more recently been elaborated upon within the National Design Guide (NDG) with a shift in emphasis towards the promotion of beauty. Paragraph 1 of the NDG explains that well-designed places influence the quality of our experiences as occupants or users but also as passers-by and visitors. Paragraph 4 of the NDG establishes that the long-standing, fundamental principles of good design are that it is; fit for purpose; durable; and brings delight.
- 11.2.6 Policy SP7 of the Adopted Local Plan states that all new development must meet high standards of urban and architectural design and where applicable should follow its place shaping principles, including inter alia responding positively to local character and context to preserve and enhance the quality of existing places and their environs, the enhancement of the public realm through additional landscaping and integrated parking. Policies LPP47 and LPP52 of the Adopted Local Plan echo this, setting out that the Council will promote and secure a high standard of design and layout in all new development.
- 11.2.7 This application is a full planning application, meaning that all details have been submitted for consideration. This enables a detailed assessment of the specific merits of the application with relation to appearance, scale, layout and landscaping. This section of the Report will cover these different matters with access being covered later in the report. The arboricultural / amenity impact of the loss of existing trees and hedges is discussed in detail in the Arboriculture and Ecology section of the report.

Layout and Landscaping

- 11.2.8 In terms of layout, the development seeks to split the site into two halves; the proposed smaller storage/distribution building to the north intending to serve PFE LTD, and the proposed larger southern building, intended for a specific end user, which would be owned by Aquilla LTD. The northern PFE building would sit centrally on the site and have a service yard on either side, with its parking and office located adjacent to the spine road at the

front. The southern Aquilla building would have the building itself located adjacent to the proposed spine road, with parking located at the side and part of the rear, with its service yard adjacent to the A12. Its office space would be located at the side of the building. In terms of landscaping, this is primarily limited to the eastern site boundary and includes trees and hedges. The other areas of landscaping are significantly smaller, consisting of small hedgerows, trees (often in tree pits in car parking areas) and grassland. It is understood that the landscaping at the southern part of the site would come forward at a later date after the completion of the A12 widening works. Landscaping and layout are interlinked because they directly impact on one another; the larger the built footprint, the less landscaping which can be secured.

- 11.2.9 In this case, the footprint of the northern PFE building would measure approximately 132m by 73m (this extends to 81m including the office space), with its respective side service yards measuring approximately 60m in width on each side. This means that the proposed built footprint of the northern part of the site extends approximately 252m across (not including the side access roads which are approx. 4.5m wide each, which if included would make the built footprint total 261m across), whereas the red line site boundary is only approximately 285m wide (east-west) in this location. As such, the space remaining for landscaping on either side would be limited. The development also leaves an approximate 10m gap to the railway (to the north) with an approximate 4m area for landscaping. This area of landscaping is however limited to grassland and hedge only, largely due to restrictions relating to proximity to the railway line. As such, while the northern PFE building is the smaller of the two buildings proposed, its large service yards limit the opportunities for landscaping to be secured within the site and on the site boundaries.
- 11.2.10 The footprint of the southern Aquilla building would span approximately 214m by 54m (including the office space), while the proposed car parking spans between approximately 13m and 19m either side of the building, so a total built form width (east-west) of 246m (excluding the side access roads which are approximately 6.5m each, which if included increases this total to 252m). The proposed service yard at the rear would project all the way to the A12 boundary. In terms of the east-west width of the site itself in this location, it is approximately 260m to 290m, as the eastern boundary tucks in towards the site by the existing Oak Trees on the neighbouring land. As such, on the west side, excluding the access road and cycle route, this would leave a 2m landscape buffer to the existing PFE building on Eastways, and a more substantial 7m-15m landscape buffer on the eastern side towards Rivenhall. The landscape buffer on the edge of this building is therefore larger to the east although is limited comparatively to the size of building and built form which is sought.
- 11.2.11 The service yard at the rear of the Aquilla building would also run to the southern boundary of the site (with the A12). Initially the service yard would be limited in its extent as it would be constrained by the land required for the A12 widening project. Once this project is completed, it is proposed that

the land (hatched on the landscape plan) is used to extend the service yard. There would then be a small amount of space to the edge of the red line boundary at certain points to facilitate some additional trees and hedges, although these details would need to come forward for approval once the impact of the A12 works have been assessed. A fence is also proposed along this boundary labelled as a living wall. It is proposed that the detail of these works post completion of the A12 widening scheme can come forward by way of a phased set of conditions.

- 11.2.12 Overall, due to the significant built form proposed on this site, it is considered that the development would leave limited space to create a meaningful landscape buffer on the site edges. This means that the buildings and service yards would only be partially mitigated from wider views from the existing A12, Railway and from the east towards Rivenhall. It should be noted however that if the A12 widening works go ahead as proposed, the new A12 carriageway would actually veer away from the site. The site itself would then instead be adjacent to a raised roundabout associated with a new junction from the A12. As such, it is likely that the site will not be overly visible from the new A12 carriageway where most of the traffic would be, lessening the impact of the development on this side once built.
- 11.2.13 It is therefore considered that in terms of layout and landscaping, there would be a degree of landscape harm arising from the development given the layouts relatively limited capacity to accommodate substantial landscape buffering. This harm must be weighed in the overall planning balance.
- 11.2.14 Owing to the limited space available, and the large scale of these buildings (which is discussed more in the 'scale' section), the submitted landscape scheme relies heavily on high density planting, using larger tree stock across the site to try and provide as much visual mitigation as possible. Larger tree stock is however notoriously hard to establish without sufficient maintenance and watering. Indeed, when assessing the landscaping scheme, the Landscape Officer raised concerns about the long term viability of the proposed landscaping without a suitable watering/maintenance strategy in place.
- 11.2.15 In order to address these concerns, the developer sought to include an irrigation strategy as part of the application, which would use rainwater capture from the roofs of the new buildings to store water in tanks, which would then be piped to the new trees on the development. The Council's Landscape Officer subsequently reviewed the irrigation strategy and considered it would help to guarantee some level of mitigation for the loss of the established vegetation cover, although suggested in periods of extended drought that the scheme would be less effective. Overall the proposed irrigation scheme was considered to be a positive.
- 11.2.16 In terms of landscaping within the site itself, the development does introduce trees, hedges and grassland in the remaining spaces. This

includes two new Oak Trees (or similar) at the front of the site to compensate for the loss of the existing category A Oak Tree, as well as a one sided tree lined avenue on the main road, some trees in car parks in tree pits, new hedging and ecological grassland. Additional trees were also added into the PFE car park during the application process. The extent of built development proposed does limit the opportunities for more trees and hedges to be located within the site and the amount of planting achieved is therefore a factor to be weighed in the planning balance.

- 11.2.17 In consultation with the Landscape Officer, it was also decided that hardier tree/hedge species should be introduced. This would assist in ensuring the future longevity of the trees, both in terms of periods of drought but also the harsher commercial environment that the trees and hedges would be subject to. As such, tree species in the car parking areas were updated to a non-sap lime, which is a hardier tree than the 'liquidamber' tree previously sought, and the species of hedges have also been updated to provide a hardier variety (Holly and Hornbeam) which has a better chance of surviving than hornbeam on its own.
- 11.2.18 The development also proposes a 'living wall' which would form the new edge of the development with the new A12. The living wall would likely consist of trellis (or similar) at 2.4m above the height of the service yard (likely 4+m from the ground level on the A12 side), with green netting and climbing plants, in order to assist in mitigating against the visual impact of the service yard for the new Aquilla building. However, the living wall would be unimplemented until such time that the A12 works are complete, and the land safeguarded for National Highways returned to the developer. As such, a condition would be necessary to secure the future instillation of the living wall. This is proposed to form part of a set of phased conditions which secure the detail post completion of the A12 widening scheme. In any case, the complete establishment of this wall with climbing plants cannot be guaranteed, given that it will be adjacent to a harsh environment (the service yard for the large building). If successful it would add merit to the development in the long term, however given the uncertainties about whether it would establish, it is considered that it can only be attributed as a small benefit in the planning balance assessment.
- 11.2.19 The landscape proposals have been revised by the Applicant during the application proposal to respond to concerns raised by Officers and an irrigation strategy was submitted to support the establishment of the tree planting across the site. The Landscape Officer ultimately concluded that the effectiveness of the development would rely on the installation / implementation of the irrigation strategy within a suitable approved management and maintenance plan. Therefore, while the internal landscaping is still limited, it would provide some benefit to the development as a whole. It is also noted that the landscaping as proposed would be an improvement comparatively to the remainder of the existing Eastways industrial development, which is very much of its time with very limited landscaping.

- 11.2.20 Officers requested that the Applicant seek to revise the site layout to allow the retention of the Category A Oak Tree. However, this was not deemed to be possible due to the levels and constraints at the site. The levels change is approximately 7m across the site with an average gradient of 1 in 36 (for every 36m the level changes by 1m). This means that parts of the site need to be levelled out to provide effective logistical space. It has also necessitated the need for several retaining walls. This is illustrated in the sectional drawings, which show that the buildings and internal access road would step down at each stage from the railway to the A12 to accommodate for the change in levels at the site.
- 11.2.21 At the request of Officers the possibility of amending the development by moving the southern Aquilla building further south towards the A12 to effectively form the new boundary, while relocating its service yard to be adjacent to the proposed internal spine road (so essentially flipping the proposed arrangement around) was considered. This change would have also have improved the sites appearance from the A12 and possibly allowed for the retention of the Oak Tree (as it would not be located within the footprint of the building). However, because of the change in levels at the site, and the need to have a flat service yard, it is reported that the land would need to be raised by 700mm to retain the Oak Tree, which given the size of the service yard, would necessitate the need for 14,000m³ of additional soil, which equates to approximately 15,500 additional truck loads. This therefore would not be viable economically nor would its environmental impact be acceptable.
- 11.2.22 Moreover, the developer reported that the service yard in this location would not be physically possible due to an insufficient depth of service yard (as the land required for A12 widening would limit how far south the building could go), and that for HGV's to navigate the level change at the top part of the site, it would sterilise a proportion of the building which is required by the Applicant. The current layout navigates around the levels issues for HGVs by having the service yard access roads on the edge of the development, which have been designed to provide a gentle gradient so that HGV's can safely use them to get to the service yards, accessed from the northern and southern extremes of the site.
- 11.2.23 Furthermore, it is understood that the finished floor levels for each building have been designed to require the minimum amount of soil importation/deportation required. For example, the access road would be relatively flat, until it meets the Aquilla building, which has a drop of 2.5m with a retaining structure to support the level change. The level of the service yard for the Aquilla building at the rear is also 1m lower than the building height to better reflect the lower ground level. This would necessitate the need for a dock leveller which would lift the cargo by 1m to the level of the building.
- 11.2.24 Overall, it was not possible to amend the development to retain the Oak Tree, without a significant change/reduction to the overall development,

which the developer could not undertake for the above reasons and because the units are being built to specific end user requirements.

Scale & Appearance

- 11.2.25 Firstly in terms of scale, the northern PFE building would measure 132m in length, 71m in width to the shell of the storage part of the building, and 80m in width to the office space. The Office space itself would measure 75m in length by 16m in width (some of the floorspace is set back into the storage area). The southern Aquilla building would measure 205m in length, with a width of 63m. The office space is on the side of the building, which adds an additional 8m in length (so a total of 213m).
- 11.2.26 The proposed buildings would therefore facilitate 25,854.75sq.m of cumulative gross internal floorspace for Use Class B8 Storage and Distribution use, with associated office space. Approximately 12,232sq.m of floorspace would be attributed to the PFE building while approximately 13,542sq.m of floorspace would be attributed to the Aquilla building. The PFE building is smaller in overall footprint, however has a three story office area which adds to the overall floorspace so it is more comparable to the larger building.
- 11.2.27 In terms of height, the northern PFE building would have a total height of 13.17m to the top of the canopy, but would include a parapet on the top which would reach 15.75m high. The southern Aquilla building would have a height of 13.75m to the top of the canopy. These heights, taken as the top of the ridge, would be close or below the previous maximum heights secured via the extant consents (Application References 21/00031/OUT and 20/00128/OUT), albeit the parapet for the PFE building would be 0.25m higher than one of the two agreed maximums. Internally, both buildings would have 12m clear height to the underside of the roof truss. It is understood that the height of the buildings are required in this way due to the racking system which would be utilised for storage, which necessitates a higher floor to ceiling height internally.
- 11.2.28 In terms of appearance, the proposed buildings have a distinctive industrial character. The PFE building would be clad in half round horizontal panels in dark grey. The parapet above would be a horizontal profiled sheet in a light grey. This would span around the entirety of the building, with some protrusion to the emergency rear access doors. The developer argues that the building would be timeless in appearance, however the side and rear elevations are in Officers view relatively bland with little visual interest. Officers asked that this elevation was amended to add more visual interest, however the developer was not willing to do this. The side elevations are slightly better than the rear as they have the loading bays which assist in breaking up the mass of the building. The front of the PFE building by contrast is contemporary in appearance, a large canopy with extensive areas of glazing across three floors. The front elevation therefore appears significantly better than the rear elevation, appearing like the headquarters for the company to which it is intended to serve.

