

# PLANNING COMMITTEE AGENDA

**Tuesday 31st August 2021 at 7.15pm**

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

**THIS MEETING IS OPEN TO THE PUBLIC**

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

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

**Membership:-**

Councillor J Abbott	Councillor F Ricci
Councillor K Bowers	Councillor Mrs W Scattergood (Chairman)
Councillor P Horner	Councillor P Schwier
Councillor H Johnson	Councillor Mrs G Spray
Councillor D Mann	Councillor N Unsworth
Councillor A Munday	Councillor J Wrench
Councillor Mrs I Parker (Vice Chairman)	

**Substitutes:** Councillors T Cunningham, A Hensman, D Hume, P Thorogood,  
Mrs S Wilson, Vacancy (*Substitutes who wish to observe the  
meeting will be required to do so via the Council YouTube  
Channel*).

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

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

A WRIGHT  
Chief Executive

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

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

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

### **Public Question Time – Registration and Speaking on a Planning Application/Agenda Item**

Members of the public wishing to speak are requested to register by contacting the Governance and Members Team on 01376 552525 or email [governance@braintree.gov.uk](mailto:governance@braintree.gov.uk) by **midday on the second working day** before the day of the Committee meeting. For example, if the Committee Meeting is on a Tuesday, the registration deadline is midday on Friday, (where there is a Bank Holiday Monday you will need to register by midday on the previous Thursday).

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

Registered speakers will be invited to speak immediately prior to the relevant application/item. Registered speakers wishing to address the Committee on non-Agenda items will be invited to speak at Public Question Time. All registered speakers will have 3 minutes each to make a statement.

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

**Documents:** There is limited availability of printed Agendas at the meeting. Agendas, Reports and Minutes can be accessed via [www.braintree.gov.uk](http://www.braintree.gov.uk)

**Substitute Members:** Only the named Substitutes on this agenda can 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.

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

**Public Attendance at Meeting:** Public attendance is welcomed but is subject to restrictions due to the Council's arrangements for keeping Causeway House COVID secure and visitors' safe.

Public attendance is limited and will be on first come first served basis with priority given to public registered speakers. In order to maintain safe distances, the Council may have to refuse entry to members of the public. The public will not be able to sit in the Council Chamber, but will be permitted to observe the meeting from a public gallery through a large screen. Alternatively, the Council meetings are webcast and are available via the Councils YouTube Channel and can be viewed by the public as a live broadcast or as a recording following the meeting.

Public speakers and public attendees are required to attend on their own, and where possible only one representative of any community group, family household or Company should attend.

Members of the public intending to come to Causeway House to observe a meeting are recommended to watch the meeting via the webcast or to contact the Governance and Members team to reserve a seat within the public gallery.

### **Health and Safety/COVID:**

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

Anyone attending meetings are asked to make themselves aware of the nearest available fire exit. In the event of an alarm you must evacuate the building immediately and follow all instructions provided by staff. You will be directed to the nearest designated assembly point until 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.

**Webcast and Audio Recording:** Please note that this meeting will be webcast and audio recorded. You can 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 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 can send these to [governance@braintree.gov.uk](mailto:governance@braintree.gov.uk)

**1 Apologies for Absence****2 Declarations of Interest**

To declare the existence and nature of any Disclosable Pecuniary Interest, other Pecuniary Interest, or Non-Pecuniary Interest relating to Items on the Agenda having regard to the Code of Conduct for Members and having taken appropriate advice where necessary before the meeting.

**3 Minutes of the Previous Meeting**

To approve as a correct record the Minutes of the meeting of the Planning Committee held on 17th August 2021 (copy to follow).

**4 Public Question Time**

(See paragraph above)

**5 Planning Applications**

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

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

**PART A Planning Applications**

<b>5a</b>	<b>App. No. 20 02244 REM – Tennis Club, Braintree Road, GOSFIELD</b>	<b>6-32</b>
<b>5b</b>	<b>App. No. 21 00930 FUL – Witham Body Repair Centre, Waterside Business Park, Eastways, RIVENHALL</b>	<b>33-48</b>
<b>5c</b>	<b>App. No. 21 01479 FUL – Land West of Rosemary Lane, HALSTEAD</b>	<b>49-71</b>

**PART B Minor Planning Applications**

There are no applications in Part B

<b>6</b>	<b>Tree Preservation Order 01A 2021 - Garden Cottage, Mill Lane, PEBMARSH</b>	<b>72-108</b>
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**7 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.

**8 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**

**Page**

**9 Urgent Business - Private Session**

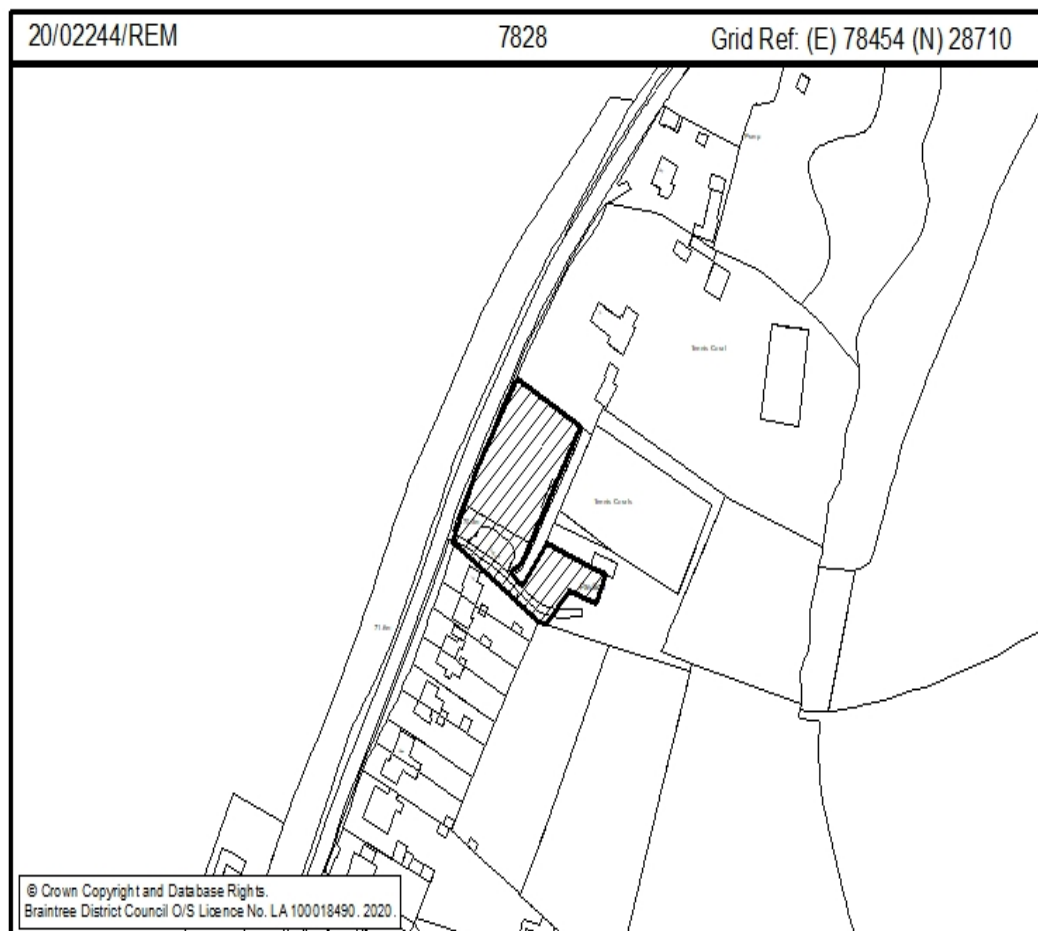
To consider any matter which, in the opinion of the Chairman, should be considered in private by reason of special circumstances (to be specified) as a matter of urgency.

PART A

AGENDA ITEM NUMBER 5a

APPLICATION NO: 20/02244/REM  
DATE VALID: 12.01.21  
APPLICANT: Mr Runicles  
2 Grey Road, Lexden, Colchester, CO3 3HR  
AGENT: Pomery Planning Consultants Ltd  
Mr Robert Pomery, Pappus House, Tollgate West,  
Stanway, Colchester, CO3 8AQ  
DESCRIPTION: Reserved matters (appearance, landscaping, layout & scale) pursuant to outline planning application ref: 19/00998/OUT - Erection of 5no. Dwellings with access and car park for Tennis Club.  
LOCATION: Tennis Club, Braintree Road, Gosfield, Essex, CO9 1PR

For more information about this Application please contact:  
Helen Reeve on:- 01376 551414 Ext. 2503  
or by e-mail to: [helen.reeve@braintree.gov.uk](mailto:helen.reeve@braintree.gov.uk)



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QM3Z7IBFUW00>

## SITE HISTORY

20/00016/REF	Erection of 5no. Dwellings with access and car park for Tennis Club.	Appeal Allowed	22.05.20
83/00547/P	proposed residential development(2 dwellings )	Refused	01.08.83
81/00568/P	proposed residential development	Refused	10.06.81
97/00182/FUL	Demolition of existing timber pavilion and construction of new pavilion	Granted	17.06.97
15/00051/ADV	Erection of 2 faced sign board on posts	Granted	15.04.15
17/00634/FUL	Proposed new tennis floodlighting to 2 centre tennis courts including the erection of 8 no. LED lighting columns measuring up to 8 metres in height and associated development	Withdrawn	24.05.17
17/01865/FUL	Proposed new tennis floodlighting to 2 no. centre tennis courts including the erection of 8 no. LED lighting columns measuring up to 8 metres in height and associated development (Re-submission of planning application ref: 17/00634/FUL withdrawn in May 2017)	Withdrawn	20.11.17
18/00027/FUL	Proposed new tennis floodlighting to 2 no. centre tennis courts including the erection of 9 no. lighting columns, with a total of 10 LED lights, measuring 6.7 metres in height, the construction of a concrete footpath between the car park and pavilion, and associated development	Granted	14.06.18
19/00998/OUT	Erection of 5no. Dwellings with access and car park for	Refused	20.12.19

21/00650/DAC	Tennis Club. Application for approval of details as reserved by condition/s 4, 5, 6 and 7 of approved application 19/00998/OUT	Granted	21.07.21
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## 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. 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 some 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

RLP2	Town Development Boundaries and Village Envelopes
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP10	Residential Density



RLP56	Vehicle Parking
RLP65	External Lighting
RLP74	Provision of Space for Recycling
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodland Grasslands and Hedgerows
RLP90	Layout and Design of Development
RLP105	Archaeological Evaluation
RLP106	Archaeological Excavation and Monitoring

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

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

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

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

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

LPP1	Development Boundaries
LPP17	Housing Provision and Delivery
LPP37	Housing Type and Density
LPP45	Parking Provision
LPP55	Layout and Design of Development
LPP63	Archaeological Evaluation, Excavation and Recording
LPP67	Natural Environment and Green Infrastructure
LPP71	Landscape Character and Features
LPP73	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP81	External Lighting

#### INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

#### DESCRIPTION OF THE SITE AND SITE CONTEXT

The site is located to the south of Gosfield village, outside of defined development limits, within the countryside.