- 11.2.29 The southern Aquilla building initially had the same cladding design as the northern PFE building, but without the contemporary office space. This building is significantly larger, therefore the same monotonous design would only have been exacerbated comparatively to the PFE building. The long elevation would also have fronted onto the contemporary office space for the PFE building which would have given those future employees a very poor outlook. For this building, the developer responded to Officer concerns and subsequently introduced different cladding; it would comprise silver and three shades of grey with 1m deep and 5m wide panels, with breaks in the panels above the rear access doors. The office space would be less contemporary than its PFE counterpart, however would be clad in a green colour, to add further visual interest. Overall, while Officers would have liked to see perhaps additional colour variety, the buildings appearance has been significantly improved comparatively to what was initially submitted.
- 11.2.30 Overall in terms of the scale of the buildings, they are significant. Aside from the previously discussed layout and landscaping implications, the large scale of the buildings also has character implications. The existing character point of reference is the buildings on Eastways, which comprise a collection of industrial buildings very much of their time, albeit some have recently been improved visually. The proposed buildings as part of this application would be much larger than the existing buildings on Eastways. However despite their larger size, the proposed buildings would still be industrial/commercial in appearance. As such, it is considered that the development would still read as an extension to the business park, as opposed to an entirely separate entity. It is understood the buildings are larger as they reflect modern storage and logistical demands for space, which historically required smaller buildings.
- 11.2.31 To summarise this section, Officers consider that the proposed built form is significant, and the somewhat limited landscaping cannot completely mitigate the overall visual impact of these large scale buildings. This must be balanced against the sites location adjacent to an existing Industrial Estate and the site's allocation for the uses proposed by the Applicant. Overall, it is considered therefore that there would be a degree of harm arising from the development in terms of layout, landscaping, scale and appearance, which would need to be weighed against the benefits of the proposal in the overall planning balance.

11.3 Arboriculture & Ecology

- 11.3.1 Paragraph 174 of the NPPF is explicit that planning decisions should contribute to and enhance the local environment by minimising impacts on, and providing net gains for, biodiversity, whilst also recognising more generally the benefits of trees. Paragraph 131 of the NPPF also outlines the importance of trees in contributing towards local character and their role in mitigating against and adapting to climate change. This applies to the planting of new trees and the retention of existing trees.

- 11.3.2 Policy LPP65 of the Adopted Local Plan sets out that the Council will seek to protect established trees which contribute positively to their character and surroundings. It states that these trees will be retained unless there are good reason for removal. It also states that when considering the impact of development on good quality trees the Council will expect developers to reflect the best practice guidance set out in BS5837:2012 (as amended). The standard recommends that trees of higher quality are a material consideration in the development process.
- 11.3.3 Policy LPP66 of the Adopted Local Plan states that development proposals shall provide for the protection of biodiversity and the mitigation or compensation of any adverse impacts. Furthermore, it states that enhancement of biodiversity should be included in all proposals, commensurate with the scale of the development.

Arboricultural Impacts

- 11.3.4 In terms of arboricultural impacts, the development in this case would require the removal of most of the vegetation on the site including 1 Category A (High Quality) Oak Tree, 16 Category B (Moderate Value) trees or groups and 31 Category C (Low Quality) trees or groups. The development therefore effectively seeks a blank canvass to develop the site. It should be noted that no trees on the site are subject to a preservation order, nor does the employment policy allocation for the site have specific regard to them.
- 11.3.5 The trees are predominantly in the middle of the site and sit on the field boundaries which previously formed the edge of development parcels for approved applications 21/00031/OUT and 20/00128/OUT. The Category A Oak Tree sits in the middle of the other groups of trees, and is described in the Arboricultural report as a *“large tree with veteran features, including cavities, deadwood and fungal fruiting bodies.”* This tree has been labelled as Category A as it is of high amenity value with an age of approximately 40 years.
- 11.3.6 Aside from the Category A Oak Tree and Category B trees adjacent to it, the other notable vegetation loss is the group of Category B trees which currently form the boundary planting to the existing Eastways development. This loss would be to facilitate the proposed cycle connection from the A12 to Eastways. It is understood that this group of trees were planted when Eastways was previously extended to provide visual mitigation on the eastern boundary. The Council’s Landscape Officer considered that these groups of trees have established well, and indeed are noted for their quality in the Arboricultural Impact Assessment provided by Underhill Tree Consultancy, which classify the group as Category B trees of mixed native stock with a useful contribution of 20+ years and good quality boundary planting. It should be noted however that the Arboricultural report prepared for the previous application (20/00128/OUT) by BRA 2018-19-01 considered this tree group to be Category A trees instead, with an estimated life expectancy of at least 40 years.

- 11.3.7 Having noticed the different classification between the Arboricultural reports on the different applications, Officers sought clarity from the developer. Following discussions, it is understood that the discrepancy is to be a difference in professional opinion. Underhill Tree Consultancy (the Arboricultural consultant as part of this application) considered that for these existing boundary trees adjacent to Eastways to become good quality specimens (Category A), it would require that they are managed with some thinning and selective removal to allow the better trees to flourish over the long term. In their current state, Underhill Tree Consultancy consider that the group is unmanaged and therefore has not been able to flourish in the way the British Standard guidance states would meet the criteria for Category A. Having reviewed the justification provided by Underhill Tree Consultancy, the Council's Landscape Officer considered that it is more likely that the trees would fall within Category B as opposed to Category A.
- 11.3.8 In any case, the proposed development would necessitate the removal of this group of trees and most other trees/hedges on the site. While no PROW exists through the site, the trees and hedges are currently visible from the railway and A12 boundaries. As such, owing to the number of trees which are Category A or B, their removal in this case would amount to a degree of harm to the character, amenity and landscape quality of the area. The Council's Landscape Officer raised concerns about the overdevelopment of the site, especially the need to remove the Category A Oak Tree, which as part of the previous application consents under Application References 21/00031/OUT and 20/00128/OUT was to be retained. The Landscape Officer did not however object in pure arboricultural terms to the loss of this tree or trees, only that the harm of their loss should be weighed against the public benefits of the proposal.
- 11.3.9 In order to address this loss, the proposed development seeks to provide new tree and hedge planting, as well as an irrigation scheme to provide greater assurances that the new planting will survive. The specifics of the proposed landscape scheme are discussed in the "Layout and Landscape" section above. The summary is that the replacement landscaping scheme would go some way to addressing the loss of trees at the site, but overall there would be harm by virtue of the loss of trees and hedges at the site which would need to be weighed against the public benefits of the proposed development in the overall planning balance.

Ecological impacts

- 11.3.10 The loss of the trees, hedges and grassland at the site also have ecology implications. The application was supported by a Preliminary Ecological Appraisal, updated Biodiversity Net Gain Assessment and Ground Nesting Bird Check.
- 11.3.11 The Preliminary Ecological Appraisal (PEA) assessed the current baseline ecological conditions of the site, as well as the presence / likelihood of protected and non-protected species. It identified that there was a low

chance of amphibians on the site; that there was a low population of common lizard and slow worm on the site; that the trees providing nesting opportunities for birds and bats were found on the site boundary to forage and commute but were not found on the buildings on the site and no badgers were identified despite the presence of disused badger setts. Overall, the report concludes that the site in existing unmanaged condition is of low value at a local level for ecology. That said, the report makes several recommendations. The Council's Ecology Officer considered the findings and recommendations of the PEA and raised no objection to the development, subject to securing the ecological mitigation and enhancement measures. These include additional surveys close to construction, as well as conditions such as a wildlife friendly lighting scheme.

- 11.3.12 In terms of Biodiversity Net Gain, the development would result in a measurable loss of Biodiversity. This is because, based on the Defra Biodiversity Metric 3.1, it identifies that the development will result in a loss of 6.34 for habitat units (-52.32% compared to its current condition). The development would however deliver a biodiversity gain of 0.61 for river units (+58.1%) and a significant gain of 6.83 for hedgerow units (+182.3%), but the three habitat types are not equivalent and cannot be seen to offset one another.
- 11.3.13 "Habitat units" include trees, hedges and grassland, most of which would be lost as part of this development. The developer states that the on-site provision of biodiversity has been proposed as far as possible, however that to develop the site for employment purposes, it would not be possible to achieve full biodiversity net gain. The developer is therefore reviewing the possibility of making a payment in lieu towards an off-site enhancement project that would achieve a 10% Biodiversity Net Gain through the provision of 7.5 habitat units.
- 11.3.14 At the time of writing, the developer was still exploring options where the off-site biodiversity net gain could go. If a location is agreed, an update will be provided to Members prior to, or on, the day of Committee. Notwithstanding this, a condition has been recommended to tie in biodiversity net gain, as well as a S106 legal obligation for the long term safeguarding of the land for biodiversity enhancement purposes. A location for the biodiversity net gain would need to be agreed prior to the commencement of development.
- 11.4 Highway Considerations
- 11.4.1 Where concerning the promotion of sustainable transport, the NPPF in Paragraph 105 states that the planning system should actively manage patterns of growth; and that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions and improve air quality and public health.

- 11.4.2 Paragraph 110 of the NPPF explains that when assessing specific applications for development, it is important to consider whether safe and suitable access to the site can be achieved for all users. Paragraph 111 of the NPPF does however state that development should only be prevented or refused on highway grounds, if there would be an unacceptable impact upon highway safety, or the residual cumulative impacts on the road network would be severe.
- 11.4.3 Policy LPP42 of the Adopted Local Plan requires that sustainable modes of transport should be facilitated through new developments to promote accessibility and integration into the wider community and existing networks. Policy LPP43 of the Adopted Local Plan requires that all new development is provided with sufficient vehicle parking spaces in accordance with Essex County Council's Vehicle Parking Standards (VPS).

Access & Vehicle Movements

- 11.4.4 Focusing firstly on access, the site would gain pedestrian and vehicular access through the existing Eastways development. This would be created via a new estate road that would run alongside Foremost House and the Lancaster Bodyshop. The existing access to the A12 from Burghley Brook Poultry Farm would be blocked up as part of these proposals. This would be the same configuration as previously approved via Application References 21/00031/OUT and 20/00128/OUT. Essex Highways and National Highways raised no objection to the proposed access.
- 11.4.5 Focusing on additional traffic movements, this was raised in numerous representations received from existing business units on Eastways. It was reported in these responses that the existing junction with Colchester Road is already over capacity and during peak times it takes a significant amount of time to leave the estate. Vehicle movements were also initially a point of contention by Essex Highways and National Highways, as the methodology used to assess trip rates for this application was not comparable to that of the previously considered applications (Application References 21/00031/OUT and 20/00128/OUT).
- 11.4.6 The developer subsequently provided updated trip rates to compare the movements that would be associated with the previously consented development against the current proposed development. This data, using maximum B8 trip rates, showed that there would be 44 arrivals and 34 departures in the AM peak, and 27 arrivals and 48 departures in the PM peak. Compared to the previously consented schemes, this would be a net reduction of 37 vehicle movements during the AM peak (8-9am) and a net reduction of 32 movements in the PM peak (5-6pm). In terms of impacts, the Transport Assessment and Travel Plan conclude that the development would lead to a small increase in traffic on the local highway and transport network, however the impacts of this would not be detrimental for the purposes of highway safety or capacity. The Transport Assessment also concluded that the additional traffic generated by the proposals could be

accommodated at the existing Eastways junction with Colchester Road without having a severe impact on its operation.

- 11.4.7 Essex Highways and National Highways reviewed the additional information and raised no objection, commenting that the trip generation for this proposal is likely to be less than the developments consented under Application References 20/00128/OUT and 21/00031/OUT. As such, both highway bodies set out that the impact of the development on the highway network is unlikely to be severe. Therefore while local concerns are noted regarding additional vehicle movements which the development would generate, this harm would not be 'severe' which is the key test in the NPPF to justify refusing any planning application on highway impacts. The additional vehicle movements produced by the development should therefore be weighed in the overall planning balance.
- 11.4.8 However in considering the highway impact of the proposal, consideration must also be given to the site's location. In this case, the site is generally considered to be sustainably located, with the site being accessible by a range of sustainable transport modes including walking, cycling, and public transport. For example, Witham Train station, as well as bus stops providing regular services to and from larger centres, such as Colchester and Chelmsford, are within an acceptable, albeit at the upper limit, walking distance from the site at 2km. There are also two cycle routes within the locality of the site, the NCN Route 16 and the Blackwater Rail Trail. The site's sustainable location therefore weighs in favour of the proposal.

A12 works

- 11.4.9 The A12 widening scheme (a Nationally Significant Infrastructure Project) is currently at the examination stage with the Planning Inspectorate. The scheme includes the widening of the A12 to three lanes from Marks Tey towards London, including where it passes Witham. In this case, as part of the A12 works, a portion of the site along the southern boundary has been identified as a non-development zone, as this land would be required for the delivery of the A12 project. Indeed, this land was included in previously approved application (Application Reference 21/00031/OUT) for the A12 works. It was also agreed that no development would take place on this land while the A12 works were carried out. Upon completion, the land could be utilised again by the developer. A condition was previously imposed on Application Reference 21/00031/OUT to secure details of how this land would come forward, following the completion of the A12 works.
- 11.4.10 As part of the current application, the requirement for the temporary land take is still apparent, and this is reflected in the submitted site plans. It is understood that the developer has been in constant contact with National Highways regarding the proposed works, with National Highways ultimately not objecting to the proposals, commenting that *"It is also noted that this application refers to the National Highways 'A12 Chelmsford to A120"*

Widening Schemes' DCO order limits within their site plan and has made allowances for this."

- 11.4.11 In this case, it is considered necessary to have several phased conditions which relate to the land required for the A12, so that details can be submitted for approval to the Local Planning Authority once the A12 works are complete. These details would include the site levels, proposed landscaping including the living wall, and any other details about the service yard. These conditions would be separate to the main set of conditions in the first phase, which is the development as proposed excluding the National Highways land.
- 11.4.12 If the A12 widening works go ahead, the site would be located away from the new A12 carriageway, and instead be adjacent to a feeder road / roundabout off of the A12. Overall, with an appropriate condition in place, given that National Highways have not objected, it is considered the proposals would not unduly prejudice the A12 widening scheme.

New Cycleway/Footway

- 11.4.13 A pedestrian/cycleway connection from the site to the A12 was something that was previously to be secured by Condition 16 of Application Reference 21/00031/OUT. This was not a requirement of any consultee, it was something that was required to be included by Members when the application was considered at Planning Committee. The condition asked details to be provided for a 3.5m wide hard surface cycle path link to the existing A12 pedestrian/cycle path with any Reserved Matters submission.
- 11.4.14 In order to meet the requirements of the previous planning approval, this application also seeks to provide a cycleway/footway. However, because the application includes full details, the developer has shown a location of the cycleway/footway which is adjacent to the western boundary of the site. However, this footway/cycleway cannot connect into the A12 (existing or new A12 widening scheme) as this would require approval by National Highways. Furthermore, the NSIP development does not currently show a footway/cycleway connection into the site, and Officers cannot require that the developer make the connection, owing to uncertainties around the timescales and overall delivery of the A12 widening works.
- 11.4.15 National Highways have agreed in principle to a cycleway/footway connection, however detailed discussions have not yet taken place about where this connection would be made. In initial discussions, National Highways indicated that a connection on the eastern boundary of the site with the A12 would be preferable. This is of course different to the indicative location as indicated by the developer which is on the western edge of the site. A further complicating factor is that where the cycleway/footway is shown, this is within a small section of the Order Limits for the A12 project which connects through the site to Eastways. It is understood this Order Limits corridor is to be used for utilities diversion, anticipated to be completed in 2024 to 2025. As such, even if a

cycleway/footway were to be provided in this location, it could not be provided prior to the implementation of these utility diversions, as this would result in redundant works.

- 11.4.16 Overall, while Officers are supportive of the principle of securing additional cycleway/footway connectivity in line with Policy, it is considered that certainty cannot be provided that a link would be made between Eastways and the new A12 scheme. As such, Officers have considered that the cycleway/footway as shown on the plans should not be put forward for approval. Instead, Officers consider that a S106 obligation would be necessary to try and secure a future scheme for a cycleway/footway link through the Site from Eastways to the proposed new A12 cycleway/footway. This cycleway/footway scheme would secure a minimum width, construction, maintenance, public access and signage of the footpath (more details are set out in the Heads of Terms at the end of the report). If a cycleway/footway scheme can be secured this would be a benefit to the proposed development. If a cycleway/footway scheme is unable to be secured, then this land may be used for other purposes. However, given the above uncertainty, it is not considered that any weight can be given to the provision of a cycleway/footway scheme in the overall planning balance.

Parking

- 11.4.17 The Essex Parking Standards (2009) state that a maximum of one space should be provided per 150sq.m of floorspace, while if ancillary Office accommodation is proposed, then the development should apply the B1 standard for that area (one space per 30sq.m). B1 standards are now wrapped up in the use class E(g) for the purposes of the Uses Class Order.
- 11.4.18 In terms of Gross Internal Area (GIA) for the PFE building, this would amount to 9,786sq.m for the B8 storage space, and 2,446sq.m for the ancillary Office space. Using the ratios above, this would amount to a total maximum requirement of 146.7 spaces. In this case, the proposed PFE building is to be served by 146 parking spaces. In terms of the GIA for the Aquilla building, this would be 12,599sq.m for the B8 storage use, and 943.5sq.m for the ancillary office space. Using the ratios above, this would amount to a maximum of 115 spaces. In this case, the proposed Aquilla building is to be served by 115 parking spaces. As such, in terms of car parking, the development would align with the maximum standards. The spaces would be 2.5m by 5m, which is smaller than is required for residential properties, but larger than the standard 4.8m by 2.4m spaces often seen on similar commercial development. It is considered the size of space sought here is acceptable in this setting. A total of 11 larger blue badge holder spaces are proposed across the site, which also accords with the vehicle parking standards.
- 11.4.19 The cycle parking standards are that 1 space should be provided per 100sq.m for employees and 1 space per 200m for visitors. For the E Class use and a minimum of 1 space per 500sq.m for employers and 1 space per

1000sq.m for visitors for B8 use. This would equate to 65 spaces for the PFE building and 53 for the Aquila building. In this case, the cycle storage for each of the buildings is proposed in the form of covered secure areas suitable to accommodate a minimum of 65 cycle for the PFE building and 53 for the Aquila building. The development would again comply with the cycle parking standards.

- 11.4.20 Furthermore, the developer has committed to providing 15% of the spaces with Electric Vehicle Charging Points, with ducting in place for a further 15%. It is understood that this is now a requirement of building regulations, however to secure the exact details of the charging points, a condition has been recommended. The developer has also sought to introduce other sustainable measures on this site. This is explored more below.

11.5 Sustainability Credentials

- 11.5.1 Policies LPP71 and LPP72 of the Adopted Local Plan set out that Applicants will be expected to demonstrate that measures to lower carbon emissions, increase renewable energy provision and adapt to the expected impacts of climate change changes have been incorporated into their scheme. It is stated that measures could include site layout and building orientation, natural light and ventilation, air tightness, solar shading, reducing water consumption and increasing water recycling. Additionally, Policy LPP72 requires all new non-residential buildings with a floor area in excess of 500sq.m to achieve a BREEAM rating of 'Very Good'.
- 11.5.2 In this case, the application has been supported by an Energy Statement, a BREEAM Pre-Assessment Report, and a Sustainability Statement which sets out the key findings and proposals from each report. In general terms, these reports set out a commitment that the development would go above and beyond the building regulation requirements to produce a more environmentally friendly scheme.
- 11.5.3 Firstly in terms of general energy efficiency measures, the scheme would utilise air source heat pumps and photovoltaic panels, which according to the report, would lead to a 20% reduction in Carbon Dioxide emissions. The proposals have also sought to incorporate a fabric first building design approach, and also include the introduction of a passive ventilation strategy to provide an energy efficient building. High levels of insulation are also proposed, as well as triple glazing. Furthermore, sustainable construction methods would be prioritised, such as seeking local materials, re-using any excess material on site instead of importing etc. These commitments will be secured by way of conditions.
- 11.5.4 With regards to BREEAM, the Applicants are undertaking a separate BREEAM assessments for each unit. At this stage 'Create Consulting' have prepared and completed a BREEAM Pre-Assessment, related to the New Construction Shell & Externals methodology, which demonstrates that the proposed development will achieve a predicted BREEAM score of 59.85%, which is above the threshold of 55% required to achieve BREEAM 'Very

Good.’ It is understood however that this assessment only relates to the external aspect of the building; a further assessment would be required for the internal specification/configuration to also meet the BREEAM very good rating. As such, a condition to secure the implementation of the external BREEAM strategy would be necessary, while a condition would also be necessary to secure it for the internal elements of each building.

- 11.5.5 Overall, it is considered that the development would have good sustainability credentials which would align with the spirit of Policy LPP71 and achieve BREEAM compliance as set out in Policy LPP72. It is considered that this would be a material benefit to the scheme to be weighed in the overall planning balance.
- 11.6 Impact upon Neighbouring Residential Amenity, Noise, Contamination and Air Quality
- 11.6.1 Policy SP7 of the Adopted Local Plan states that all new development should protect the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking. This is echoed in Policy LPP52 of the Adopted Local Plan. Likewise, the NPPF seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.
- 11.6.2 Policy LPP70 of the Adopted Local Plan states that proposals for all new developments should prevent unacceptable risks from all emissions and other forms of pollution (including light and noise pollution) and ensure no deterioration to either air or water quality. Furthermore, it states that development would not be permitted if there would be unacceptable impacts on inter alia, health and safety of the public, air quality, odour, compliance with environmental standards and noise. It also states that development will be permitted where there is no unacceptable risk such as locating development on non-contaminated land.
- 11.6.3 The application in this case is supported by a Noise Assessment, Air Quality Assessment and a Contamination Assessment. In terms of general context, it is proposed that there are no restrictions on hours at the site, therefore operations could carry on 24/7.
- 11.6.4 Focusing firstly on noise, the nearest residential properties to the north west of the site, on the other side of the raised railway line, would be sufficiently distanced so as to prevent any harm to their occupant’s amenity, by way of outlook, privacy or light. The dominant noise source affecting nearby residential properties, including those at Rivenhall End is traffic using the A12, as well as the trains using the railway line. Against this baseline condition, it is likely that the additional noise generated by the proposed and B8 use classes would be minor.
- 11.6.5 In any case, it is still important to try and reduce the amount of noise at the site as far as reasonably practicable. Perhaps the biggest potential noise receptor is that of plant which would be erected on the building. Details of

plant are not known at this stage, therefore it would be appropriate to add a condition to secure these details, along with screening for the plant, as well as any corresponding acoustic information to ascertain the likely noise impacts. In terms of mitigation against vehicular noise, the remaining railway embankment provides a partial screening of the proposed access road running alongside the embankment, based on a height differential of 0.5m. This would have the effect of reducing noise to a small extent from vehicle tyres on the road surface. Overall, the Environmental Health Officer considered the application and raised no objection, subject to the imposition of a Condition that the fixed plant should not exceed 10dB(a) at any noise sensitive premises, as well as the submission of details when known. This condition was also previously secured on the previous applications for the site.

11.6.6 With regards to contamination, the application is supported by a Geo-Environmental Assessment Report, which confirms that the site is considered to represent an overall low risk to human health receptors in the context of the proposed commercial development. Moreover, apart from low level exceedances of copper which are considered likely to be indicative of wider natural background levels, no widespread contamination has been identified and no remedial requirements are deemed necessary. The Environmental Health Officer raised no concerns about contamination of the site. As such from this perspective the proposal is not considered to be in breach of Policy LPP70 of the Adopted Local Plan.

11.6.7 With regards to air quality, a report was prepared by Environmental Assessment Services, which concludes that there would be no detrimental impact on air quality as a result of the proposed development. The Environmental Health Officer concurs with this assessment. As such, while the development would no doubt contribute additional emissions, it is considered that these emissions would be at an acceptable level and therefore no significant air quality issue would arise.

11.6.8 In terms of general conditions, the Environmental Health Officer recommended conditions relating to construction hours, no burning and no piling.

11.6.9 It should also be noted that a major gas pipe crosses the site entrance. As per comments received from Cadent Gas, Officers consulted with the Health and Safety Executive using their online checklist. The results were that the HSE did not advise against, on safety grounds, the granting of planning permission in this case. It will be for the developer once works commence to liaise with Cadent Gas to ensure that their assets will not be affected.

11.7 Flooding and Drainage Strategy

11.7.1 The application site is located with Flood Zone 1 where the risk of flooding is low. Notwithstanding the above, Paragraph 169 of the NPPF states that major developments should incorporate sustainable drainage systems

(SUDS) unless there is clear evidence that this would be inappropriate. It goes on to cite that when considering the SUDS used, regard should be given to the advice received from the Lead Local Flood Authority (LLFA).

- 11.7.2 Policies, LPP75 and LPP76 of the Adopted Local Plan reflect the above objective of the NPPF and require new major developments to incorporate SUDS as appropriate to the nature of the site.
- 11.7.3 In this case, the application was supported by a Flood Risk Assessment and Drainage Strategy. It sets out that although part of the site has localised areas at high risk of flooding from fluvial sources (behind the Landcaster Body Shop), it is mostly low risk from all other sources. A drainage scheme has been proposed in principle which has been designed to accommodate rainfall via underground tanks. This would allow rainfall to be captured including a 1 in 100-year rainfall event, with an additional 40% allowance for climate change without any onsite flooding. Overall, the proposed development will be at low risk of on-site flooding and will result in a low risk of flooding off-site. The Lead Local Flood Authority, Essex Sustainable Urban Drainage Team reviewed the application and had no objection, subject to a number of SUDS related conditions. Overall, it is considered that the proposal would not conflict with the above policies.

11.8 Archaeology

- 11.8.1 Policy LPP59 of the Adopted Local Plan states that where permission is given for development which will affect remains, conditions are required to ensure that the site is properly excavated and recorded before the commencement of development. In its glossary, the NPPF highlights that *“There will be archaeological interest in a heritage asset if it holds, or potentially holds, evidence of past human activity worthy of expert investigation at some point.”*
- 11.8.2 The Historic Environment Advisor has stated that the Essex Historic Environment Record (HER) shows that the proposed development lies within an area of high archaeological and geoarchaeological potential. As such, an archaeological investigation condition is recommended pre-commencement of development. It is therefore considered that subject to the condition, the application would be acceptable in this regard.

11.9 Other issues

Network Rail

- 11.9.1 Network Rail submitted a checklist which the developer must comply with to protect their assets. This includes generic requirements such as making sure the development doesn't encroach onto Network Rail land, damage any infrastructure or encroach on the air space of the land. It also has more specific requirements such as no drainage onto their land, leaving enough space for future maintenance of the line etc.

- 11.9.2 At Officer request, a compliance strategy was submitted by the Developer which would form part of the documentation to contractors who would build out the site if approved. The compliance strategy looks at each requirement set out by Network Rail and provides justification and rationale on each point, setting out how the development would not breach any of their requirements. In this case, Officers are satisfied that the Developer has taken every reasonable step to ensure that Network Rail's assets are not affected and recommend an informative to refer to the compliance strategy for future reference.