It comprises a largely rectangular shaped piece of land measuring approximately 68 metres in width and 35 metres in depth with a 'bootleg' to the south eastern corner. The site is bounded along the western side by the highway (A1017), separated by a hedgerow and the northern edge of the site is bounded by trees/landscaping.

Neighbouring uses include a row of established semi-detached residential properties immediately to the south of the site and a detached dwelling (5 Braintree Road) immediately to the north of the site. To the east and west (beyond road) is open countryside.

An access road serving No.5 Braintree Road runs directly along the eastern boundary of the site.

The site is currently used for car parking for Gosfield Lawn Tennis Club and was also previously used for allotments.

The wider site ownership (edged in blue) comprises Gosfield Tennis Club – 4 tennis courts, floodlighting and a pavilion.

## PROPOSAL

Outline planning permission (Application Reference 19/00998/OUT) was granted on the 22nd May 2020 at Appeal for the residential development of the site for 5no. dwellings and car park for the Tennis Club. Access was approved from Braintree Road. A copy of the Appeal Decision is included as an appendix to this report for information.

All other matters were reserved, meaning that the detailed appearance; landscaping; layout and scale of the proposed development must be considered at the Reserved Matters stage with the access already being fixed at the outline planning permission stage.

The proposed dwellings comprise of 2no. pairs of semi-detached houses and 1no. detached house which would be sited in a linear format and central within the site with the exception of the detached dwelling, Plot 1, which would be set further back, following the access road line which would run along the front of the properties. Parking would be provided to each side of the properties.

## SUMMARY OF CONSULTATION RESPONSES

Two full consultations were carried out, the second following the submission of revised plans which sought to address design and layout concerns raised by Officers.

## Essex County Council Historic Environment Team

No recommendations for this application.

### Essex County Council Highways

No comment providing development is carried out in accordance with drawing No.20-07/11 Rev F.

### BDC Landscape Team

No response.

### Ecology

No objection subject to conditions being imposed relating to biodiversity enhancement and a wildlife friendly lighting scheme together with good practice informatives.

### Environmental Health

No objection on EH grounds however condition recommended relating to construction working hours.

### Refuse & Recycling Team

Verbal discussion – a maximum drag distance to the highway of 20 metres is required.

### PARISH / TOWN COUNCIL

#### Gosfield Parish Council

#### **Initial Proposals**

No objection. Regular sweeping of access roads and pavement required.

#### **Revised Proposals**

Objection.

- Hedging to be retained along the side of No.7 and along the front.
- The design on the building needs to be in keeping of the surrounding area to be redesigned without the cladding.
- Car park visual aesthetics to be improved.

Officers have queried the objection with the Parish Council as the hedging has been shown to be retained along the side of No.7 at the outset where no objection was raised. Similarly, the hedging along the frontage is being retained or replanted, as appropriate, in relation to adhering to visibility splays and this has not changed since the outset of the application.

The applicant has offered to omit the cladding from the scheme and this has been relayed to the Parish Council although Officers have stated that they do not raise objection to the provision of cladding as part of the scheme. At the time of writing this report the Parish Council maintained their objection.

## REPRESENTATIONS

Neighbours have been consulted twice following receipt of revised drawings. A site notice has been displayed on the main road near the site for the requisite period. No's 5, 7, 9, 23 and 25 Braintree Road have been notified in writing.

2 objections have been received to each set of consultations, summarised as follows:

- Concern over sight line and activity on corner of own property (5 Braintree Road) – sight line runs through garden;
  - Would like assurances that own land will not be entered onto, nor any boundary fences, trees or shrubs removed;
  - Would have thought would have been approached in a neighbourly way about own land being included in the application;
  - Request a 1.8 m solid wood fence is included along boundary bordering 5 Braintree Road – currently consists of trees and shrubs and dilapidated remains of fence;
  - Existing access track is own freehold driveway – access cannot be impeded.
- 
- Welcome the potential improvement in visibility to the north;
  - However who will be responsible for ownership and maintenance of land between proposed new hedge line and main road to maintain visibility splays and over time;
  - Side window proposed in Plot 1 overlooks entire back garden of No.7 – unnecessary level of overlooking;
  - Current plans do not address the disturbance and intrusiveness along the length of own back garden that the new access road with car park would create. Hedge will only provide sufficient visual barrier in summer months and will not reduce noise disturbance;
  - Request additional landscaping and buffering measures are adopted between No.7 and the access road;
  - Current plans do not address Inspector's comments about the layout;
  - Contrived, cramped layout in order to maximise the number of houses and has little regard to blending with existing pattern of housing - 2 x 2 semi-detached properties would maintain continuity and visual aesthetic;
  - The shape, character and positioning of housing bears no resemblance to any existing properties – out of character and are classically urban in design, inappropriate in a rural setting;
  - Floodlights – would strongly suggest the site is viewed in person in dark to assess impact of the floodlights;
  - Pavement referred to in Appeal decision – very narrow.

Revised Drawings:

- Some amendments are welcomed;

- Remain disappointed and frustrated about parts of the proposal;
- Revisions do little to soften the impact of the development on overall privacy;
- Existing hedge (maintained by oneself) is deciduous and therefore does not provide a sufficient barrier;
- With access to new car park running snug against the hedge line along the full length of No.7 – no privacy from late autumn to spring;
- Car noise and exhaust fumes will be an issue;
- The infill comment relating to the hedge is unacceptable to appease and mitigate impact of development;
- Own rear garden drops lower than the tennis club so car noise will be 4 feet off the ground when standing at bottom of garden;
- Revision does not address the visual impact of car park relocated to the rear of site – no attempt to obscure the car park and blend in with rural surroundings;
- Welcome reconfigured position of Plot 1 but unhappy about the positioning of car parking spaces – now at rear of property – would prefer residential parking to remain at front and would help reduce current feeling of being surrounded by cars and car parks.

## REPORT

### Principle of Development

The principle of the residential development of the site has been established through the grant of outline planning permission (Application Reference 19/00998/OUT) which was granted at Appeal on 22nd May 2020. The outline planning permission included permission for the site access.

The current application seeks approval for the reserved matters pursuant to the outline planning permission consisting of:

- Appearance;
- Landscaping;
- Layout; and
- Scale.

It is therefore these reserved matters which must be assessed in detail.

### Appearance, Layout and Scale

Paragraph 126 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Section 2 Plan require designs to recognise and reflect local distinctiveness in terms of scale, density, height and massing of buildings, and be sensitive to the need

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

Policy CS5 of the Core Strategy states that outside development boundaries, development will be strictly controlled to uses appropriate in the countryside. Policy CS8 of the Core Strategy states that development must have regard to the character of the landscape and its sensitivity to change, and where development is permitted it will need to enhance the locally distinctive character of the landscape in accordance with the Landscape Character Assessment.

Policy SP7 of the Section 1 Plan states that new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs.

In accordance with the outline planning permission, the applicant proposes a 5 unit scheme, as follows:

**Plot No.1**

- 3 bedroomed detached dwelling – Type ‘A’ – 103sq.m rear garden space, 137.6sq.m gross floor space;
- Internal facilities comprise an entrance hall area, kitchen/diner, utility room/larder, living room, home office and shower room at ground floor, and 3 bedrooms (2 with en-suites), bathroom and a dressing/play room at first floor;
- 2no. car parking spaces to the rear/side.

**Plot No.2**

- 3 bedroomed semi-detached dwelling – Type ‘B’ – 103sq.m rear garden space, 120sq.m gross floor space (approx.);
- Internal facilities comprise a hall area, living room, family dining/kitchen, w.c, and an office/play room at ground floor and 3 bedrooms (1 with en-suite) and a bathroom at first floor;
- 2 no. off street parking spaces provided to the side of the property.

**Plot No.3**

- 3 bedroomed semi-detached dwelling – Type ‘B’ – 108sq.m rear garden space, 120sq.m gross floor space (approx.);
- Internal facilities and parking as for Plot 2.

**Plot No.4**

- 3 bedroomed semi-detached dwelling – Type ‘C’ – 113sq.m rear garden space, 120sq.m gross floor space (approx.);
- Internal facilities comprise an entrance hall area, living room, kitchen/dining room and a w.c at ground floor and 3 bedrooms (1 with en-suite) and a bathroom;
- 2 no. off-street parking spaces provided to the side of the property.

### **Plot No.5**

- 3 bedroomed semi-detached dwelling – Type ‘C’ – 103sq.m rear garden space, 120sq.m gross floor space (approx.);
- Internal facilities as for Plot 4.

The external appearance of the proposed dwellings would, for the 4no. semi-detached properties, form a largely uniform design with a strong gable end frontage, with a mix of red brick and solid oak vertical timber cladding and Cedral Rivendale slate roof tiles. Plots 4 and 5 would have the main entrance door on the front elevation and Plots 2 and 3 would have their entrance door to the side.

The detached dwelling, Plot No.1, would be set back but with the same strong gable end frontage and a subservient side projection with a half hipped roof and small dormer window feature to the front and rear elevations. Materials would match those on the semi-detached dwellings.

In terms of external hard landscaping material finishes, the access road for the proposed dwellings and to the Tennis Club parking area, would be finished with a chip and tar surface with brick/block paviours at the entrance to the site, for a depth of 6 metres from the back edge of highway boundary. A contrasting chip/tar finish would be applied to the private parking areas for each dwelling.

Soft landscaping would comprise new trees and replacement (and retention of) hedge along the front of the site bounding the highway (to suit visibility splays) and the existing hedge to the side forming the boundary with No.7 Braintree Road is identified to be retained and ‘infilled’ where required. Hedging and landscaping would be provided between the plots.

Forms of enclosure would largely comprise 1.8 metre close boarded fencing to the rear boundaries of Plots 2 – 5 and a 1.8 metre brick screen wall to the side and rear of Plot 1.

Materials have been specified and have been amended during the course of the application with handmade red facing bricks and solid oak vertical timber cladding, ‘Rivendale’ manmade slate roof tiles and detailing showing a wet verge system would be used (as opposed to a dry verge).

Internally, all house types meet the Nationally Described Space Standards (NDSS) standards which set out the required internal space standards for new dwellings of all tenures.

The development is also compliant with the Essex Design Guide in terms of proposed garden sizes.

In terms of the appearance of the scheme itself on its own merits and subsequently within the wider locality, taking account of the countryside location, Officers make the following comments.

In assessing the overall scale, design and appearance within the countryside, to an extent, this has been accepted through the granting of planning permission at Appeal stage and in terms of developing the site for 5 dwellings, the Appeal Inspector in Paragraph 13 of the Appeal Decision concluded that *“the appeal site is large enough to accommodate five dwellings in an acceptable manner.”* The considerations raised by the Appeal Inspector must form a strong material consideration in the determination of this application.

However, in addition, the appeal scheme was commented on by the Inspector and was considered to appear cramped. Paragraph 13 from the Inspector's Appeal Decision states *“Space could be created to give a stronger linear character and larger front gardens if the access road was repositioned or different built forms used. The parking could also be reconfigured, and a different built footprint used, in order to create more space and therefore lessen any perception of the development being cramped. Even within the illustrative layout as presented there is ample space to provide additional landscaping in front and around the dwellings (and along the access drive to the tennis club car park) to soften the built form. As such, a final layout that includes the limitations I have identified, which would be at odds with Policy 90 of the LP and CS9 of the CS, need not be an inevitable consequence of permitting the appeal scheme.”*

Officers consider that the reserved matters scheme has accorded with the comments above – the scheme has a stronger linear character with larger front gardens and the road is set further back allowing for less impact on the hedgerow. The parking has been reconfigured with space between the dwellings to allow for soft landscaping, overall to lessen the perception of a cramped or suburban appearance.

The overall design of the proposed scheme has been further amended during this reserved matters application. The building line of the dwellings now largely follows the same building line as the existing group of dwellings which are sited immediately to the south of the site and 4 of the proposed properties are now semi-detached dwellings which are considered to better reflect the pattern and rhythm of the existing street scene.

It is recognised that the overall design is distinctly different to those existing dwellings however as a small group of 5 no. dwellings they are considered to form a cohesive yet contemporary appearance on their own merits as a small group and Officers do not consider it necessary to entirely replicate the appearance of the existing built form in order for them to harmonise within the locality. The building line and dwelling type are considered to form a sufficient ‘nod’ to the existing grain of development and accordingly would successfully integrate in this locality.

In terms of visual impact of the proposed car park for the existing Tennis Club, this was commented upon by the Appeal Inspector as follows:

*“The appeal scheme includes a replacement car park at the tennis club. This would be located behind the proposed dwellings and would be viewed with*



*the backdrop of the courts. Consequently, it would not be prominent or out of place. It could also be surfaced in a material that would be appropriate in a rural context, such as the gravel drive serving 5 Braintree Road. Planting secured at the reserved matters stage could also be used around the car park and along the access road to further soften the impact and mitigate for the loss of two apple trees. As such, the car park would not harm the character and appearance of the area."*

Again as already identified, the Inspector's considerations must form a strong material consideration and as such, Officers conclude that there is no objection to the proposed replacement car park for the tennis club in terms of design and appearance.

A landscaping scheme has been provided with the submission which shows mitigation planting, including 2 new apple trees (Cox's Orange Pippin) in a similar location to those to be lost.

In summary, Officers consider that the design, scale, layout, and form of the proposed new dwellings, and the provision of the new car parking area for the tennis club, is acceptable and accords with the necessary policy criteria in terms of design, scale, appearance and layout.

#### Impacts upon Neighbouring Residential Amenities

Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Section 2 Plan state that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties. Unacceptable impacts are considered as any factors that can carry the potential to degrade the enjoyment of neighbouring properties in terms of overlooking, overshadowing, loss of light or loss of privacy. The National Planning Policy Framework also seeks a high quality amenity for existing and future occupiers of neighbouring dwellings.

The application site is located directly abutting No.7 Braintree and concerns raised by the neighbour at said property are noted. It is noted and recognised that an increased level of activity will be experienced through the development and also the relocation of the existing car parking area for the tennis club to the rear of the site and adjacent said neighbour's side boundary.

Again as already identified, outline planning permission has been granted and the Inspector confirmed that the site was capable of providing for 5no. dwellings and the rear tennis club car park location was also considered to be acceptable. The Inspector stated that mitigation could be achieved through appropriate landscaping. However, Officers consider that, given site constraints, namely the access road which also forms part of a right of access/ownership for the occupants of No. 5 Braintree Road, there is limited ability to provide substantial and additional landscaping cover along the existing side boundary to a level which would provide a 'year round' screen, noting the existing hedge is deciduous. Officers must also take into account that the access to the site as a whole has been in the same location for some

time, establishing a presence of vehicular movement along the boundary, albeit likely to a lesser extent than is now proposed.

Officers in a similar respect also note the same neighbour's concerns about parking provision for Plot No.1. Officers have weighed up the application as a whole in relation to appearance and layout and impact on neighbouring residential amenity, also noting the Inspector's comments about providing a scheme with a less 'cramped' appearance to that indicative layout put forward under the original outline application. As a result, parking has been altered to allow perceivable gaps between properties and defensible front garden space is now provided, however this has also resulted in the parking provision for Plot 1, moved to the rear and side of that proposed dwelling.

Officers have concluded that although the revised parking spaces for Plot 1 are closer to the side garden boundary with the neighbouring property, it is not considered their location would cause a notable or excessive level of disturbance beyond that which would be occurring as part of the overall and clear change in use of the site from a parking area for the tennis club, to 5no. new dwellings.

The revised site plan identifies that infill planting will be carried out where necessary along the boundary and new trees are proposed at the new entrance to the tennis club car park.

Revised house designs also show that there are no longer clear windows on the south-facing elevation facing No.7 Braintree Road – said window will be fixed shut and obscure glazed.

Officers note that the Appeal Inspector identified that an appropriate driveway material for the access to the tennis club could be gravel, however the site plan identifies a chip and tar finish. Whilst this may not be the most aesthetically pleasing in a rural locality, it is considered this surface finish would result in less disturbance to the closest neighbour, as opposed to gravel, although gravel would be the surface treatment in the actual parking area.

Moving to concerns raised by the neighbour at No.5 Braintree Road, this relates to boundary treatment and their own access which transects the site. The access is identified on the plans as being outside the ownership of the tennis club. In terms of boundary treatment, a brick wall would be provided bounding the side and rear garden boundary of Plot 1. Along the remainder of the access road the rear garden would have close boarded fencing. The proposed site plan identifies that garden boundaries would have 1.8m new close boarded fencing so a new fence would be included at this point. It is not identified that a fence would be provided along the whole of the northern perimeter of the site, which is currently largely made up of landscaping/tree cover. Officers do not consider it reasonable or necessary to require fencing along the whole northern perimeter of the site, over and above the existing soft landscaping boundary which exists.

In summary, Officers acknowledge that there will be an impact on neighbouring residential amenity as there will be a clear increase in activity from the site. However noting acceptance of the site through the Appeal Decision for 5no. dwellings and for the car parking area for the Tennis Club to the rear, Officers consider that sufficient mitigation measures have been undertaken through the alteration to facing windows, the retention of the hedge to the side and infill where required. The closest new dwelling (Plot 1) to No.7 Braintree Road would be sited over 15 metres away and in this respect the scheme would not result in overbearing or overshadowing concerns and conclude that the scheme is acceptable in terms of neighbouring residential amenity and accords with the necessary policy criteria.

### Landscaping and Ecology

Policy RLP80 of the Adopted Local Plan states that new development should not prejudice existing landscape features, such as trees and hedges, which make a positive contribution to the locality. Policy CS8 of the Core Strategy states that landscape features and biodiversity should be preserved and/or enhanced. Policies LPP70 and LPP71 of the Section 2 Plan require development to take into account existing landscape features, preserve them where appropriate, and be sensitive to the need to preserve and enhance biodiversity.

Details of landscaping and a tree protection plan have been provided. Part of the front hedgerow will be retained where possible and part will be removed and replaced to suit visibility splays. A number of new trees are proposed to be planted along the frontage and within the site, two of which would mitigate for the loss of 2 apple trees to the rear of the site.

Policy RLP84 of the Adopted Local Plan and Policy LPP68 of the Section 2 Plan state that planning permission will not be granted for development which would have an adverse impact on protected species.

In terms of ecology, the Council's Ecology Officer has commented on the proposals, raising no objection subject to conditions being imposed relating to bat friendly lighting and a biodiversity enhancement strategy. These conditions were imposed at the outline stage and a 'discharge of conditions' application (Application Reference 21/00650/DAC) has recently been approved which relates to Condition No.6 (biodiversity enhancement measures) and No.7 (bat friendly lighting scheme). The developer is subsequently bound to implement the development in accordance with these approved measures.

In summary, although an amount of hedging along the frontage would be lost as part of the scheme, it would be replanted (taking account of required visibility splays) and other boundary treatments would provide suitable screening to this site in this countryside location.

In summary, the application is considered to be acceptable in these respects and accords with Policies RLP80 and RLP84 of the Adopted Local Plan and Policies LPP68, LPP70 and LPP71 of the Section 2 Plan, Policy CS8 of the Core Strategy and the NPPF.

#### Highways, Transport and Parking

The Essex Parking Standards Design and Good Practice (2009) Supplementary Planning Guidance requires new residential dwellinghouses of two or more bedrooms to benefit from a minimum of two car parking spaces. The standards specify that parking spaces shall measure at least 5.5 metres x 2.9 metres.

Each dwelling would be supplied with 2no. off-street parking spaces, all of which would measure 2.9 x 5.5 metres and as such accord with the standards in terms of dimensions. Furthermore, the Highways Authority have not raised objection to the scheme.

The outline application which has been allowed at Appeal sought approval for access only. This element has therefore been accepted.

The Essex County Council Highways Authority have found the scheme to be acceptable and no additional conditions have been recommended.

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

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

The application site is situated just outside the Zone of Influence (ZOI) for the Blackwater Estuary SPA/Ramsar site and therefore there is no need for the Planning Authority to complete an appropriate assessment.

#### Floodlighting

The Tennis courts to the east of the site currently have floodlighting provision which was granted planning permission under application reference 18/00027/FUL.

The Appeal Inspector, as part of consideration of the outline permission concluded that the existing flood lighting would not harm the living conditions of future occupants. The proposal is therefore considered to be acceptable in this regard.

## Conditions

The outline planning permission has a number of conditions imposed. It is not necessary to re-impose these.

In relation to the Environmental Health Officer's comments and recommendations for a construction work time limit, it is considered this is reasonable, given the proximity to neighbouring properties and the scale of the development.

The site lies outside the development boundary, however a bus stop is located nearby and as such it is considered beneficial in the interests of promoting sustainable forms of transport, to impose a condition requiring travel packs.

Given the size of the gardens only just exceed minimum standards, it is considered appropriate to impose a condition removing permitted development rights under Classes A, AA, and E of Schedule 2, Part 1. It is also considered appropriate given the gable end design, to remove Class B given the only location dormers could be installed would be visible, on the side elevations.

Materials have already been specified on the submitted drawings, however it is standard practice to require the submission of samples as part of a condition.

## Refuse and Recycling

The most recent submitted site plan, reference 20-07/11 rev K, includes the location of a communal refuse and recycling collection point within the site, towards the site frontage.

It is understood that the access road will not be adopted by the Highway Authority. The Council's Refuse Manager has verbally confirmed that provided the bin collection point is not more than 20 metres from the highway, this would be an acceptable approach in terms of refuse and recycling collection. The applicant has complied with this element and the revised scheme shows a maximum distance of 12 metres to the highway.

## CONCLUSION

The principle of residential development at the site has been established following the grant of outline planning permission at appeal. This application seeks approval only for reserved matters following the grant of this consent.