Health and Wellbeing Assessment

- 11.9.3 Policy LPP49 of the Adopted Local Plan stipulates that for non-residential developments over 1000sq.m, a Health and Wellbeing Impact Assessment must be completed. This assessment would require developers to assess their impact upon health and wellbeing, the capacity of existing health services and facilities, and the promotion of health improvement activities. It also sets out that where significant adverse health and wellbeing impacts are identified, planning permission will be refused unless infrastructure provision and/or funding to reasonably meet the health service requirements of the development are provided and/or secured by planning obligations or by the Community Infrastructure Levy (CIL) as appropriate.
- 11.9.4 In this case, the developer submitted a Health and Wellbeing Assessment looking at a number of key areas as identified by the policy. It starts by reviewing the local public health profile of the District, and then considers the impact of the development, whether this would be positive, negative or neutral with suggested mitigation regarding key areas including access to open space, noise and air quality, accessibility, use of resources and climate change.
- 11.9.5 The document sets out that with mitigation there would be no negative health impact of the development, only positive or neutral impacts. The overarching conclusion of the document is that there is data which suggests that the proposal would not have a detrimental impact upon health, and the location would be suitable for commercial development through appropriate mitigation concerning air, noise and traffic measures to adhere to sustainability requirements. Overall, Officers are also satisfied that in terms of health, the development would not have a detrimental impact. The development would therefore comply with Policy LPP49.

Heritage Impacts

- 11.9.6 The site is not near any designated heritage assets or Conservation Areas. As such, it is considered that there would be no impact on heritage assets arising from the development.

Loss of a Dwelling

- 11.9.7 The proposed development would result in the demolition of Burghley Brook Farm, which contains one residential dwelling. The demolition of this dwelling has not been acknowledged explicitly within the application submission. However, the previous consent at the site (Application Reference 21/00031/OUT) approved the principle of the demolition of the dwelling. Moreover, it is understood that the developer has gone through the relevant Permitted Development process to serve notice on the Council that the dwelling and associated buildings are to be demolished. As such, while the demolition of the existing dwelling is not mentioned, it has been considered and will be carried out via Permitted Development at a suitable time.
- 11.9.8 The loss of one dwelling would result in a very marginal decrease in the Council's housing land supply.

12. PLANNING OBLIGATIONS

12.1 Policy Context

- 12.1.1 Policy SP6 of the Adopted Local Plan states that development must be supported by the provision of the infrastructure, services and facilities that are identified to serve the needs arising from the development. Policy LPP78 of the Adopted Local Plan sets out that planning permission will only be granted if it can be demonstrated that there is sufficient appropriate infrastructure capacity to support the development or that such capacity will be delivered by the proposal. It also states that where a development proposal requires additional infrastructure capacity, to be deemed acceptable, mitigation measures must be agreed with the Council and the appropriate infrastructure provider. Such measures may include (not exclusively): financial contributions towards new or expanded facilities and the maintenance thereof, on-site construction of new provision, off-site capacity improvement works and/or, the provision of land.

- 12.1.2 The development in this case does seek to provide infrastructure to serve the needs arising from the development. This is discussed in the different areas below.

12.2 Open Space

- 12.2.1 Policy LPP50 of the Adopted Local Plan states that all developments will be expected to provide new open spaces in line with the requirements set out in the Open Spaces Supplementary Planning Document 2009 or successor document.
- 12.2.2 In this case, the development would not provide any open space on the site. As such, in accordance with the Open Space SPD and Policies SP6 and LPP78 of the Adopted Local Plan, a financial contribution is proposed to be secured towards open space provision/improvement in the wider

area. The Open Space SPD provides a formula for calculating the level of provision required for Use Class B1, B2, and B8 developments, subject to a minimum threshold of 1,000sq.m of employment floor space. The Applicant has agreed to the payment of a financial contribution towards casual or informal open space and outdoor sports.

- 12.2.3 Using the calculation, the open space contribution amounts to £109,867.17. This financial contribution would be utilised towards projects in the local area. The trigger for this payment is still in the process of being agreed with the developer, but will likely be prior to first beneficiary occupation of the buildings.

12.3 Travel Plan Monitoring Fee

- 12.3.1 The application is supported by a Travel Plan that has been considered by the Highway Authority, Essex County Council, who require that the submitted workplace Travel Plan be implemented for a minimum period of 5 years with an associated £6,383 monitoring fee, plus the relevant sustainable travel indexation. The S106 can contain a covenant given to the Council to secure the payment of this fee to Essex County Council.

12.4 Proposed Footway/Cycleway

- 12.4.1 The site proposes a cycleway/footway within the site to connect to the new A12 widening scheme. The A12 widening scheme does not however currently show a footway/cycleway connection into the site, and Officers cannot require that the developer make the connection, owing to uncertainties around the timescales and overall delivery of the A12 widening works.
- 12.4.2 As such, it is considered that a future scheme to deliver a cycleway/footway link through the site needs to be secured via the S106. The scheme would make provisions for:
- a) A minimum 3m wide footway/cycleway from Eastways (point A) through the site to a point on the southern site boundary where National Highways agree there can be a connection to the new A12 cycleway/footway (which route may partially be provided as a shared surface between pedestrians, cycles and motor vehicles on the site access road); and
 - b) Details to show that the cycleway/footway through the site will be constructed to the Highway Authority's adoptable standards and include appropriate drainage, signage and street lighting and available for use for the public on foot and with cycles in perpetuity, and
 - c) A road safety audit to be produced to demonstrate that the cycleway/footway is safe; and

- d) Details of arrangements for future maintenance to adoptable standards in perpetuity; and
- e) Provision for a covenant to be given to the Council by the owners of the site to secure the right for the public to use the entire approved cycleway/footway route at all times and for all purposes on foot or on pedal cycle, in perpetuity; and .
- f) Details to make provision for the Council to receive confirmation from a chartered highway engineer when the works to construct the cycleway/footway through the site have been completed that demonstrate that the works have been completed to the approved standards; and
- g) Details of the provision of the link from the southern site boundary to the new A12 cycleway/footway; and
- h) A detailed programme of construction with a timescale for the completion of the works required by the scheme to link to the date of approval by the Council of the Scheme.

12.4.3 Furthermore, there would be a covenant to ensure that the land along the western boundary of the Site is protected from development until a cycleway/footway scheme has been approved, or in the event that does the development is unable to use this land as a cycleway/footway, that it can be utilised for another purpose.

12.5 Biodiversity Net Gain

12.5.1 10% biodiversity net gain cannot be provided on site. The S106 agreement, will provide for the delivering the biodiversity net gain off-site prior to commencement of development. The procedure for agreeing this provision will be included in the S106 agreement.

13. CONCLUSION

13.1 Sustainable Development

13.1.1 The presumption in favour of sustainable development sits at the heart of the NPPF.

13.1.2 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 well-designed, beautiful and safe places, 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 protect and enhance our natural, built and historic environment; including making effective use of land, improving 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 There are adverse impacts of the development which must be weighed in the overall planning balance. These are set out below with the weight to be attached to each adverse impact.

Loss of Trees, Hedges and Grassland

- 13.2.2 The development would require the removal of most of the vegetation on the site, including 1 Category A (High Quality) Oak Tree, 16 Category B (Moderate Value) trees or groups and 31 Category C (Low Quality) trees or groups. While no trees are subject to a Tree Preservation Order, the loss of these trees and hedges would amount to harm to the character, amenity and landscape quality of the area. It is considered that this loss would amount to moderate harm and be in partial conflict with Policy LPP65 of the Adopted Local Plan.

Layout, Landscaping, Scale & Appearance

- 13.2.3 The development proposes a significant amount of built form on the site including two large industrial buildings. The amount of built form proposed would leave limited space to create a fully effective landscape buffer on the site boundaries to effectively mitigate the visual impacts of the development which include large industrial buildings and their associated service yards / other infrastructure. The extent of built form would also limit the opportunities for landscaping within the site itself. It is also considered that the appearance of the PFE building is relatively monotonous in places without sufficient visual breaks in its design adjacent to the railway. Cumulatively, it is considered that this would amount to moderate harm and be in conflict with Policies SP7, LPP47 and LPP52 of the Adopted Local Plan.

Biodiversity Net Gain

- 13.2.4 The site would result in a loss of 6.34 for 'habitat units' (-52.32% compared to the lands current condition). This loss cannot be accommodated on site

owing to the amount of development proposed. While off-site biodiversity net gain is proposed to offset this impact, there would still be limited harm that 'habitat units' will be forced off elsewhere from the site.

Vehicular Movements

- 13.2.5 The development of the site would have associated vehicular movements which would be in addition to those which already take place on Eastways. These additional vehicular movements would place an additional burden on the local road network. However, the development proposed would amount to less vehicle movements cumulatively comparatively to the two previously consented developments at the site. Furthermore, National Highways and Essex Highways are satisfied that there would not be a significant adverse impact in highway terms from the development. As such, it is considered the additional vehicular movements associated with this development would only amount to limited harm.

Noise and Air Quality

- 13.2.6 The development would also have associated noise and air quality implications from additional vehicle movements / new plant at the site. It is considered however that the noise impact of the development can be mitigated to some extent by virtue of planning conditions relating to the design and installation of new plant. New trees and landscaping at the site would also go some way to help address any reduction in air quality. In any case, the site would be part of an established industrial estate that has been allocated for additional employment development, which is located some distance away from the nearest noise sensitive receptor. Therefore the impacts of noise and air quality have been considered in principle before and deemed to be acceptable in general terms through the Local Plan allocation. Overall, based on the above, it is considered that the noise and air quality impacts of the development would only amount to limited adverse harm and indeed no objection has been raised by the Environmental Health Officer.

Loss of a Dwelling

- 13.2.7 The proposed development would result in the net loss of one dwelling, resulting in a very marginal decrease in the Council's housing supply. Nonetheless, the location of the existing dwelling is not desirable given its situation immediately adjacent to the A12, from which it gains direct access. The loss of a single dwelling is afforded limited weight.

13.3 Summary of Public Benefits

- 13.3.1 There are also significant public benefits the development would bring which must be weighed in the overall planning balance. These are set out below with the weight to be attached to each benefit.

Conformity with the Adopted Local Plan

- 13.3.2 The site is allocated as an Employment Policy Area (Ref: Rive362) by Policy LLP2 of the Adopted Local Plan. Policy LPP3 of the Adopted Local Plan states inter alia that office (Use class Eg), storage and distribution (Use Class B8) are permitted uses within designated Employment Policy Areas. The development would therefore be fully compliant with the allocation and extend the existing Eastways Industrial Estate in line with the Adopted Local Plan. This conformity with the Local Plan site allocation weighs heavily in favour of the proposal in the planning balance.

Sustainable Location

- 13.3.3 The site is in a sustainable location, on the edge of one of the Districts main towns, with access to numerous public services and facilities to offer a genuine choice of travel for employees other than the private car. A Travel Plan is also submitted with the application which would assist in facilitating more sustainable means of employees accessing the site. The sites location is considered to be a significant benefit of the development and again weighs heavily in its favour.

Economic and Social Benefits

- 13.3.4 The proposed development would provide a very significant economic and social benefit through the development of the application site, to create new jobs (reported to be 350 new employees) within the District and providing a stimulus in expenditure within the local economy, through both the construction and occupation phases of the development. Furthermore, the development would enable the retention of at least one key business in the District (PFE) which is a big local employer, as well as facilitating another business to come into/remain in the District, which Aquilla have designed the specification of the southern larger building for. It is considered these economic and social factors would be a very significant benefit of the development and are accordingly afforded very significant weight.

Landscaping on Site with Irrigation

- 13.3.5 Despite the limited space available, the development does still provide some landscaping in the form of taller tree stock and hedges. This landscaping would add some character to the development, especially in comparison to the existing Eastways Development. An irrigation strategy has also been included, which seeks to harvest rainwater and store it in tanks, so that it can be piped into the proposed landscaping to try and secure its longevity. The landscaping proposed would therefore add some benefit to the scheme. Accordingly, the landscaping proposed as part of this development is considered to be of limited benefit.

Sustainability Credentials

- 13.3.6 Subject to their instillation / implementation through condition, the site would deliver good sustainability credentials including BREEAM very good, ground source heat pumps and solar panels. The development would therefore go above what the building regulations would require, which would be in the spirit of Policy LPP71 of the Adopted Local Plan. These sustainability credentials are afforded moderate-significant weight.

Impact on A12 Widening Scheme & Cycleway/footway Provision

- 13.3.7 The development would not prevent the A12 widening scheme coming forward. This is a neutral element of the scheme in the overall planning balance, but a benefit in that the development would not compromise a strategic developing coming forward.
- 13.3.8 The scheme seeks to deliver a cycleway/footway into Eastways from the proposed new cycleway/footway along the new A12. However, as this would have to be approved by the Council and by National Highways, no weight can be attributed to this given that there are no certainties that it could be delivered.

Development Mitigation – Open Space

- 13.3.9 The development would provide a financial contribution of £109,867.17 towards improving local space / sports facilities in the area to offset the impacts of the development from employees using these spaces. There would also be a small a wider public benefit to existing residents who could use this space. This benefit can be afforded limited weight.

13.4 Planning Balance

- 13.4.1 The development has a number of factors which weigh in favour and against the development and the planning balance is relatively finely balanced. However, when considering the overall planning balance and having regard to the identified benefits and harms above, on balance, Officers conclude that the adverse impacts of granting planning permission on balance would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Consequently it is recommended that planning permission is granted.

14. RECOMMENDATION

- 14.1 It is therefore RECOMMENDED that subject to the applicant entering into a suitable legal agreement pursuant to S106 of the Town and Country Planning Act 1990 (as amended) to cover the following Heads of Terms:
- **Open Space** - Financial contribution of £109,867.17 (index linked) to be used for a scheme in Witham. Trigger – 50% paid prior to occupation of a building. 100% paid prior to occupation of the second building.

- **Travel Plan Monitoring Fee** - £6,383 (index linked) secured by a covenant given to Braintree District Council to ensure payment to Essex County Council prior to the commencement of development and evidence to be produced to Braintree District Council of that payment.
- **Biodiversity Net Gain Off-Site** - With the measures to be provided as part of this being provided prior to commencement of development and appropriate certificates being produced to the Council to show that this has been done.
- **Provision of a Cycleway/Footway** - Prior to occupation of a building on the site, a scheme for a cycleway/footway link through the Site from Eastways to the proposed new A12 cycleway/footway shall be submitted and include:
 - a) A minimum 3m wide footway/cycleway from Eastways (point A) through the site to a point on the southern site boundary where National Highways agree there can be a connection to the new A12 cycleway/footway (which route may partially be provided as a shared surface between pedestrians, cycles and motor vehicles on the site access road); and
 - b) Details to show that the cycleway/footway through the site will be constructed to the Highway Authority's adoptable standards and include appropriate drainage, signage and street lighting and available for use for the public on foot and with cycles in perpetuity; and
 - c) A road safety audit to be produced to demonstrate that the cycleway/footway is safe; and
 - d) Details of arrangements for future maintenance to adoptable standards in perpetuity; and
 - e) Provision for a covenant to be given to the Council by the owners of the site to secure the right for the public to use the entire approved cycleway/footway route at all times and for all purposes on foot or on pedal cycle, in perpetuity; and .
 - f) Details to make provision for the Council to receive confirmation from a chartered highway engineer when the works to construct the cycleway/footway through the site have been completed that demonstrate that the works have been completed to the approved standards; and
 - g) Details of the provision of the link from the southern site boundary to the new A12 cycleway/footway; and

- h) A detailed programme of construction with a timescale for the completion of the works required by the scheme to link to the date of approval by the Council of the Scheme.

The Planning Development Manager or an authorised Officer be authorised to GRANT planning permission under delegated powers in accordance with the Approved Plans and Documents, and subject to the Condition(s) & Reason(s), and Informative(s) outlined within APPENDIX 1.

- 14.2 Alternatively, in the event that a suitable planning obligation is not agreed within three calendar months of the date of the resolution to GRANT planning permission by the Planning Committee, the Planning Development Manager may use his delegated authority to refuse the application.

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

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

Approved Plan(s) & Document(s)

Plan Description	Plan Ref	Plan Version
Location Plan	2745 - PL101	N/A
Proposed Plans	2745 - PL105	N/A
Proposed Site Plan	2745 - PL106	N/A
Proposed Floor Plan	2745 - PL201	N/A
Proposed Roof Plan	2745 - PL202	N/A
Proposed Plans	2745 - PL203	N/A
Proposed Elevations	2745 - PL204	N/A
Proposed Elevations	2745 - PL205	N/A
Proposed Sections	2745 - PL206	N/A
Proposed Plans	2745 - PL207	N/A
Proposed Plans	2745 - PL208	N/A
Refuse Information	2745 - PL209	N/A
Proposed Elevations	2745 - PL210	N/A
Proposed Floor Plan	2745 - PL301	N/A
Proposed Roof Plan	2745 - PL302	N/A
Proposed Floor Plan	2745 - PL303	N/A
Proposed Sections	2745 - PL306	N/A
Proposed Plans	2745 - PL307	N/A
Refuse Information	2745 - PL308	N/A
Proposed Elevations	2745 - PL309	N/A
Parking Strategy	2295-22-01 S5A	N/A
Landscape Masterplan	2295-22-02 S5C	N/A
Parking Strategy	2295-22-04 S5A	N/A
Landscape Masterplan	2295-22-01 S5H	N/A
Proposed Elevations	2745 - PL304	B
Proposed Elevations	2745 - PL305	B

Condition(s) & Reason(s)

Condition 1

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

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

Condition 2

The development hereby permitted shall be carried out in accordance with the approved plans listed above, except for the provisions relating to the provision of the cycleway/footway along the western boundary of the site as shown on Drawing Nos 2745 - PL105, 2745 - PL106, and 2295-22-01 S5H.

Reason: For the avoidance of doubt and the interests of proper planning. The reason for the exclusion of the provisions relating the cycleway/footway along the western boundary is that a connection to the new A12 scheme cannot be guaranteed. It may be that the cycleway/footway connection is required to be modified or in a different location. As such, until the A12 scheme is further advanced, and talks with National Highways further advanced, the cycleway/footway element of the scheme should be omitted from the Plans. A Cycleway/Footway Strategy is proposed to be secured by way of legal agreement.

Condition 3

No development shall commence until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP shall be in accordance with the details contained in the Preliminary Ecological Appraisal (Environmental Assessment Services Ltd, October 2022). The Development shall be carried out in accordance with the approved CEMP.

The CEMP (Biodiversity) shall include the following:

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

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

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

Condition 4

No development shall commence until a finalised Biodiversity Net Gain Assessment is submitted to and approved in writing by the Local Planning Authority to demonstrate measurable biodiversity net gains. The content of the Biodiversity Net Gain Report should include the following:

- a) Baseline data collection and assessment of current conditions on site;
- b) A commitment to measures in line with the mitigation hierarchy and evidence of how BNG Principles have been applied to maximise benefits to biodiversity;

- c) Provision of the full BNG calculations, with detailed justifications for the choice of habitat types and their condition;
- d) Details of the implementation measures and management of proposals;
- e) Details of any off-site provision to be secured by a planning obligation; and
- f) Details of any monitoring and auditing measures.

The proposed measures shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

Reason: This is required prior to the commencement of development in order to demonstrate measurable biodiversity net gains can be delivered by the development and allow the LPA to discharge its duties under the NPPF (2021).

Condition 5

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

- The parking of vehicles of site operatives and visitors;
- The loading and unloading of plant and materials;
- The storage of plant and materials used in the construction of the development;
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Wheel washing facilities;
- Measures to control the emission of dust and dirt during construction;
- A scheme for recycling/disposing of waste resulting from demolition and construction works;
- Delivery, demolition and construction working hours.

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

Reason: This is required prior to the commencement of development to ensure that on-street parking of these vehicles in the adjoining streets does not occur during construction and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and amenity.

Condition 6

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

Reason: This is required prior to the commencement of development as construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which

needs to be agreed before commencement of the development. Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

Condition 7

No development except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Limiting discharge rates to 15.5l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

Reason:

To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, to ensure the effective operation of SuDS features over the lifetime of the development and to provide mitigation of any environmental harm which may be caused to the local water environment. Failure to provide the above required information before commencement of above ground development may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

Condition 8

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

B) In addition, a mitigation strategy detailing the excavation/preservation strategy shall be submitted to and approved in writing following the completion of this work.

C) No development or preliminary groundworks of any kind shall take place on those areas containing archaeological or geoarchaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, which has been signed

off by the Local Planning Authority through its historic environment advisors.

D) The applicant will submit to the Local Planning Authority a post-excavation assessment (to be submitted within six months of the completion of the fieldwork). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Reason: The potential for archaeological remains on the above site has been part evaluated through a programme of trial trenching and geoarchaeological investigation in accordance with a WSI that was approved. The fieldwork element has not yet been completed and a report has not yet been produced. This stage of fieldwork will need to be completed to determine a mitigation strategy. If works are not undertaken pre-commencement of development then archaeological remains have the potential to be disturbed.

Condition 9

Prior to any above ground development, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of the development, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme and thereafter shall be so retained.

Reason: To prevent environmental and amenity problems arising from flooding.

Condition 10

No above ground development shall commence until samples of the materials to be used on the external finishes of the buildings hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details and permanently retained as such.

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

Condition 11

A. Within 3 months of above ground works starting for each main B8

Storage/Distribution building on site, the BREEAM Interim (Design Stage) Certificate, issued by the Building Research Establishment (BRE) or equivalent authorising body, must be submitted to the Local Planning Authority and approved in writing to show that a minimum 'Very Good' rating will be achieved.

B. Prior to first occupation of each main B8 Storage/Distribution building on site, a BREEAM Final (Post-Construction) Certificate, issued by the BRE, must be submitted to the Local Planning Authority and approved in writing to demonstrate that an 'Very Good' rating has been achieved. All the measures integrated shall be retained for as long as the development is in existence.

Reason: To ensure the delivery of a more sustainable development.

Condition 12

The approved development shall be constructed in broad accordance with the approved Energy Strategy produced by Create Consulting Engineers Ltd (ref. AK/CS/P22-2683/02 dated August 2022). Details of the air source heat pumps and photovoltaic panels, and their positioning on the buildings, is to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any above ground development.

Reason: To deliver a more sustainable development.

Condition 13

All existing accesses to the site from the A12 shall be permanently closed off, including the access to the existing dwelling at Baughley Brook Farm prior to the first occupation of the units hereby permitted, or earlier if they are no longer required prior to this trigger point.

Reason: In the interests of highway safety as this access directly onto the A12 would cause significant issues if left open for use by HGV's etc at the site.

Condition 14

Prior to the first occupation of the development, a revised Travel Plan shall be submitted to, and approved in writing by the Local Planning Authority. No occupation of the development shall take place until the submitted workplace Travel Plan has been actively implemented and it shall continue to be implemented for a minimum period of 5 years thereafter.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

Condition 15

No occupation of the development hereby approved shall take place until the vehicle and pedestrian access arrangements as shown in principle on the planning application drawings are implemented.

Reason: In the interests of highway safety.

Condition 16

Prior to the first occupation of the development, a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by the local planning authority. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).

- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan shall be implemented in accordance with the approved details.

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

Condition 17

Prior to first occupation of the development, a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

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

Condition 18

Notwithstanding what is shown on plan 2745-PL06, prior to their installation, details of the locations of electric vehicle charging points, and any potential future electric vehicle charging points (i.e. where the additional ducting would be) shall be submitted to and approved in writing by the Local Planning Authority. The charging points shall thereafter be permanently retained.

Reason: To deliver the sustainability credentials of the site that was promised within the application submission, and to ensure that the charging points are in the most appropriate position possible in the interests of achieving sustainable development.

Condition 19

A. Prior to the installation of any fixed plant / machinery to be operated at the site, full details of design, location and noise shall be submitted to and approved in writing by the Local Planning Authority. The cumulative noise level of fixed plant operated at the site shall not exceed 10dB(A) below background noise level (LA90,15 min) at any noise sensitive premises.

B. At the point when the fixed plant/machinery is first operational, confirmation of compliance with the above noise limits in (A) for the lifetime of the plant/machinery shall be submitted to and approved in writing by the local planning authority.

Reason: To protect the amenity of residents in the locality.

Condition 20

The development shall only be implemented in accordance with the approved Arboricultural Report and associated Tree Protection Plan, undertaken by Underhill Tree Consultancy reference UTC-0710-03-AIA, dated 18th August 2022. For the avoidance of doubt, the tree protection measures shall be in place prior to the commencement of development.

Reason: To ensure existing trees, shrubs and hedges that are identified for retention are protected as they are considered essential to enhance the character of the development and for their ecological value.

Condition 21

No site clearance, demolition or construction work shall take place on the site, including starting of machinery and delivery of materials, outside the following times:
Monday to Friday 0800 hours - 1800 hours
Saturday 0800 hours - 1300 hours
Sundays and Bank Holidays - no work

Reason: To protect the amenity of residents in the locality.

Condition 22

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

Reason: To protect the amenity of residents in the locality.

Condition 23

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority and the following must be completed before any further development takes place:

- a. An investigation and risk assessment must be undertaken and submitted to and approved in writing by the Local Planning Authority; and
- b. Where remediation is necessary, a remediation scheme must be prepared and submitted to and approved in writing by the Local Planning Authority; and
- c. Following completion of measures identified in the approved remediation scheme a verification report must be prepared and submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land

and neighbouring land are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Condition 24

The rating level of the noise emitted from the site shall not exceed the existing background noise level by more than (5dB(A) between 0700 and 1900 hours and 0dB at any other time. The noise levels shall be determined at the boundary of any residential property. The measurements and assessments shall be made in accordance with BS 4142 : 2014.

Reason: In the interests of protecting the amenity of residents in the locality.

Condition 25

No development shall commence in phase 1 until the following information has been submitted to and approved in writing by the Local Planning Authority:

- A full topographical site survey showing existing levels including: the datum used to calibrate the site levels; levels along all site boundaries; levels across the site at regular intervals; and levels of adjoining buildings and their gardens;
- Full details of the proposed finished floor levels of all buildings, proposed garden levels, proposed levels along all site boundaries, and proposed levels for all hard and soft landscaped surfaces.

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

Reason: To avoid the excessive raising or lowering of ground levels and therefore any building(s) within the site which may lead to unneighbourly development with problems of overlooking and loss of privacy. To ensure that the development does not prejudice the appearance of the locality. The levels information is required prior to the commencement of development to ensure that the correct site levels are achieved from the outset of the construction phase.

Condition 26

No development shall commence in phase 2 until the following levels information has been submitted to and approved in writing by the Local Planning Authority:

- A full topographical site survey showing existing levels including: the datum used to calibrate the site levels; levels along all site boundaries; levels across the site at regular intervals; and levels of adjoining buildings and their gardens;
- Full details of the proposed finished floor levels for all hard and soft landscaped surfaces.

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

Reason: To ensure that the development does not prejudice the appearance of the locality. The levels information is required prior to the commencement of development in phase to ensure that the correct site levels are achieved from the outset of the construction phase.

Condition 27

No above ground development in phase 1 shall commence until details of all gates / fences / walls or other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. The details shall include position, design, height and materials of the enclosures. The enclosures as approved shall be provided prior to the occupation / first use of the relevant plot and shall be permanently retained as such.

Reason: In order to secure the satisfactory development of the site and in the interests of visual amenity and neighbouring residential amenity.

Condition 28

No above ground development in phase 2 shall commence until details of all gates / fences / walls or other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. The details shall include position, design, height and materials of the enclosures. The enclosures as approved shall be provided prior to the occupation / first use of the relevant plot and shall be permanently retained as such.

Reason: In order to secure the satisfactory development of the site and in the interests of visual amenity and neighbouring residential amenity.