Officers are satisfied that the detailed proposals submitted, for the Reserved Matters, namely appearance, scale, layout, and landscaping, are acceptable in planning terms. Consequently, it is recommended that the application for reserved matters is approved.

## 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		
Location Plan	Plan Ref: 01	
House Types	Plan Ref: 20-07/15	Version: C
House Types	Plan Ref: 20-07/16	Version: C
House Types	Plan Ref: 20-07/17	Version: C
Site Plan	Plan Ref: 20-07/10	Version: F
Block Plan	Plan Ref: 20-07/12	Version: F
Site Plan	Plan Ref: 20-07/11	Version: K
Tree Plan	Plan Ref: 20-07/11	Version: J
Block Plan	Plan Ref: 20-07/12	Version: E
Supporting Documents	Plan Ref: Landscape Specification	
Landscape Masterplan	Plan Ref: NC_20.648-P-200	Version: B

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

### Reason

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

- 2 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 dwelling-house or the provision of any building within the curtilage of the dwelling-house as permitted by Classes A, AA, B, and E 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 or outbuildings in the interests of residential and visual amenity.

- 3 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, Public and Bank Holidays - no work

Reason

To protect the amenities of the occupiers of nearby residential properties and the surrounding areas.

- 4 No above ground development shall commence until samples of the materials to be used on all the external surfaces 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.

Reason

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

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

- 6 The development shall be carried out in full compliance with the tree protection measures identified on the approved drawings.

Reason

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

- 7 Prior to first occupation of the dwellings hereby approved, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport. The pack is to be provided by the Developer free of charge.

Reason

In the interests of reducing the need to travel by car and promoting sustainable development and transport.

- 8 No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor(s) of the proposed building(s), in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

Reason

To avoid the excessive raising or lowering of any building hereby

permitted and the alterations of ground levels within the site which may lead to unneighbourly development with problems of overlooking and loss of privacy

### INFORMATION TO APPLICANT

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

2 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](http://www.braintree.gov.uk/streetnaming). Enquiries can also be made by emailing [streetnaming@braintree.gov.uk](mailto:streetnaming@braintree.gov.uk).

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER





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## Appeal Decision

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 May 2020

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Appeal Ref: APP/Z1510/W/20/3246355

Gosfield Lawn Tennis Club, 6 Braintree Road, Gosfield, Essex CO9 1PR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Doherty against the decision of Braintree District Council.
  - The application Ref 19/00998/OUT, dated 30 May 2019, was refused by notice dated 20 December 2019.
  - **The development proposed is described as 'Erection of 5 no. dwellings with access and car park for Tennis Club'.**
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of five dwellings, an access and a car park at Gosfield Lawn Tennis Club, 6 Braintree Road, Gosfield, Essex CO9 1PR, in accordance with the terms of the application, Ref. 19/00998/OUT, dated 30 May 2019, subject to the conditions set out in the attached schedule.

### Preliminary Matters

2. In response to travel restrictions currently in place due to the COVID-19 pandemic I have determined this appeal without a site visit. This is because I have been able to reach a decision based on the information already available, supplemented by additional evidence supplied by the appellant and Council after agreeing to the appeal proceeding on this basis.
3. The planning application was submitted in outline with all matters of detail **reserved for future consideration save for 'access'**. After reviewing the submissions, I have interpreted this as meaning the positioning and treatment of the access to the appeal site from the public highway rather than internal access and circulation routes<sup>1</sup>. The drawings are not labelled as being illustrative or indicative but the **appellant's** statement confirms that the scheme should be considered in this way and that is what I have done.

### Main Issues

4. The main issues in this appeal are:
  - Whether the appeal site is a suitable location for the proposed development with reference to the spatial strategy for housing in the development plan;
  - The effect on the character and appearance of the area;

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<sup>1</sup> 'Access' is defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015 as the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network.

- Whether the proposal would provide adequate living conditions for future occupants, with reference to the effects from flood lighting;
- The effect of the proposed development on highway safety, with particular reference to visibility.

## Reasons

### *Spatial Strategy*

5. The spatial strategy for housing in the development plan includes saved Policy RLP 2 of the Braintree District Local Plan Review 2005 (LP), which directs new development to sites within the defined boundaries of towns and villages. Outside these areas it states that countryside policies will apply. The boundaries are in place to protect the countryside around settlements, prevent the extension of ribbon development and protect non-renewable and natural resources. Policy CS5 of the Braintree District Council Core Strategy 2011 (CS) states that development in the countryside will be strictly controlled in order to protect the landscape character, biodiversity and amenity of the countryside.
6. The nearest settlement boundary to the appeal site is around Gosfield, which is a village located a short distance to the north. The appeal site is located on the edge of a reasonably large cluster of houses but is separated from the settlement boundary of Gosfield by fields, hedges, belts of trees and only sporadic residential development. It is therefore located within the countryside for the purposes of applying the policies of the development plan.
7. The appeal scheme would introduce new housing into the countryside in a way that would not adhere to the countryside policies of the development plan, including Policy RLP 16. It would therefore be contrary to the local settlement policies identified above. This would harmfully undermine the spatial strategy for the location of housing contained in the development plan.

### *The effect on the character and appearance of the area*

8. The appeal site encompasses a parcel of land located between Gosfield Lawn Tennis Club and Braintree Road. It is generally undeveloped in appearance save for a small area used as an informal car park by the patrons of the tennis club. The appeal site is enclosed on two sides by hedges and this affords it a verdant appearance. That said, the appeal site nevertheless has a semi-rural context due to the combined presence of a pavement along the site frontage, the hard surfaced tennis courts, flood lighting, camp site and fencing to the rear and, significantly, a moderately sized cluster of ribbon housing development to the south, which continues into Peterfields Lane and New Road.
9. The erection of five dwellings at the appeal site would have an inherently urbanising impact that would intrinsically erode and thus harm the open and verdant character of the appeal site. Moreover, if required, the replacement of the existing frontage hedge (as annotated on the illustrative plan) would compound this impact because it is a pleasing landscape feature that mirrors the mature hedge across the road and is contiguous with the planting around 5 Braintree Road. The development would also expand the existing ribbon development further along Braintree Road. This would not result in coalescence with Gosfield due to the small size of the scheme, but it would nevertheless erode the sense of separation and openness between the cluster of houses to the south of the appeal site and Gosfield, which the appeal site

currently contributes to in a modest way. Consequently, the proposal would harm the character and appearance of the site and countryside.

10. However, the impact on the wider landscape would be muted due to the screening provided by the dense landscaping on the other side of the road as well as that to the north. This would ensure the visual envelope of the development was modest, with the appeal scheme mainly being visible from Braintree Road and the access road into the tennis club<sup>2</sup>. The existing houses would be prominent in these limited views and therefore the appeal scheme would be seen as a visually contained and enclosed extension of the existing cluster of development. Moreover, the development would be in a semi-rural context due to it being surrounded by existing development on three sides with a frontage onto an A road. As such, it would not be a discordant or sporadic projection into open countryside. These factors would temper the harm to the countryside such that it would be no more than limited.
11. The existing hedge is not particularly mature and therefore a replacement would have a similar presence in the medium term. This would result in a negative short-term impact. However, the appellant has confirmed in their statement that it would only be necessary to remove some of the hedge to achieve the visibility splays. The combination of retaining some of the existing hedge and supplementing it with new planting would ensure a conflict with Policy RLP 80 of the LP, which seeks to protect landscape features, would not occur. There would also be potential to incorporate trees in the hedge to complement those across the road and for it to be more extensive in its depth. Therefore, there is scope for the development to facilitate an improvement and this can be considered at the reserved matters stage.
12. The submitted illustrative layout suggests a staggered composition to the dwellings with Plots 1 and 2 set back from the notional building line evident in the layout of the existing dwellings to the south. In addition, if the illustrative layout is pursued then the properties would have comparatively small front gardens and would be set behind a dominant access road, the turning head of which would breach the replacement hedge (as would the prominent bin store). Accordingly, the layout as shown would not be sympathetic to the grain of the existing cluster and would undermine the ability of the replacement hedge to soften the development as it matures. Furthermore, the relatively deep form of the dwellings sandwiched between wall to wall parking would give a suburban appearance that would look relatively cramped.
13. That said, the layout is a reserved matter, so the scheme need not be developed in the way indicated on the drawings. Space could be created to give a stronger linear character and larger front gardens if the access road was repositioned or different built forms used. The parking could also be reconfigured, and a different built footprint used, in order to create more space and therefore lessen any perception of the development being cramped. Even within the illustrative layout as presented there is ample space to provide additional landscaping in front and around the dwellings (and along the access drive to the tennis club car park) to soften the built form. As such, a final layout that includes the limitations I have identified, which would be at odds with Policy 90 of the LP and CS9 of the CS, need not be an inevitable

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<sup>2</sup> Which interested parties have suggested is also a permissive footpath

consequence of permitting the appeal scheme. Thus, I am satisfied the appeal site is large enough to accommodate five dwellings in an acceptable manner.

14. The appeal scheme includes a replacement car park at the tennis club. This would be located behind the proposed dwellings and would be viewed with the backdrop of the courts. Consequently, it would not be prominent or out of place. It could also be surfaced in a material that would be appropriate in a rural context, such as the gravel drive serving 5 Braintree Road. Planting secured at the reserved matters stage could also be used around the car park and along the access road to further soften the impact and mitigate for the loss of two apple trees. As such, the car park would not harm the character and appearance of the area.
15. Nevertheless, my overall conclusion is that the appeal scheme would harm the character and appearance of the countryside, albeit to a limited extent in this instance for the reasons given. Accordingly, the proposal would be at odds with Policy RLP 2 of the LP and Policies CS5 and CS8 of the CS, which seek to direct development to sites within the settlement boundaries in order to prevent ribbon development and harm to the landscape of the countryside.

*The adequacy of living conditions for future occupants*

16. The Tennis Club has recently installed flood lights around the central courts<sup>3</sup>. As established earlier, the layout of the proposed development is not before me, but it is nevertheless highly likely that in order to achieve an acceptable composition the dwellings would need to be angled with their rear elevations facing the tennis club. Consequently, the flood lights would be directly behind the proposed dwellings and at a closer distance than existing properties.
17. The appeal is not supported by a specific lighting assessment that considers the potential impacts of the flood lighting on the future occupants of the proposed dwellings. This was considered **necessary by the Council's Environmental Health Team**. However, the design and specification of the flood lights has been submitted. It is unclear why the Council considers this to be inadequate when it was submitted as part of the original application for the flood lights and used as evidence to confirm no harm to the living conditions of neighbouring properties from glare and light spillage.
18. The specification demonstrates that the flood lights have been designed carefully to include baffles and low energy lights. They would also be angled to ensure the light generated is focussed on the tennis courts. As a result, the glare beyond the site should be minimal and would not harm the living conditions of the future occupants of the appeal scheme. This finding is supported by the submitted luminance contour plan, which indicates that the glare would only just enter the appeal site at ground level and therefore light spill into the gardens could be prevented with boundary treatment. Moreover, the operating hours of the flood lights are controlled through a planning condition imposed on application 18/00027/FUL. Therefore, they would not be on during the night-time and therefore interfere with sleep.
19. In conclusion, I am satisfied that the existing flood lighting would not harm the living conditions of future occupants and therefore a conflict with Policy RLP90 of the LP and CS9 of the CS would not occur.