Condition 29

Prior to first occupation of the buildings hereby approved for phase 1, a lighting design scheme to protect amenity, the night-time landscape and biodiversity shall be submitted to and approved in writing by the Local Planning Authority.

The scheme shall identify those features on, or immediately adjoining the site, that are particularly sensitive for bats including those areas where lighting could cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas of the development that are to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and retained thereafter in accordance with the scheme.

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

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

Condition 30

No development shall commence in phase 2 until a lighting design scheme to protect amenity, the night-time landscape and biodiversity shall be submitted to and approved in writing by the Local Planning Authority.

The scheme shall identify those features on, or immediately adjoining the site, that are particularly sensitive for bats including those areas where lighting could cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas of the development that are to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and retained thereafter in accordance with the scheme.

Under no circumstances should any other external lighting be installed in phase 2 without prior consent of the Local Planning Authority.

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

Condition 31

Prior to the implementation of the landscaping scheme for phase 1 hereby approved, a detailed strategy for the watering and maintenance of the landscaping including identify the expectations, constraints, and operation of the irrigation arrangements in establishing the landscape proposals within the site, shall be submitted to and approved in writing by the Local Planning Authority. The watering and maintenance strategy shall be broadly in accordance with the principles agreed within the submitted Irrigation Strategy dated 7th November 2022 and Irrigation Drawing Plan' Mega Group 3 November 2022. Once approved the watering and maintenance of the landscaping scheme shall be carried out in accordance with the approved details.

The scheme of landscaping indicated upon the approved plans, shall be implemented in accordance with the approved implementation programme. Any trees or plants which die, are removed or become seriously damaged, or diseased within a period of five years from the completion of the development shall be replaced in the next planting season with others of a similar size and species.

Reason: To ensure that the approved landscaping scheme is implemented and that appropriate measures are put in place to ensure that new trees are suitably irrigated until they become established and in order to enhance the appearance of the development and in the interests of amenity and privacy.

Condition 32

No development in Phase 2 of the development shall commence until a scheme of landscaping is submitted to and approved in writing by the Local Planning Authority. The scheme shall incorporate a detailed specification including plant/tree types and sizes, plant numbers and distances, written specifications including cultivation and other operations associated with plant and grass establishment, together with a strategy for the watering and maintenance of the new planting, colour and type of material for all hard surface areas and method of laying where appropriate and an implementation programme.

All areas of hardstanding shall be constructed using porous materials laid on a permeable base, unless details have been submitted to and approved in writing by the Local Planning Authority.

All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in the agreed implementation programme.

All hard surface areas agreed as part of the scheme shall be carried out in accordance with the approved implementation programme.

Any trees or plants which die, are removed, or become seriously damaged, or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting season in accordance with the approved landscaping scheme.

Reason: To ensure that landscaping in phase two is agreed before works take place, as this relates to a small section of land once the A12 works are complete the details are required before they take place.

Informative(s)

Informative 1

This application is accompanied by a legally binding S106 Agreement, which has additional provisions / requirements to that in this conditions list. Special attention will be required to ensure that any obligations/conditions in the S106 are adhered to.

Informative 2

Cadent Gas Ltd own and operate the gas infrastructure within the area of your development. Prior to carrying out works, please register on www.linesearchbeforeudig.co.uk to submit details of the planned works for review, ensuring requirements are adhered to.

Informative 3

The developer/contractor should have regard to the Network Rail compliance strategy dated 7th November during construction

Informative 4

(1) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087. (2) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087. (3) INFORMATIVE - Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers

will not be permitted (without agreement) from Anglian Water. (4) INFORMATIVE - Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087. (5) INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

Informative 5

For Travel Plan queries/revisions, please contact travelplanteam@essex.gov.uk

Positive and Proactive Statement

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

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP3	Spatial Strategy for North Essex
SP5	Employment
SP6	Infrastructure & Connectivity
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP2	Location of Employment Land
LPP3	Employment Policy Areas
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP46	Broadband
LPP47	Built and Historic Environment
LPP48	An Inclusive Environment
LPP49	Health and Wellbeing Impact Assessment
LPP50	Provision of Open Space, Sport and Recreation
LPP52	Layout and Design of Development
LPP63	Natural Environment and Green Infrastructure
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP67	Landscape Character and Features
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP71	Climate Change
LPP72	Resource Efficiency, Energy Generation and Energy Efficiency
LPP73	Renewable Energy Schemes
LPP74	Flooding Risk and Surface Water Drainage
LPP75	Surface Water Management Plan
LPP77	External Lighting
LPP78	Infrastructure Delivery and Impact Mitigation

APPENDIX 3:

SITE HISTORY

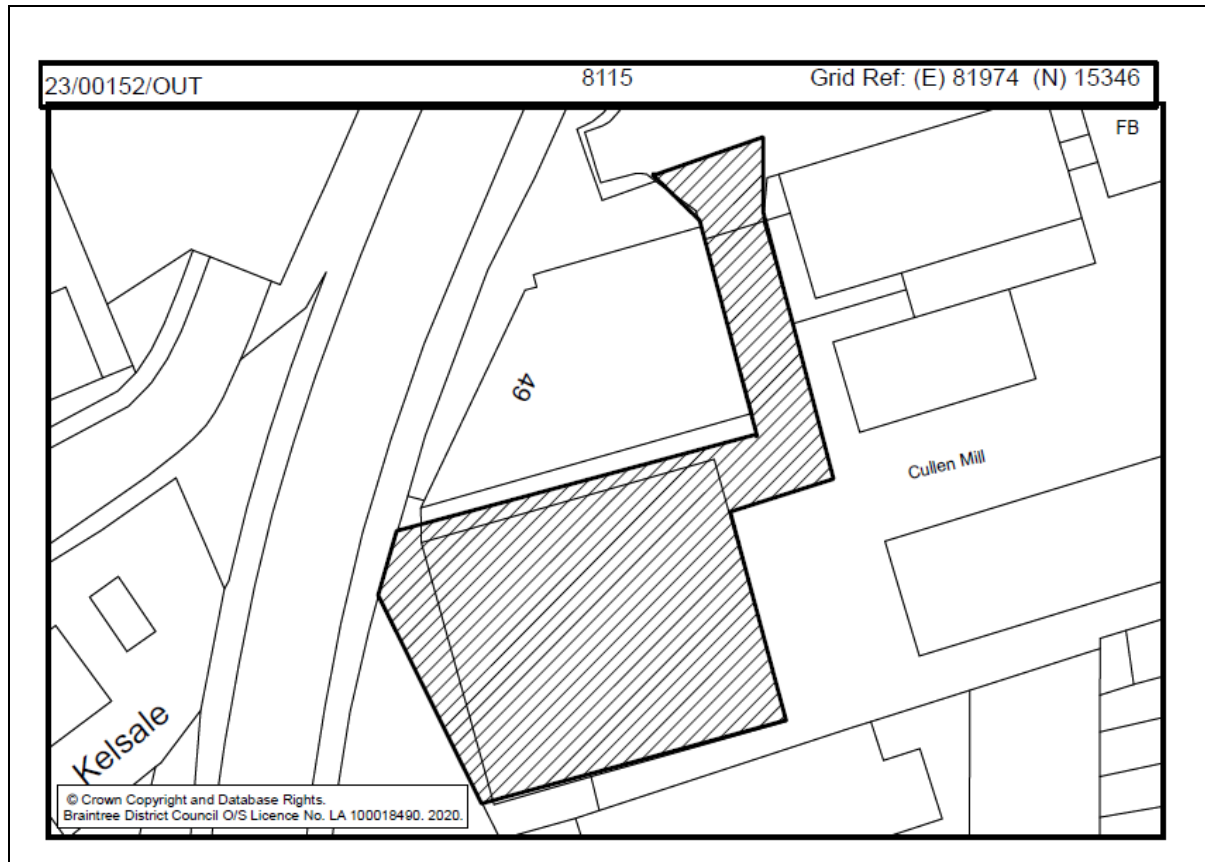
Application No:	Description:	Decision:	Date:
20/00001/SCR	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2017 - Screening Request (Regulation 6) - Industrial and warehouse units with ancillary offices and associated car parking and parking/loading of HGV's	Screening/ Scoping Opinion Adopted	12.02.20
20/00128/OUT	Outline planning permission for B2 (General Industry), B8 (Storage and Distribution) and Class E(g) (iii) (Light Industrial) use, and for future development of buildings up to a maximum building height to ridge of 43.00 AOD, comprising a maximum gross internal floor space of 15,470 square metres, (166,518 square feet) with associated service yards, HGV and trailer parking, car parking provision, new service road and access onto Eastways (all matters reserved except Access and Scale).	Granted with S106 Agreement	13.12.21
22/01921/PDEM	Application for prior notification of proposed demolition - Demolition of single-storey dwelling.	Permission not Required	24.08.22
20/00551/ELD	Application for a Lawful Development Certificate for an Existing Use - Use Class B8 (Storage and Distribution).	Granted	13.05.20
21/00930/FUL	Alterations to the Witham	Granted with	23.11.21

	Body Repair Centre site to include a two storey extension and associated servicing, car parking and landscaping works.	S106 Agreement	
21/00989/PLD	Application for Certificate of Lawfulness for proposed development - Change of use of site from Class B1(c) (Light Industrial) and Class B8 (Storage and Distribution), to a computer refurbishment and recycling company, falling within class E(g)(iii) and associated Class B8 and Class E(g).	Granted	19.05.21
21/01240/FUL	Change of Use from Use Class E (Commercial, Business and Service) and B8 (Storage or distribution), to allow a flexible use under Use Classes E (Commercial, Business and Service), B2 (General industrial) or B8 (Storage or distribution).	Granted	10.06.21
22/00377/ADV	Installation of: - 2 x non-illuminated 2440x1220mm landscape aluminium composite UV printed panels, above 'Goods In' and 'Goods Out' doors. - 1 x non-illuminated 3600x2100mm self-adhesive vinyl to window. - 1 x non-illuminated 4348x2416mm self-adhesive vinyl to window. - 1 x non-illuminated set of CNC cut aluminium composite letters covered with vinyl (total size: 3960x2228mm)	Granted	22.04.22

Agenda Item: 5g

Report to: Planning Committee		
Planning Committee Date: 18th April 2023		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	23/00152/OUT	
Description:	Outline planning application with all matters reserved for redevelopment of the site involving the erection of 10 residential units and associated access and gardens.	
Location:	Cullen Mill, 49 Braintree Road, Witham	
Applicant:	Kingsland Stock Essex Ltd, C/o Agent	
Agent:	Mrs Elizabeth Lawrence, Elizabeth Lawrence Ltd, Woodend, Water Lane, Storrington, RH20 3LY	
Date Valid:	24th January 2023	
Recommendation:	It is RECOMMENDED that the following decision be made: § Application REFUSED for the reasons outlined within Appendix 1 of this Committee Report.	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Reason(s) for Refusal Submitted Plan(s) / Document(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
Case Officer:	Lisa Page For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2516, or by e-mail: lisa.page@braintree.gov.uk	

Application Site Location:



Purpose of the Report:	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.
Financial Implications:	<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>
Legal Implications:	<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 & 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>
Other Implications:	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.
Equality and Diversity Implications	<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"> a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act; b) Advance equality of opportunity between people who share a protected characteristic and those who do not; c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting

	<p>understanding.</p> <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
Background Papers:	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 23/00152/OUT.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan 2013 – 2033 § Neighbourhood Plan (if applicable) § Supplementary Planning Documents (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1 The application site is located within the Town Development Boundary of Witham, where the principle of development is supported within Policy LPP1 of the Adopted Local Plan. The site is well placed within the town such that future occupiers could conveniently access the wide range of services and facilities on offer within Witham, and furthermore, is in a highly accessible location in terms of sustainable transport, being located close to the Rail Station and nearby bus-stops, which would enable future occupiers to travel other than in a private vehicle.
- 1.2 Although the application is submitted with all matters reserved, it has been submitted with indicative plans to demonstrate one way in which the quantum of development could be accommodated on the site. The application fails to demonstrate that a development of this number of units can adequately be accommodated on the site, as the layout appears cramped and congested and the scale of the building would be out of keeping with and harmful to the locality.
- 1.3 In heritage terms, the proposed development would, in its indicative scale and form, dominate the listed buildings, meaning their prominence within the locality would be diminished. The indicative drawings show a building taller in height to the listed buildings, and which also features an irregular roof form, fenestration and footprint which lacks distinctiveness. The size and design of the building is poorly articulated and would fail to enhance the setting of the listed buildings and would introduce inappropriate built form within its immediate setting of the Conservation Area. This harm is classed as less than substantial. No public benefits of weight exist to outweigh this harm.
- 1.4 The development fails to demonstrate that high quality amenity would be achieved for future occupiers given the site location adjacent to the B1018. No noise assessment, air quality assessment or over-heating assessment has been submitted to demonstrate the suitability of windows to the roadside elevation.
- 1.5 Although access remains a reserved matter, the application submission proposes a car free development, and an assessment has been based on this scenario. The Highway Authority raise no objection in terms of highway capacity or safety. Given the central town centre location with good access to frequent and extensive public transport, the existence of on-street waiting restrictions outside the site, and the availability of town centre car parks, it is considered that on balance, a car free development could potentially be supported in this case if all other matters were considered to be acceptable.
- 1.6 The development would generate a need for off-site contributions for open space relating to allotments, outdoor sports, equipped play, informal open space and amenity green space. These contributions would need to be

secured through a Legal Agreement, though no Section 106 or Unilateral Undertaking has been submitted.