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<sup>3</sup> Planning approval 18/00027/FUL

### *The effect on highway safety*

20. The proposal would intensify the use of the existing access and therefore it is a point of common ground between the appellant and the Council that adequate visibility splays of 2.4m by 120m to the south and 2.4m x 97.5m to the north should be provided and maintained, especially as the stretch of Braintree Road in the vicinity of the appeal site is subject to a 40 mile per hour speed limit and cars approaching from the north have to negotiate a bend in the road.
21. Drawing GTC/02 identifies the necessary visibility splays. When these are crossed referenced with the **plan in Appendix 1 of the appellant's statement** it is apparent that the visibility splays would be contained within land in the **appellant's control or the public highway**. The Council has not disputed the **accuracy of the appellant's evidence or provided** anything of substance to contradict it. Therefore, I am satisfied the site access can be constructed with adequate visibility in both directions and therefore it would be both safe and suitable. Accordingly, a conflict with Policy RLP 90 of the LP, or DM1 of the **Highway Authority's Development Management Policies 2011**, would not occur.

### Other Matters

22. The Council has referred to the appeal site as including an allotment area and an interested party as suggested that local residents have grown fruit and vegetables on the land. However, there is nothing of substance before me that demonstrates the dwellings would occupy a formal allotment or other type of public open space that offers opportunities for sport and recreation.
23. After considering the information available **I share the view of the Council's** Ecology Officer that the proposal would be unlikely to harm protected species subject to the imposition of the planning conditions they have recommended. The concerns relating to land ownership expressed by interested parties are civil matters outside the scope of this appeal. The appellant has signed Certificate A in the application form to confirm ownership of the land required to undertake the development.
24. I have not been directed to any other sites around Gosfield where development is likely to take place and the circumstances at the appeal site are replicated. Therefore, a harmful precedent would not be set by my decision. The position of windows and the height of the proposed dwellings could be designed in a way that would safeguard the privacy of the residents of 7 Braintree Road. Moving the existing car park to the rear of the site would not result in a harmful level of noise and disturbance as there is already activity at the site and landscaping could be used to provide a buffer between the access/car park and the garden of No 7. This could be secured at the reserved matters stage.
25. **The evidence before me does not demonstrate the Council's emerging Section 2 Draft Local Plan** is at an advanced stage of preparation and consequently there is potential for further amendments following consultation and examination. As such, the emerging policies referred to by the Council in its reason for refusal carry limited weight and have not been determinative in my assessment of the proposal.

### Planning Balance

26. The proposal would not prejudice highway safety and the living conditions of future occupants would not be inherently harmed by the glare from the nearby

flood lights. However, the proposal would be at odds with the **Council's** adopted spatial strategy in Policies RLP2 of the LP and CS5 of the CS and it would result in some limited harm to the countryside contrary to Policy CS8 of the CS. Thus, it would be at odds with the development plan as a whole. A development should be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy **Framework (the 'Framework')** is a material consideration of significance.

27. The Council are currently unable to demonstrate a five-year housing land supply at odds with Paragraph 73 of the Framework. The supply is presently around 4.51 years. The Council are therefore failing to significantly boost the supply of housing. In such circumstances, Paragraph 11 of the Framework states that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when considered against the policies in the Framework taken as a whole.
28. As an adverse impact, the proposal would undermine the spatial strategy in the development plan but a rigorous application of Policies RLP 2 and CS5 would frustrate attempts to remedy the housing shortfall. That said, the identification of settlement boundaries can be a useful tool in addressing some of the aims in the Framework, such as recognising the intrinsic character and beauty of the countryside whilst allowing some housing to support the vitality of local services. As such, Policy RLP 2 of the LP and Policy C5 of the CS are not entirely inconsistent with the Framework and therefore the conflict with them carries moderate weight. Similarly, the negative impact to the countryside would be at odds with **Framework's aims** of ensuring developments are sympathetic to local character. Nevertheless, the harm I have identified would be limited for the reason already given.
29. Conversely, the proposal would deliver several benefits. It would contribute to housing supply and choice at a point in time when there is a shortfall. Due to the scale of the proposal it is likely the housing could be delivered quickly but the **appellant has not disputed the Council's proposition that the shortfall is modest**. In the circumstances, the provision of housing is a moderate benefit.
30. In addition, the housing would not be isolated being surrounded by existing development. It would also be connected to Gosfield by a pavement, which is a reasonably well served settlement a short distance to the north. There is also a bus stop outside the site. Accordingly, the proposal would be quite well placed to assist the vitality of a rural community. However, there is little evidence before me to suggest five additional households would have a notable economic or social effect. The proposal would provide some support to the construction industry, but this would be limited in scale and short lived. Thus, the weight I attach the potential socio-economic benefits is limited.
31. The appellant has stated that the entire uplift in the value of the land would be reinvested into the tennis club to upgrade facilities and provide a trust fund. This has the potential to be a significant local benefit that would secure the financial sustainability of the club into the future. However, little evidence has **been submitted regarding the club's** current financial position and its revenue streams. It's therefore difficult to gauge to what extent the sale of the land is necessary. Moreover, there is nothing to suggest the club is in decline due to the quality of its current facilities. That said, the windfall derived from the sale



of the land would still considerably benefit the club, which is a not for profit community sports facility. I therefore attach this benefit moderate weight.

32. When taken cumulatively, the moderate adverse impacts of the appeal scheme would not significantly and demonstrably outweigh its moderate benefits. This is a material consideration that indicates the appeal should be determined otherwise than in accordance with the development plan.

#### Conditions

33. I have had regard to the advice in the Planning Practice Guide and it is necessary in the interests of safeguarding the character and appearance of the area and the living conditions of neighbours to secure the approval of the reserved matters. To protect yet unknown archaeology a condition is necessary requiring a scheme of investigation. In the interests of highway safety, it is necessary to secure a detailed access design and the provision of visibility splays. In the interests of safeguarding and enhancing biodiversity it is necessary to impose those conditions **recommended by the Council's Ecologist**.

#### Conclusion

34. In conclusion, the proposed development would not adhere to the development plan but material considerations, namely the Framework, indicate that the appeal should be determined otherwise than in accordance with the development plan. Accordingly, the appeal should succeed.

*Graham Chamberlain*  
INSPECTOR

### Schedule of Planning Conditions

1. Approval of the details of access (in so far as it relates to internal circulation), scale, layout, appearance and landscaping (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before the development is commenced.
2. Application for the approval of the reserved matters must be made not later than the expiration of three years beginning with the date of this permission.
3. The development to which this permission relates shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
4. No development or preliminary groundworks of any kind shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority. For the avoidance of doubt, the development shall be implemented in accordance with the approved scheme.
5. The development hereby approved shall not be commenced until the proposed vehicular site access to Braintree Road has been constructed in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The vehicular access shall be provided with visibility splays of 2.4m x 120m to the south and 2.4 x 97.5m to the north. Thereafter the visibility splays shall be kept permanently clear of any obstruction above 0.6 metres above ground level.
6. A Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following: a) Purpose and conservation objectives for the proposed enhancement measures; b) detailed designs to achieve stated objectives; c) locations of proposed enhancement measures by appropriate maps and plans; d) persons responsible for implementing the enhancement measures; e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details prior to the first occupation of the dwellings and shall be retained in that manner thereafter.

7. 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 (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) 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 circumstances should any other external lighting be installed without prior written consent from the local planning authority.



PART A

AGENDA ITEM NUMBER 5b

APPLICATION NO: 21/00930/FUL

DATE: 23.03.21

NO:

VALID:

APPLICANT: C/O Agent

AGENT: Mr Sid Hadjioannou  
Turley, 8 Quay Court, Colliers Lane, Stow-cum-Quay,  
Cambridge, CB25 9AU

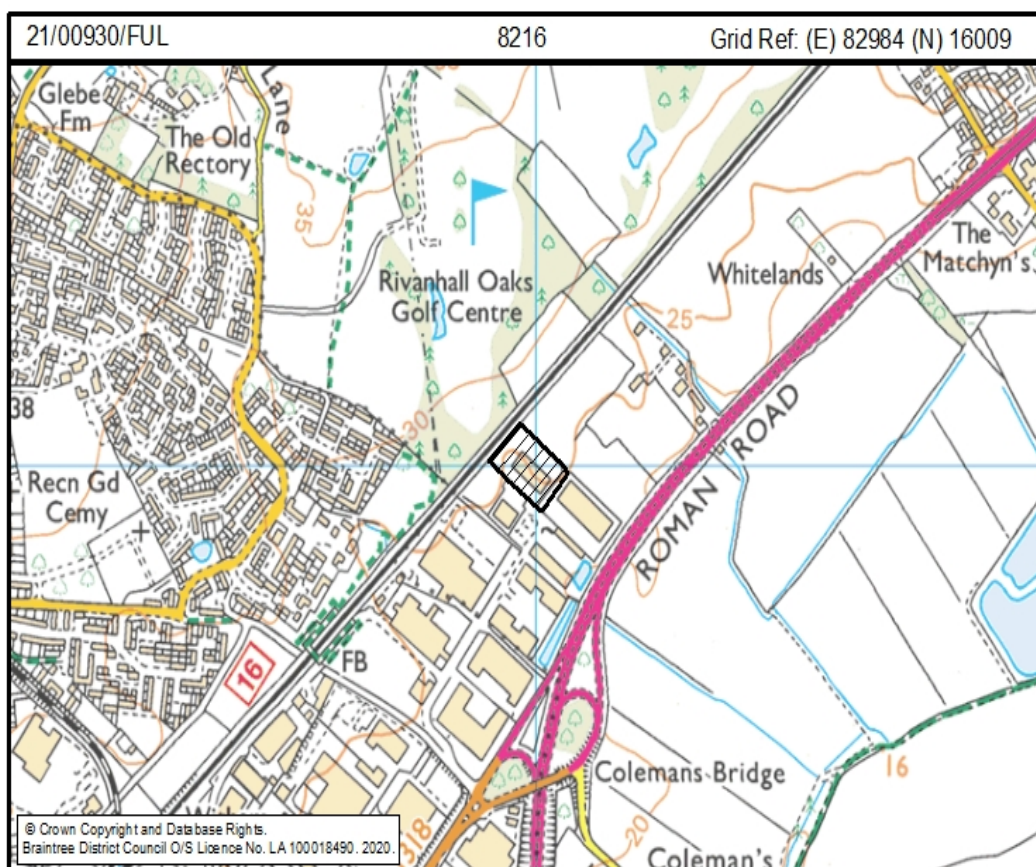
DESCRIPTION: Alterations to the Witham Body Repair Centre site to include a two storey extension and associated servicing, car parking and landscaping works.

LOCATION: Witham Body Repair Centre, Waterside Business Park,  
Eastways, Rivenhall, Essex, CM8 3YQ

For more information about this Application please contact:

Fiona Hunter on:- 01376 551414 Ext. 2521

or by e-mail to: [fiona.hunter@braintree.gov.uk](mailto:fiona.hunter@braintree.gov.uk)



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QQEX22BFK8000>

## SITE HISTORY

02/00041/FUL	Erection of Mercedes-Benz after-sales centre	Granted	16.04.02
02/01564/FUL	Erection of security cabin at entrance to after-sales centre	Granted	19.09.02
02/02268/ADV	Display of signage	Granted	02.01.03
04/01507/ADV	Display of signage	Granted	08.09.04
88/02510/P	Erection Of B1 Units	Granted	21.02.89
05/01773/ADV	Display of double sided internally illuminated alternative pylon sign with additional module	Granted	20.01.06
20/00551/ELD	Application for a Lawful Development Certificate for an Existing Use - Use Class B8 (Storage and Distribution).	Granted	13.05.20
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

## 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. 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 some 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

RLP2	Town Development Boundaries and Village Envelopes
RLP28	Employment Land Provision
RLP30	Diversity of Industrial and Commercial Premises
RLP31	Design and Layout of Business Parks
RLP33	Employment Policy Areas
RLP34	Buffer Areas between Industry and Housing
RLP35	Non-Conforming and Un-Neighbourly Industry
RLP36	Industrial and Environmental Standards
RLP55	Travel Plans

RLP56	Vehicle Parking
RLP62	Development Likely to Give Rise to Pollution or the Risk of Pollution
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodland Grasslands and Hedgerows
RLP90	Layout and Design of Development

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

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

SP1	Presumption in Favour of Sustainable Development
SP5	Employment
SP7	Place Shaping Principles

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

LPP1	Development Boundaries
LPP2	Location of Employment Land
LPP3	Employment Policy Areas
LPP7	Design and Layout of Employment Policy Areas and Business Uses
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development
LPP67	Natural Environment and Green Infrastructure
LPP69	Tree Protection
LPP70	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP71	Landscape Character and Features
LPP72	Green Buffers
LPP78	Flooding Risk and Surface Water Drainage

#### Supplementary Planning Guidance

External Lighting Supplementary Planning Document  
Open Spaces Supplementary Planning Document  
Open Spaces Action Plan  
Essex Parking Standards 2009

#### 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 application site measures approximately 0.97 hectares and is located within the Witham Town Development boundary, on the Eastways Industrial Estate. The site currently consists of an industrial unit, utilised as a vehicle repair centre. The site is bounded to the south east and south west by industrial units. To the North West lies the railway line and to the north east is countryside.

## PROPOSAL

The proposal is for the construction of a two storey extension to the rear of the site, which would measure approximately 26 metres in width and 68 metres in depth. It would provide an additional 1,935sq.m of floorspace bringing the total floorspace provided to 4,251sq.m. The extension would feature ancillary office space at ground floor and first floor level, along with an extension to the existing vehicle servicing area at ground floor level. The extension has been designed to mimic the design of the existing structure, and would be clad in silver composite cladding panels to match that of the existing. The proposal would feature fenestration to the front elevation, and roller shutter doors to the rear to provide access to the service area.

The application is supported by relevant documents which include:

- A full set of drawings
- Planning Statement
- Design and Access Statement
- Tree Protection Plan and Arboricultural Assessment and Method Statement
- Air Quality Assessment
- Archaeological Assessment
- Biodiversity Survey

## SUMMARY OF CONSULTATION RESPONSES

### Anglian Water

No response received at the time of preparing this report. Officers will update Members at the Planning Committee.

### ECC Highways

Following clarification over number of employees, no objection to the proposal subject to conditions regarding a Construction Management Plan and a workplace travel plan.

#### ECC Archaeology

No objection subject to conditions regarding a programme of archaeological and geo-archaeological evaluation and mitigation.

#### HSE

Does not advise against.

#### Cadent Gas

No objection.

#### Lead Local Flood Authority – ECC SuDS

No response received at the time of preparing this report. Officers will update Members at the Planning Committee.

#### Natural England

No comments.

#### BDC Ecology

No objection subject to securing biodiversity mitigation and enhancement measures.

#### BDC Landscapes

No objection, subject to clarification of planting numbers and compliance with the Arboricultural Method Statement.

#### PARISH / TOWN COUNCIL

##### Witham Town Council

Recommend approval subject to the use of renewable energy measures.

#### REPRESENTATIONS

A site notice was displayed at the site for 21 days and no representations have been received.

#### REPORT

#### PRINCIPLE OF DEVELOPMENT

Policy SP5 of the Section 1 Plan, states that a strong, sustainable and diverse economy will be promoted across North Essex.

Policy RLP28 refers to land that is allocated for employment on the main industrial estates and business parks, as shown on the Proposals Map. On these sites, the following uses will be considered appropriate:

- a) Business (B1), general industrial (B2), storage and distribution (B8);
- b) Display repair and sale of vehicles, vehicle parts, boats and caravans;
- c) Indoor sports or recreational uses;
- d) A limited element of retailing where this is ancillary to another main use permitted under (a) above;
- e) Services specifically provided for the benefit of businesses based on, or workers employed within, the Employment Zone.

Policy LPP3 of the Section 2 Plan states that employment policy areas are identified on the proposals map where the following uses will be considered appropriate and will be permitted and retained:

- a) Business, general industrial, and storage and distribution
- b) Repair of vehicles and vehicle parts
- c) Waste management facilities as appropriate taking into account neighbouring uses
- d) Services specifically provided for the benefit of businesses or workers based on the employment area

As stated in Policy RLP36 of the Adopted Local Plan, planning permission will not be granted for new development, extensions and changes of use, which would have an unacceptable impact on the surrounding area, as a result of: noise, smell, dust, grit or other pollution, health and safety, visual impact, traffic generation, contamination to air, land or water, impact on nature conservation interests and unacceptable light pollution.

The above is also reiterated within Policy RLP62 of the Adopted Local Plan, which indicates that applications likely to give rise to pollution will be refused.

The proposal is considered to be acceptable in principle, subject to meeting the abovementioned criteria and other material considerations.

## SITE ASSESSMENT

### Design and Layout

Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Section 2 Plan require designs to recognise and reflect local distinctiveness in terms of scale, design, height and massing of buildings, and be sensitive to the need to conserve local features of architectural and historic importance, and also to ensure development affecting the public realm shall be of a high standard of design and materials, and use appropriate landscaping.

The proposal is for the construction of a two storey extension to the rear of the site, which would measure approximately 26 metres in width and 68 metres in

depth. It would provide an additional 1,935sq.m of floorspace bringing the total floorspace provided to 4,251sq.m. The extension would feature ancillary office space at ground floor and first floor level, along with an extension to the existing vehicle servicing area at ground floor level. The extension has been designed to mimic the design of the existing structure, and would be clad in silver composite cladding panels to match that of the existing. The proposal would feature fenestration to the front elevation, and roller shutter doors to the rear to provide access to the service area.

The proposed extension is a significant addition to the existing building, almost doubling the existing floorspace on the site. However, it is considered that the scale of development is appropriate to the site and justification has been provided to illustrate the need for the proposal. Whilst the proposal would represent a large structure compared to the existing structure, it is considered that the proposal would be in keeping with the design and appearance of the existing building.

With regards to the visual impact on the wider street scene, the proposal would be located towards the far corner of the industrial estate and would not have a detrimental impact in terms of appearance of the industrial setting.

#### Impact on Neighbouring Residential Amenities

Policy SP7 of the Section 1 Plan states that all new development must meet high standards of urban and architectural design. Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Section 2 Plan state that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties. The NPPF further requires a good standards of amenity for all existing and future occupiers of land or buildings. Policy RLP36 of the Adopted Local Plan further states that planning permission will not be granted which would have unacceptable impact on the surrounding area.

The proposal is located within an existing industrial estate, outlined as an employment zone within the Adopted Local Plan. The application seeks an extension to the existing facilities for the application site. Due to the location of the site within an industrial estate, it is not considered that there would be any harmful impact on neighbouring amenity.

#### Highway Considerations

Policy RLP56 of the Adopted Local Plan requires that all new development is provided with sufficient vehicle parking in accordance with Essex County Council's Vehicle Parking Standards.

Following clarification of proposed employee numbers, ECC Highways raise no objection to the proposals subject to conditions regarding a Construction Management Plan and a travel plan. The ECC Highways consultation response notes that the Eastways Industrial Estate can experience traffic over capacity during the PM peak, however the information provided by the



applicant illustrates that the proposal would be unlikely to have a severe impact on the local highway network.

In terms of parking, the application site currently benefits from a notional 253 parking spaces currently. The proposed extension to the building and alterations to create a dedicated area for loading and unloading vehicles from articulated lorries will see a reduction in available formal car parking spaces to 113.

The Council's adopted parking standards do not specify a minimum number of parking spaces for commercial premises - the standard is expressed as a maximum. The enlarged building, with a mix of office and industrial floor space, should have a maximum of 105 car parking spaces under the standard. However the applicant has advised that they anticipate approximately 50 employees working at the site when the building is extended (currently the number of employees is advised to be 25).

There are a number of factors to consider. Whilst there is a significant reduction in parking spaces that will be available as a result of the proposals the provision will still exceed the Council's maximum standard. The number of spaces will also exceed the anticipated number of employees, however Officers need to be mindful that the ownership of the site and the nature of the business could change in the future so the Council should be satisfied that there is an appropriate level of vehicle parking.

Because of the nature of the business in addition to staff parking there are vehicles being brought to the site by customers as well as the business on articulated lorries. Whilst cars are worked on within the building there is a need to store some vehicles outside whilst they wait for parts or workshop time. The Council would not want vehicles to have to be parked outside the site and obstruct the highway so it is necessary to make sure that there is an appropriate level of parking within the site. Having considered all these factors and observed how the site currently operates Officers are satisfied that the level of vehicle parking within the site is justified and acceptable.

The applicant has also proposed the provision of new covered bicycle stands and a total of 36 cycle spaces will be provided in a prominent location near the entrance to the building. The provision of the cycle stands should be secured by condition.

### Landscapes and Ecology

Policy CS8 of the Core Strategy specifies that development must have regard to the character of the landscape and its sensitivity to change. Where development is permitted, it will need to enhance the locally distinctive character of the landscape in accordance with the Landscape Character Assessment.

Policy RLP80 of the Adopted Local Plan states that proposals for new development will be required to include an assessment of their impact on

wildlife and should not be detrimental to the distinctive landscape features and habitats of the area such as trees, hedges, woodlands, grasslands, ponds and rivers, and that development that would not successfully integrate into the local landscape will not be permitted.

The proposal is located within the Eastways Industrial estate, bound to the North West by the railway, and to the north east by a landscape buffer forming the boundary with the countryside. This landscape buffer forms an important distinction between the industrial estate and the wider countryside. The proposal features the introduction of a number of landscape enhancements and biodiversity measures, and an arboricultural method statement has been provided to illustrate any impact on the existing boundary hedge line. The Landscapes consultant has raised no objection to the proposal, following clarification on the proposed new planting, subject to compliance with the Arboricultural Method Statement.