- 1.7 The development otherwise raises no objections in terms of ecology and landscaping, nor contamination, and subject to conditions would be acceptable in terms of flood risk and drainage.
- 1.8 It is recommended that outline planning permission 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 is some 0.074 hectares in size and consists of an existing commercial building within a B8 use, with associated hardstanding. It lies within a former industrial estate within the town centre boundary of Witham. All the other units are converted to residential (or have permission to be converted to residential use), with works currently being undertaken on the adjacent site to the north to create 10no. residential units.
- 5.2 The current building utilises access through the Cullen Mill site and onto Braintree Road. The site is elevated from the B1018.
- 5.3 The site lies outside of but adjoining the Conservation Area. A number of the buildings within the Wider Cullen Mill site are Listed.
- 5.4 The adjacent site to the south is Ramsden Mills which is proposed for allocation in the Local Plan for 30 dwellings (ref: WITN 425).

6. PROPOSAL

- 6.1 The application is in outline form with all matters reserved. The proposal seeks the demolition of the existing unit and the construction of 10no. residential units.
- 6.2 The application is submitted with indicative plans to demonstrate one way in which the quantum of development can be accommodated on the site. The indicative plans detail a 3 ½ storey building, constructed in brick and render with a tile roof. Amenity areas are shown, together with refuse and cycle provision. The indicative layout illustrates a car free development.
- 6.3 The application has been submitted with a Flood Risk Assessment and Drainage Strategy Document, a Preliminary Ecological Assessment, and an Environmental Statement (Groudure documents) in relation to contamination.

7. SUMMARY OF CONSULTATION RESPONSES

7.1 Anglian Water

- 7.1.1 Comment that in regard to 'wastewater treatment, the foul drainage from this development is in the catchment of Witham Water Recycling Centre which will have available capacity for these flows.
- 7.1.2 In regard to the 'used water network', comment that a full assessment cannot be undertaken due to lack of information (the documents do not identify a connection point into the public network and the development has the potential to have an unacceptable risk of flooding/or pollution from the network). Comment that Anglian Water will need to plan effectively for the proposed development if permission is granted and will need to work with the Applicant to ensure any infrastructure improvements are delivered in line with the development – therefore request a condition requiring an on-site drainage strategy to be agreed.
- 7.1.3 In respect of surface water disposal comment that the Applicant has indicated on their application form that their method of surface water drainage is via SuDS, and if the developer wishes Anglian Water to be the adopting body for all or part of the proposed SuDS scheme the Design and Construction Guidance must be followed.

7.2 Essex Fire and Rescue

- 7.2.1 Make comments in regard to access, Building Regulations and sprinklers.

7.3 Essex Police

- 7.3.1 No apparent concerns with the layout but advise that to comment further they would require finer detail such as the proposed lighting, boundary treatments, access control, visitor entry system, mail delivery arrangements and physical security measures. Welcome the opportunity to assist the developer in achieving a Secured by Design Homes award.

7.4 Natural England

- 7.4.1 No objection subject to securing appropriate mitigation for recreational pressure impacts on habitat sites. Note that a Habitats Regulations Assessment (HRA) needs to be undertaken.

7.5 BDC Ecology

- 7.5.1 No objections subject to a condition to secure that the development be carried out in accordance with the Ecological Appraisal recommendations, and a further condition requiring a Biodiversity Enhancement Layout to be provided.

7.6 BDC Environmental Health

- 7.6.1 Do not support the application. Comment that no information has been submitted in regard to noise and air pollutant effects to the occupiers of the proposed occupiers. (The site is adjacent a busy road yet and as such the application should be supported with noise data. If there is reliance on closed windows to meet satisfactory internal noise levels, this would be in conflict with the need to provide acceptable thermal comfort conditions particularly in overheating weather conditions and to be able to ventilate the property adequately at all times).

7.7 BDC Waste Services

- 7.7.1 Comment that the proposed bin store is beyond the 15 metres stipulated for 4 wheeled bins by BDC (10 metres stipulated by British Standard BS5906). Consideration should be given to bring this closer to the stopping point for the collection vehicle and to ensure that the pathway between the bin store and the stopping point of the collection vehicle is level and free of shingle, and that drop kerbs are installed where required.

7.8 ECC Archaeology

- 7.8.1 Comment that the development has the potential to impact on surviving archaeological remains. No objections subject to a condition for archaeological investigation.

7.9 ECC Highways

- 7.9.1 No objections. Comment that given the existence and previous use of the site, the central town centre location with good access to frequent and extensive public transport, the existence of on-street waiting restrictions outside the site, town centre car parks and BDC's adopted parking standards, the proposal is acceptable to the Highway Authority, subject to conditions for any parking spaces to meet with standards (2.9 metres x 5.5 metres), and that Residential Travel Information Packs are provided for each dwelling.

7.10 ECC Historic Building Consultant

- 7.10.1 No objections to the demolition of the existing building, which is not of any architectural or historic value, being a light industrial building constructed in corrugated metal.
- 7.10.2 In regard to the proposed building, comment that the application is in outline form with only indicative plans and as such it is difficult to provide an accurate conclusion on how the development will affect the setting of nearby designated heritage assets. Nevertheless, raise concerns that the proposed number of units can only be achieved with the construction of a building which would have a negative effect upon the setting of the listed buildings and the adjacent Conservation Area.

7.11 ECC Local Lead Flood Authority (LLFA) – SuDS

7.11.1 No objection subject to conditions.

8. PARISH / TOWN COUNCIL

8.1 Witham Town Council

8.1.1 Expressed disappointment that the Local Plan does not require developments to have parking provision where adequate public transport was available. Recommend refusal on the grounds of:

- Design not reflecting or enhancing the area and not being sensitive to the need to conserve and enhance local features of architectural and historic importance;
- Impact on neighbouring amenity;
- External amenity space does not comply with the Essex Design Guide.

9. REPRESENTATIONS

9.1 The application was advertised by way of site notice, newspaper advertisement and neighbour letters. Two letters of objection have been received raising the following comments:

- Development of adjacent site cause issues with noise, restrictive access, safety concerns and damage to property. The proposed development will add to more congestion;
- Will result in loss of outlook and loss of light;
- The 3 storey building is too tall and will dominate two Grade II Listed Mill Buildings (also notes that the site borders a Conservation Area);
- Area is likely to contain significant archaeological interest which must be fully investigated before any building work commences.

10. PRINCIPLE OF DEVELOPMENT

10.1 National Planning Policy Framework (NPPF)

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

10.1.2 Paragraph 9 of the NPPF outlines that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. In addition, paragraph 38

of the NPPF prescribes that local planning authorities should approach decisions on proposed development in a positive and creative way and that decision makers at every level should seek to approve applications for sustainable development where possible.

- 10.1.3 Paragraph 12 of the NPPF sets out that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. In addition, paragraph 47 of the NPPF states that planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 10.1.4 The NPPF underlines the Government's objective of significantly boosting the supply of homes. In this regard, Paragraph 60 of the NPPF highlights the importance of ensuring that there is a sufficient amount and variety of land that can come forward where it is needed, that specific housing requirements are met, and that land with permission is developed without unnecessary delay. Paragraph 74 of the NPPF outlines that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against (in the case of Braintree District) our 'local housing need' plus the relevant buffer.
- 10.1.5 In this regard, and in considering the overall planning balance as to whether the proposed development subject to this application constitutes sustainable development, an important material consideration in this case is whether the Council can robustly demonstrate a 5 Year Housing Land Supply. This will affect whether Paragraph 11 of the NPPF is engaged and consequently the weight that can be attributed to the Development Plan (see below).

10.2 5 Year Housing Land Supply

- 10.2.1 The Council has an up-to-date Local Plan which has an approved minimum housing target of 716 new homes per year in the District between 2013 and 2033.
- 10.2.2 To this annual supply the Council must add the backlog which it has not delivered at that level since the start of the Plan period. This figure is recalculated each year and as of April 2022 stands at 1,169 across the 5 Year Housing Land Supply.
- 10.2.3 The Council must also apply a buffer to the housing land supply based on the results of the Housing Delivery Test. In the latest results published on the 14th January 2022, the Council had delivered 125% of the homes required. This means that the Council is required to apply the lowest level of buffer at 5%.
- 10.2.4 Taking the above into account, the Council's latest 5 Year Housing Land Supply position for 2022-2027 shows a supply of 4.86 years. This position

is marginal and with a number of strategic sites starting to deliver homes alongside other permissions, that situation is likely to change.

- 10.2.5 Nevertheless, as the Council cannot demonstrate the required 5 Year Housing Land Supply, the 'tilted balance' pursuant to Paragraph 11d) of the NPPF is engaged. It also means that the most important Development Plan policies relevant to the provision of housing are out-of-date. However, this does not mean that Development Plan policies should be completely disregarded. It is for the decision-maker to determine the weight to be attributed to the conflict with those policies.

10.3 The Development Plan

- 10.3.1 The Council's statutory Development Plan consists of the Braintree District Local Plan 2013-2033.

- 10.3.2 There are no made Neighbourhood Plans affecting the site. (Under the Neighbourhood Planning (General) Regulations, 2012, the Witham Neighbourhood Area has been approved. Although the application site falls within the proposed Neighbourhood Plan Area, given the stage of the Neighbourhood Plan (Regulation 7), there are no policies to which weight can be applied).

- 10.3.3 The application site is located within the Town Development Boundary of Witham, where the principle of development is supported within Policy LPP1 of the Adopted Local Plan. This proposal would be brownfield land within the development boundary and otherwise not designated or previously identified in the SHLAA.

- 10.3.4 Although the existing use is as employment, there is no policy objection within the Local Plan in relation to the loss of the employment land.

11. SITE ASSESSMENT

11.1 Location and Access to Services and Facilities

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

- 11.1.2 Witham, together with Braintree (with Bocking and Great Notley) and Halstead, are considered to be the main towns within the District, which provide availability of schools, primary health care facilities, convenience shopping facilities, local employment opportunities and similar and are well served by public transport provision. Development within these identified towns will be permitted, where it satisfies amenity, design, environmental

and highway criteria, where it can take place without material adverse detriment to the existing character and historic interest of the settlement.

- 11.1.3 This site is well placed within the town such that future occupiers could conveniently access the wide range of services and facilities on offer within Witham. Furthermore, the site is in a highly accessible location in terms of sustainable transport, being located close to the Rail Station and nearby bus-stops, which would enable future occupiers to travel other than in a private vehicle. Therefore, in respect of access to services and facilities, the site is considered to be in a sustainable location.

11.2 Layout and Design and Impact upon the Character and Appearance of the Area

- 11.2.1 The NPPF seeks a high-quality design as a key aspect to achieving sustainable development. Further, Policy LLP52 of the Adopted Local Plan seeks to ensure a high-quality design and layout in all developments. At the national level, the NPPF is also clear in its assertion (Paragraph 126) that 'good design is a key aspect of sustainable development' and that (Paragraph 130) developments should 'function well and add to the overall character of the area... are visually attractive as a result of good architecture, layout and effective landscaping...(and should) establish or maintain a strong sense of place'.
- 11.2.2 On this application, all matters (layout, scale, appearance, landscaping, and access) are reserved. However, the application has been submitted with an indicative layout plan which demonstrate one way in which the application site could accommodate the proposed quantum of development. The Applicant seeks permission for the erection of up to 10 dwellings (the floor plans indicate 3no. 1 bed units and 7no. 2 bed units). This would be a density of 135 dwellings per hectare.
- 11.2.3 Policy LPP35 of the Adopted Local Plan relates to housing mix, density and accessibility and states that development shall create sustainable, inclusive and mixed communities through providing a mix of house types and size at an appropriate density for the area. In this regard, and as discussed below, it is considered that the density and massing of residential development would relate poorly to the character of the site and its immediate surroundings failing to accommodate adequate on-site amenity space and landscaping.
- 11.2.4 The character of the area is varied, with the commercial units to the south, being single storey and to the north and east higher density residential flats, within 2 and 3 storey height buildings. To accommodate the quantum of development proposed, the plans detail that the height of the building would still be higher than that of the surroundings, extending to a height of 3 ½ storeys within mainly pitched roofs. The scale of such a building would dominate those in the locality, and furthermore, due to the elevated position of the site in relation to the B1018, it would appear prominent in the street scene, as well as over dominant to the adjacent listed buildings.

- 11.2.5 The building would not relate well to its context, and in addition to the prominence of it to the street scene and listed buildings, it would also poorly relate to the single storey buildings to the south. It is acknowledged that the large mass makes a partial step down at its southern end, however, this is considered tokenistic and fails to form an appropriate relationship with all the surrounding built form.
- 11.2.6 Whilst 'appearance' remains a reserved matter, it is considered that the indicative plans do not demonstrate a good quality of design. The use of vertically hung windows belies the poor pastiche design, as does the inconsistent size of windows, where other buildings have a constant size and rhythm to public facades. The use of render without extending this finish to the ground would add to the over complicated elevations that also lack sympathy to the simpler forms of the wider Cullen Mill buildings.
- 11.2.7 Another significant compromise within the indicative layout and design, which also contributes to the overdevelopment of the site, is in relation to the amount and layout of communal space. Paths to access doors are shown adjacent to ground floor bedroom windows with no defensible space, which would result in occupiers of these units being unnecessarily vulnerable to noise and disturbance.
- 11.2.8 As set out within the Essex Design Guide, 10 flats require 250 square metres of outdoor space, which should be enclosed at eye level (to allow it to reasonably be used for recreational purposes, sitting out, drying clothes and similar). This would not be achieved in the 130 square metres created. The smaller areas of space indicated on the plan would be inadequate dysfunctional spaces. They would be too enclosed with the policy compliant boundaries for private space or too public without adequate boundaries. It should also be noted that ground floor flats would have a very limited outlook when appropriate enclosures are added to the poor amenity spaces around the building.
- 11.2.9 Further in regard to layout, the bin store and cycle store are not illustrated but the legend suggests wholly inappropriate locations for both where odour would impact on neighbours as well as future residents.
- 11.2.10 Overall, and as with the earlier refused outline application also for 10no. units, Officers do not consider that the application demonstrates that a development of this number of units can adequately be accommodated on the site. The layout appears cramped and congested and the scale of the building would be out of keeping with and harmful to the locality. In addition, and as discussed below, the development would result in poor amenity for occupiers which is also a factor of overdevelopment.
- 11.3 Heritage
- 11.3.1 As noted above, the site lies adjacent to a Conservation Area and adjacent to a number of listed buildings. In addition, to the consideration of policies

within the NPPF, the relevant Policies within the Adopted Local Plan fall to be, Policy LPP53 (Conservation Areas) which encourages the preservation and enhancement of the character and appearance of designated Conservation Areas and their settings; and Policy LPP57 (Heritage Assets and their Settings) which states that the Council will seek to preserve and enhance the immediate settings of heritage assets by appropriate control over the development, design and use of adjoining land. In addition, regard shall be had to Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 when determining this application.