The Council's Ecological Consultant has raised no objection to the proposals, subject to compliance with the Preliminary Ecological Appraisal and the provision of a biodiversity enhancement strategy. The proposal therefore complies with Policy RLP80 of the Adopted Local Plan.

#### Flooding and Surface Water Drainage

Policy LPP78 of the Section 2 Plan states that proposals should be located to avoid the risk of flooding. The application site is located within Flood Zone 1, which has the lowest probability of flooding. In accordance with Policy LPP78 a preliminary drainage strategy has been provided. This states that the site currently drains into the River Blackwater via an existing Anglian Water piped connection. The preliminary drainage strategy states that the applicant will install underground storage within the site which will allow surface water run-off from the new area of development and then for control systems to discharge the water at a controlled rate which provide 50% betterment. At the time of writing the Council has not received consultation responses from Anglian Water or the SuDS team at Essex County Council. Officers will update Members at the Committee meeting on responses that have been received and whether any additional conditions are recommended in respect of either foul or surface water drainage.

#### Archaeology

The site has the possibility of containing archaeological remains. As such, in accordance with the recommendations of the Archaeological Officer, conditions would be attached to secure appropriate investigation and mitigation where appropriate.

#### PLANNING OBLIGATIONS

Policy SP6 of the Section 1 Plan states that all development must be supported by the provision of the infrastructure, services and facilities that are

identified to serve the needs arising from the development, which could include transportation and travel and Social Infrastructure.

Paragraph 57 of the NPPF sets out that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. This is in accordance with Regulation 122 of the Community Infrastructure Levy (CIL) Regulations.

The following are identified as being those matters that the District Council would seek to secure through a planning obligation, if it were preparing to grant permission and the applicant has agreed to enter into a S106 agreement in respect of these matters.

### Open Space

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

The Council's Open Space SPD sets out further details on how these standards will be applied. The SPD states that the threshold at which developments should make a financial contribution towards the provision of new or improved Open Space is 1,000sq.m. The financial contribution is calculated to make a proportionate contribution towards the provision of off-site public open space (amenity greenspace and outdoor sports).

The applicant has agreed the following contribution which is consistent with the Council's Open Space SPD:

- £13,479 towards the provision of new, or improvements to existing areas, of amenity greenspace and / or outdoor sports identified in the Council's Open Spaces Action Plan in the town of Witham.

### Travel Plan Monitoring Fee

Policy RLP55 of the Adopted Local Plan Review states that the Council will require applicants of major new developments to formulate and implement travel plans. The applicants Transport Statement indicates their intention to create a Travel Plan to encourage employees to use more sustainable transport options to get to work. Due to the size of the development and the possible number of new employees who would be employed at the site ECC Highways have also recommended that a travel plan should be created and implemented. ECC Highways have also requested a monitoring fee of £6,132 in order that the Sustainable Travel Plan team at ECC can monitor the Travel Plan implementation for a period of five years.

- £6,132 towards the monitoring of a Workplace Travel Plan (which is required by planning condition)

These contributions would be secured through the S106 Agreement.

## CONCLUSION

The applicant seeks planning permission for the erection of a two storey extension to an existing industrial unit located within the Eastways Industrial Estate. The proposal is considered to accord with the abovementioned policies in terms of extensions to industrial units within an employment zone. The proposal is also considered to be acceptable in terms of design and appearance and, subject to conditions, on highway grounds. Therefore, the application is recommended for approval.

## RECOMMENDATION

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:

- Workplace Travel Plan – Financial contribution of £6,132 (index linked) towards a 5-year period monitoring fee of a Workplace Travel Plan.
- Public Open Space – Financial contribution of £13,479 (index linked) towards the provision of new, or improvements to existing areas, of amenity greenspace and / or outdoor sports identified in the Council's Open Spaces Action Plan in the town of Witham.

The Planning Development Manager be authorised to GRANT planning permission under delegated powers subject to the conditions and reasons set out below and in accordance with approved plans.

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

## APPROVED PLANS

Tree Plan consultancy)	Plan Ref: AMS, 21030-AA-PB (barrel tree Version: Feb 2021
Proposed Floor Plan	Plan Ref: AB0202 P01
Proposed Roof Plan	Plan Ref: AB0203 P01
Proposed Sections	Plan Ref: AB0701 P01
Proposed Elevations	Plan Ref: AB0802 P01
Location Plan	Plan Ref: AL0101 P01
Proposed Site Plan	Plan Ref: AL0202 P01
Cycle Plan	Plan Ref: Apollo Cycle Shelter - BXMW/AP
Landscape Masterplan	Plan Ref: AL0204 P02

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

Reason

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

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

Reason

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

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

Reason

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

- 4 No development shall commence, including any ground works or demolition, until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The Construction Management Plan shall provide details for:
  - i. the parking of vehicles of site operatives and visitors
  - ii. loading and unloading of plant and materials
  - iii. storage of plant and materials used in constructing the development
  - iv. wheel and underbody washing facilities

The approved Construction Management Plan shall be adhered to throughout the construction period.

Reason

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

- 5 No occupation of the development shall take place until a Workplace Travel Plan has been submitted to and approved by the Local Planning Authority in consultation with Essex County Council. Such approved travel plan shall be actively implemented for a minimum period of 5 years.

Reason

In the interests of reducing travel by car and promoting sustainable development, in accordance with policies DM1, DM9 and DM10 of the

Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011 and Policy RLP55 of the Local Plan Review (2005).

- 6 All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Greengage, March 2021) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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).

- 7 Prior to first use of the extension hereby permitted, a Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

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

Reason

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

- 8 No development or preliminary groundworks shall commence 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 by the applicant, and approved by the local planning authority.

Reason

The site may be of archaeological interest.

- 9 No development or preliminary groundworks shall commence on those areas containing archaeological or geoarchaeological deposits until the satisfactory completion of fieldwork, as detailed in a mitigation strategy,

and which has been signed off and approved by the local planning authority in consultation with its historic environment advisors.

Reason

The site may be of archaeological interest.

- 10 The applicant will submit to the local planning authority a post-excavation assessment (to be submitted within six months of the completion of 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.

- 11 Development shall not be commenced until a Construction Method Statement in respect of trees, produced in accordance with the heads of terms contained within Section 2.5 of the Arboricultural assessment & method statement, 21030-AA-PB (Produced by Barrel Tree Consultancy, Feb 2021), has been submitted and approved in writing by the Local Planning Authority. The Construction Method Statement for Trees shall include a Detailed Tree Protection Plan (DTPP) indicating retained trees, trees to be removed, the precise location and design of protective barriers and ground protection, service routing and specifications, areas designated for structural landscaping to be protected and suitable space for access, site storage and other construction related facilities.

The Construction Method Statement for Trees shall include details of the appointment of a suitably qualified Project Arboricultural Consultant who will be responsible for monitoring the implementation of the approved Construction Method Statement, 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.

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

Following each site inspection during the construction period the Project Arboricultural Consultant shall submit a short report to the local planning authority.

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

Reason

To ensure that existing trees and shrubs that are to retained are suitably

protected during the construction period in order that they may continue to enhance the appearance of the development.

- 12 The scheme of landscaping indicated upon the approved plans, shall be carried out in the first planting and seeding seasons after the first beneficial use of the development hereby approved. 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 unless the local planning authority gives written consent to any variation.

Reason

To enhance the appearance and ecological value of the development

- 13 The approved bicycle parking facilities as shown on the approved plan 'Apollo Cycle Shelter - BXMW/AP' with 36 bicycle parking spaces shall be provided prior to the first beneficial use of the new extension/building and shall be retained at all times.

Reason

To ensure that there are appropriate cycle parking facilities for employees and visitors to use and to promote more sustainable forms of transport.

INFORMATION TO APPLICANT

1 All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to: SMO1 - Essex Highways, Ardleigh Depot, Harwich Road, Ardleigh, Colchester, Essex CO7 7LT

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

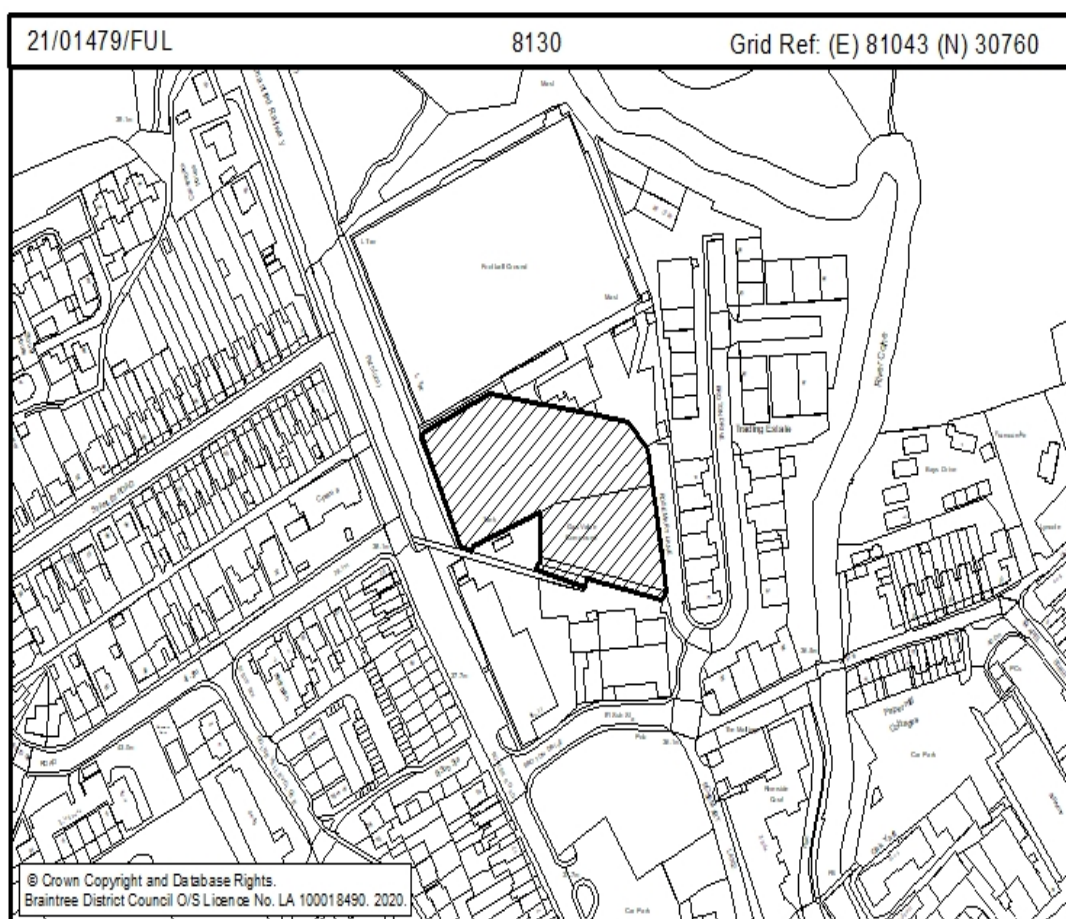


PART A

AGENDA ITEM NUMBER 5c

APPLICATION NO: 21/01479/FUL  
DATE VALID: 19.05.21  
APPLICANT: Frank Ladkin  
Framar Developments, The Old Coal Yard, 61 Alderford St,  
Sible Hedingham, CO9 3HX,  
AGENT: DLDS  
David Lambert, 10 Gowers End, Glemsford, Sudbury, CO10  
7UF, United Kingdom  
DESCRIPTION: Erection of 2no. buildings comprising 7no. commercial units  
(B2) with associated access road, paths, bin stores and  
electrical substation.  
LOCATION: Land West Of, Rosemary Lane, Halstead, Essex,