- 11.3.2 The existing building on site is not of any architectural or historic value, being a light industrial unit constructed in corrugated metal, and in heritage terms there is no objection to its demolition. However, as noted above, the proposed redevelopment in its indicative scale and form would dominate the listed buildings, meaning their prominence within the locality would be diminished. The indicative drawings show a building taller in height to the listed buildings, and which also features an irregular roof form, fenestration and footprint which lacks distinctiveness. The consented scheme immediately north of this application site has been purposefully designed as lower in height than the listed buildings.
- 11.3.3 The design is a poorly articulated building and would fail to enhance the setting of the listed buildings. Whilst the section of the Conservation Area that borders the site would highly benefit from some redevelopment, this application would not enhance or celebrate the special interest of Chipping Hill. The proposals would cause harm to the significance of the neighbouring listed buildings, detracting from their setting. This harm is classed as less than substantial and should be considered against Paragraph 202 of the NPPF. Whilst the section of the Conservation Area adjoining the site is not of high value, the introduction of inappropriate built form within its immediate setting would also be harmful to the appreciation of Chipping Hills special architectural and historic interest and thus, Paragraph 206 of the NPPF is also relevant.
- 11.3.4 Further in regard to heritage matters are archaeological considerations. The Essex Historic Environment Record (EHER) shows that the site falls within the vicinity of the Iron Age settlement and fortification of Chipping Hill (and at some date between the Late Bronze Age and the Middle Iron Age, the sand and gravel spur of Chipping Hill was encircled by two almost concentric earthworks of sub-circular plan). The building to be demolished is a light industrial building which is unlikely to have substantial foundations and the site itself lies within the area of the projected earth banks, elements of which may survive within the modern topography of the site. The erection of a new building within this area has the potential to impact on surviving archaeological remains. It is therefore necessary to impose a condition that requires for full archaeological investigation and recording.

11.4 Impact on Neighbour and Future Amenity

- 11.4.1 The NPPF requires a good standard of amenity for all existing and future occupants of land and buildings. This is reinforced by Policies LPP47 and LPP52 of the Adopted Local Plan which requires residential development to provide a high standard of accommodation and amenity for all prospective occupants with no undue or unacceptable impact on the amenity of any nearby residential properties.
- 11.4.2 Given the outline nature of the application, detailed layouts do not form part of the proposal, however, an indicative layout and floorplans have been provided. In terms of the amenity for future occupiers, Officers are content that the flats would be dual aspect to achieve adequate light and outlook, and would also meet with the Nationally Described Space Standards (NDSS). In this regard, the development would provide for high quality provision for future occupiers.
- 11.4.3 However, the site does lie adjacent to the B1018, which is a busy road with traffic often stationary. No noise or air quality assessment has been submitted to demonstrate that the levels would be appropriate. Officers have strong reservations in terms of the suitability of windows to this elevation and are concerned that acceptable noise levels could not be adhered to, as well as implications for overheating etc. if windows are required to be kept shut to meet with adequate noise levels. This is another factor that contributes to the poor layout and design and sense of overdevelopment of the site.
- 11.4.4 In terms of the impact to neighbouring occupiers, as the application is in outline form, the impact cannot be fully assessed. The adjacent site to the north is being redeveloped for residential use and the south is an allocated site for residential use. Officers consider that a scheme could be designed to prevent unacceptable overlooking, loss of light or similar. This would be a matter of full consideration on any forthcoming application(s).

11.5 Highway Issues

- 11.5.1 The application submission proposes a car free development, and an assessment has been based on this scenario. The Highway Authority have reviewed the application and raise no objection. No adverse impact upon highway capacity or safety would result.
- 11.5.2 Given the central town centre location with good access to frequent and extensive public transport, the existence of on-street waiting restrictions outside the site, and the availability of town centre car parks, it is considered that a car free development could be appropriate in this case. However, and as identified above, Officers do not consider that the application demonstrates that a development of this number of units can adequately be accommodated on the site.

11.6 Flood Risk and Surface Water Drainage

- 11.6.1 The application site is located within Flood Zone 1 (a low probability risk of flooding), however, given the scale of development, there is a requirement for the application to be supported with a Flood Risk Assessment (FRA). The application is accompanied by a FRA and Drainage Document which the Local Lead Flood Authority (LLFA) have reviewed. They have raised no objections subject to the imposition of conditions.

11.7 Ecology

- 11.7.1 The application has been submitted with a Preliminary Ecological Appraisal (Andrew Day Arboricultural Consultancy Ltd, July 2020), relating to the likely impacts of development on designated sites, protected and Priority Species & Habitats. On review of the PEA, Officers are content that sufficient ecological information is available for determination, and which provides certainty for the LPA of the likely impacts on designated sites, Protected and Priority Species & Habitats and, that with appropriate mitigation measures secured, the development can be made acceptable. Therefore, the mitigation measures identified in the PEA should be secured and implemented in full (to be secured via condition).

11.8 Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

- 11.8.1 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;
 - Essex Estuaries Special Area of Conservation.
- 11.8.2 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.
- 11.8.3 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.
- 11.8.4 The proposed mitigation measures would consist of the securing of a financial contribution of £137.31 per dwelling erected towards offsite visitor management measures at the above protected sites.
- 11.8.5 This financial contribution has been secured and the Applicant has made the required payment under S111 of the Local Government Act 1972.

11.9 Contamination

- 11.9.1 The application is submitted with a contaminated land report which is acceptable as a preliminary assessment. On any decision to approve permission, there is a need for a condition to ensure that any disturbed ground is assessed following demolition, and to ensure that the presence of asbestos in the existing building is carefully removed and transferred from the site.

12. PLANNING OBLIGATIONS

- 12.1 The following identifies those matters that the District Council would seek to secure through a planning obligation. (Although it is noted that no Section 106 Heads of Terms or Unilateral Undertaking has been submitted).

Public Open Space

- 12.2 Policy LPP50 of the Adopted Local Plan requires new development to make appropriate provision for publically accessible open space or improvement of existing. The Council's Open Space SPD sets out further details on how these standards will be applied. In accordance with the Councils SPD, the development would generate a need for offsite contributions for allotments, outdoor sports, equipped play, informal open space and amenity green space. These contributions would be secured through the S106 Agreement and the actual payment would be calculated on the number and size of the dwellings constructed.

13. PLANNING BALANCE AND CONCLUSION

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

engaged. As a consequence, the most important Development Plan policies relevant to the provision of housing are currently out-of-date due to a lack of 5 Year Housing Land Supply. However this does not mean that Development Plan policies should be completely disregarded. It is for the decision-maker to determine the weight to be attributed to the conflict with those policies. In this regard it is considered that Policy LPP1 of the Adopted Local Plan, which seeks to restrict development outside defined development boundaries to uses appropriate to the countryside, can only be afforded moderate weight. Similarly, it is considered that Policy SP3, which sets out the spatial strategy for North Essex, can only be afforded less than significant, but more than moderate weight.

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

Capability of the site to accommodate the development

- 13.2.2 The application submission and indicative plans, fail to demonstrate that the amount of development proposed could be accommodated on the site with the required open space, amenity areas and potential parking provision. The development would appear cramped and congested on the plot, appearing unduly prominent and harmful to the character and appearance of the locality. The indicative size, scale and design of the building would be unacceptable for the context of the site. Substantial harm is attributed to this matter.

Heritage

- 13.2.3 The development would result in harm to the setting of the Conservation Area and would further result in harm to the setting of the Grade II Listed Buildings at Cullen Mill. In accordance with the NPPF, this harm is identified as less than substantial harm. There are no public benefits have been identified which outweigh the harm. The overall harm is considered to be moderate to significant.

Impact to future occupiers amenity

- 13.2.4 The application does not adequately demonstrate that the development would provide for high quality provision for future occupiers as no noise or air quality assessment has been submitted to demonstrate that the levels would be appropriate, as well as implications for overheating etc. if windows are required to be kept shut to meet with adequate noise levels. The harm assigned to this is moderate to substantial.

Mitigation

- 13.2.5 No mechanism has been secured in terms of the required of offsite financial contributions towards open space. The development would not appropriately mitigate for its impacts in regard to these matters. The harm assigned is moderate.

13.3 Summary of Public Benefits

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

Compliance with the Development Plan (Principle of Development)

- 13.3.2 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 defined development boundary where the principle of development is acceptable. The proposal therefore accords with Policy LPP1 of the Adopted Local Plan and this weighs in favour of the proposal in the overall planning balance in accordance with the presumption in favour of sustainable development.

Delivery of Market Housing

- 13.3.3 The development would facilitate the provision of 10 residential units. Given the number of units and the Council's marginal 5 Year Housing Land Supply position, this is only afforded limited weight.

Location and Access to Services and Facilities

- 13.3.4 A key objective of planning is to bring forward development that is appropriate and in the right place. In this respect, the site is well-placed for a redevelopment of this scale – it is a sustainable and accessible brownfield site within the town centre with strong public transport connections. This is afforded significant weight.

Economic and Social Benefits

- 13.3.5 The development would bring both social and economic benefits during construction and thereafter with the spending powers of future residents. Overall, the social and economic benefits are afforded moderate weight.

Conclusion

- 13.3.6 As set out above, Officers consider that the proposed development would result in 'less than significant harm' to the significance of designated heritage assets. In accordance with Paragraph 11d) (i) of the NPPF, where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless, the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. In this case the identified heritage harm provides clear reason for refusing the application.
- 13.3.7 Notwithstanding the above, if the 'tilted balance' was engaged, it is considered that the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Against this context, it would be recommended that planning permission be refused for the proposed development.

14. RECOMMENDATION

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

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

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

Submitted Plan(s) / Document(s)

Plan Description	Plan Ref	Plan Version
Proposed Elevations	19.169/SK102	E
Existing Plans	19.169/01	A
Proposed Floor Plan	19.169/SK101	B

Reason(s) for Refusal

Reason 1

The application fails to demonstrate that a satisfactory development for the number of units proposed can be accommodated on the site. The indicative plans would result in a development that is cramped and congested in its layout, is of a poor quality form and detailed design, and fails to provide adequate amenity space. The development would result in an overdevelopment of the site, to the detriment of the character and appearance of the site, the street scene and wider locality. The development is thereby contrary to the provisions of the National Planning Policy Framework and Policies SP7, LPP35, LPP47, LPP50 and LPP52 of the Braintree District Local Plan 2013 - 2033.

Reason 2

The application fails to demonstrate that a satisfactory development for the number of units proposed can be accommodated on the site without harm to the setting of the adjacent Conservation Area or harm to the setting of the Grade II Listed Buildings at Cullen Mill. The proposed development is thereby contrary to the provisions of the National Planning Policy Framework and Policies LPP47, LPP52, LPP53 and LPP57 of the Braintree District Local Plan 2013 - 2033.

Reason 3

The application does not adequately demonstrate that the development would provide for appropriate amenity for future occupiers in terms of noise disturbance, air quality and overheating. No noise or air quality assessment has been submitted to demonstrate that the levels would be appropriate. The development would be contrary to the National Planning Policy Framework and Policies LPP47 and LPP52 of the Braintree District Local Plan 2013 - 2033.

Reason 4

In the absence of a Section 106 Legal Agreement to provide for a contribution towards the cost of improvements to community facilities and infrastructure appropriate to the type and scale of development proposed, the development would be contrary to the National Planning Policy Framework, Policy LPP50 of the Braintree District Local Plan 2013 – 2033, and the Council's Open Space Supplementary Planning Document (2009).

Positive and Proactive Statement

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

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP3	Spatial Strategy for North Essex
SP4	Meeting Housing Needs
SP6	Infrastructure & Connectivity
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP35	Housing Mix, Density and Accessibility
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP46	Broadband
LPP47	Built and Historic Environment
LPP48	An Inclusive Environment
LPP50	Provision of Open Space, Sport and Recreation
LPP52	Layout and Design of Development
LPP53	Conservation Areas
LPP54	Demolition in Conservation Areas
LPP57	Heritage Assets and their Settings
LPP59	Archaeological Evaluation, Excavation and Recording
LPP64	Protected Sites
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP71	Climate Change
LPP72	Resource Efficiency, Energy Generation and Energy Efficiency
LPP74	Flooding Risk and Surface Water Drainage
LPP76	Sustainable Urban Drainage Systems
LPP78	Infrastructure Delivery and Impact Mitigation

APPENDIX 3:

SITE HISTORY

Application No:	Description:	Decision:	Date:
20/00694/OUT	Outline planning application with all matters reserved - Demolition of existing factory/warehouse unit and construction new apartment development consisting of 10 flats.	Refused	17.08.21