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



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QSOXSEBF L6200>

## SITE HISTORY

10/00070/FUL	Erection of single storey extension to existing industrial unit	Granted	02.03.10
08/01622/FUL	Demolition of remaining fire damaged structures and construction of new building for B1, B2 and B8 use and/or motor vehicle showroom, vehicle repairs and ancillary supply and sale of motor vehicle parts	Granted	15.10.08
89/02087/P	Change Of Use From Class B8 To Class B2	Granted	09.01.90
17/00888/COUPA	Notification for Prior Approval for a Change of Use from Shops (Class A1), Financial and Professional Services (Class A2), Betting Offices, Pay Day Loan Shops and Casinos (Sui Generis Uses) to Restaurants and Cafes (Class A3) - Small commercial kitchen	Application Returned	
09/00890/FUL	Proposed flood lighting	Granted	02.09.09

## 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. 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 some 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

RLP3	Development within Town Development Boundaries and Village Envelopes
RLP27	Location of Employment Land
RLP30	Diversity of Industrial and Commercial Premises
RLP36	Industrial and Environmental Standards
RLP53	Generators of Travel Demand
RLP56	Vehicle Parking
RLP64	Contaminated Land
RLP69	Sustainable Urban Drainage
RLP90	Layout and Design of Development

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

CS7	Promoting Accessibility for All
CS10	Provision for Open Space, Sport and Recreation

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

SP1	Presumption in Favour of Sustainable Development
SP6	Infrastructure & Connectivity
SP7	Place Shaping Principles

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

LPP1	Development Boundaries
LPP2	Location of Employment Land
LPP3	Employment Policy Areas

LPP7	Design and Layout of Employment Policy Areas and Business Uses
LPP44	Sustainable Transport
LPP45	Parking Provision
LPP53	Provision of Open Space, Sport and Recreation
LPP55	Layout and Design of Development
LPP70	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP73	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP79	Surface Water Management Plan
LPP80	Sustainable Urban Drainage Systems
LPP82	Infrastructure Delivery and Impact Mitigation

### Neighbourhood Plan

None

### Other Material Considerations

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

### INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to Planning Committee in accordance with 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 application site is located within the Town Boundary of Halstead. The application site comprises an area of land approximately 5,400sq.m in size, accessed via Rosemary Lane. The site is currently vacant and is overgrown.

To the north is Halstead Town Football Club and immediately adjacent to the boundary are the club facilities and car park. To the south is a mixed use commercial area currently including an MOT test centre, a Door and Window company, and a Car Body Repair company.

A public footpath runs along the west boundary of the site and continues down the southern boundary towards Rosemary Lane. This path also connects with Butler Road.

A gas valve compound is adjacent to the south west corner of the site and this has an access via a right of way running to the compound from Rosemary Lane. The site is reasonably level with a slight incline from east to west.

Part of the site lies in an Employment Policy Area and the remainder of the site is allocated in the Adopted Local Plan as Employment Land.

## PROPOSAL

The application proposes two new industrial buildings that would contain 7no. B2 units. The larger of the two buildings would contain 6no. units with car and bike parking arranged to the front of the new units. The rear of this building would align with the northern boundary of the site with the football ground.

The plans submitted for this building indicate a ground floor only, however the scale and appearance of the proposed building is more akin to a two storey building. Within the Design and Access Statement, it states that a second floor could be accommodated within the building by the inclusion of a set of internal stairs.

The smaller of the two buildings, would contain Unit 7 and is located in the southern portion of the site, adjacent to the access road that serves the gas valve compound. Six parking spaces are shown to the east of the building. A further 5 unallocated spaces are shown to the west of Unit 7.

This building would have a maximum overall height of 8.5m and shown to be a single storey building.

An access road through the centre of the site is proposed and this would serve all of the proposed parking spaces.

## SUMMARY OF CONSULTATION RESPONSES

### National Grid

No objection, suggest an informative to be added.

### Environment Agency

No objection but request conditions regarding groundwater and contaminated land.

### ECC Suds

No objection.

### ECC Archaeology

No objection, suggest a number of conditions.

### ECC Highways

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions regarding the submission of a construction traffic management plan and a work place travel plan.

### BDC Economic Development

No comments received.

### BDC Environmental Health

No objection.

### Anglian Water

No comments received.

### Essex Fire and Rescue

#### **Access**

Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 - Section 13 and is acceptable provided that the arrangements are in accordance with the details contained in the Approved Document to Building Regulations B5. More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.

#### **Water Supplies**

The architect or applicant is reminded that additional water supplies for firefighting may be necessary for this development. The architect or applicant is urged to contact the Water Technical Officer at Service Headquarters, telephone 01376-576344.

#### **Sprinkler Systems**

“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. Even where not required under Building Regulations guidance, ECFRS would strongly recommend a risk based approach to the inclusion of AWSS, which can substantially reduce the risk to life and of property loss. We also encourage

developers to use them to allow design freedoms, where it can be demonstrated that there is an equivalent level of safety and that the functional requirements of the Regulations are met”.

#### Health and Safety Executive

HSE does not advise, on safety grounds, against the granting of planning permission in this case.

#### BDC Ecology

No objection subject to securing biodiversity mitigation and enhancement measures.

#### Essex Police

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

We do have the following concerns with the layout 1) The artist impression seems to show hedging potentially above 1.2m, in order to maximise natural surveillance care needs to be taken within the landscape design that planting is not the detriment of lighting or any surveillance whether natural or CCTV, 2) The bin store near the gas valve has overhanging trees potentially being an greater arson risk should contents of the bin be ignited, 3) The cycle hoops for units 4-6 are under windows potential providing a climbing aid to entering via a window. To comment further we would require the finer detail such as the proposed lighting, boundary treatments and physical security measures.

#### PARISH / TOWN COUNCIL

##### Halstead Town Council

No objection, but pointed that this could be an opportunity to improve the area through landscaping and tree planting. Noted issues regarding flood risk and possible contamination.

#### REPRESENTATIONS

No representations received.

#### REPORT

##### Principle of Development

Currently the Council's statutory Development Plan consists of the Braintree District Local Plan Review (2005) and the Braintree District Core Strategy (2011), and the Braintree District Shared Strategic Section 1 Local Plan (2021).

Part of the site lies in an Employment Policy Area and the remainder of the site is allocated in the Adopted Local Plan as Employment Land. Policy RLP33 of the Adopted Local Plan states that within defined Employment Policy Areas proposals for uses other than those within Use Classes B1, B2, and B8 will be refused. Policy RLP28 of the Adopted Local Plan states a B2 use if appropriate on land that is allocated for employment land. This is reflected in emerging Policy LPP3 of the Section 2 Plan. Policy LPP2 of the Section 2 Local Plan states that all employment sites, including sites or buildings in current or recent use as an employment site, will be retained for such uses where they continue to offer a viable and sustainable location for such employment uses.

Furthermore, turning aside from the Development Plan, Paragraph 81 of the National Planning Policy Framework (NPPF) states that planning policies and decisions should help create the conditions in which business can invest, expand and adapt. Additionally, it asserts that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

To summarise, the principle of the proposed development would be in accordance with the provisions of the Development Plan, in addition to the emerging Section 2 Plan.

The principle of the proposed development also accords with the economic objectives set out within the NPPF.

To ensure that the B2 use is retained in the two new buildings, it is considered necessary to impose a condition removing permitted development rights for the use to change without the consent of the Local Planning Authority.

#### Design, Appearance, Layout and Landscaping

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'.

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. To achieve this developments must be visually attractive as a result of good architecture, layout, and effective landscaping. Moreover, developments must establish 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.

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.

Policy SP6 of the Section 1 Plan, Policies RLP3, RLP10, and RLP90 of the Adopted Local Plan, and Policies LPP37, LPP50 and LPP55 of the Draft Section 2 Plan all reflect the NPPF and NDG by seeking the highest possible standards of design and layout in all new development, including the need for the overall design of buildings, layouts and landscaping to reflect or enhance the area's local distinctiveness. Additionally, Policy RLP31 of the Adopted Plan and Policy LPP7 of the Section 2 Plan both specifically address the need for such requirements to be instilled into new employment developments, including within Employment Policy Areas.

The application site is surrounded by existing commercial units in Rosemary Lane and Broton Drive. The surrounding buildings have a mixed appearance with a variety of styles and materials. The two new buildings have a simple but pleasing appearance and are considered to be a welcome addition to a vacant brownfield site in Halstead and are designed to be fit for purpose.

At present the proposals do not include a landscaping scheme, however a suitable worded condition is recommended to ensure that an appropriate scheme is agreed.

Essex Police have raised some concerns regards the height of potential boundary landscaping and the impact it may have on lighting and natural surveillance. A condition requiring the submission of landscaping details is recommended and therefore the height of hedging can be considered at this stage.

Essex Police have also raised comments regarding the siting of the cycle loops for units 4-6 given they could provide easier access in to the ground floor windows. Although this is appreciated the provision of cycle parking is considered beneficial and it is well positioned to serve the unit to which it relates. This matter could be dealt with by including security provisions inside the building and would be for the future occupier.

#### Impact on Neighbour Amenity

Policy RLP90 of the Adopted Local Plan, Policy SP7 of the Section 1 Plan, and Policies LPP37 and LPP55 of the Section 2 Plan, all emphasise the need to protect the amenity of nearby properties, by preventing any loss of privacy, increase in overshadowing, loss of light, or overbearing impact. Likewise, the NPPF seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

There are no residential properties within the immediate locality of the site and the nearest residential properties would be sufficiently distanced from it to prevent any harm to their amenity. No impact is considered to arise to nearby

commercial/industrial uses as a consequence of the development. Furthermore no objections have been received from Environmental Health.

### Highway Considerations & Parking

Paragraphs 102 of the NPPF is explicit that development proposals should identify and pursue opportunities to promote walking, cycling and modes of public transport. Paragraph 103 of the NPPF goes on to cite how focussing development on sustainable locations, by limiting the need to travel and offering a genuine choice of transport modes, can help to reduce congestion and emissions, and improve air quality and public health.

Paragraph 108 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 109 of the NPPF states 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.

Similarly, amongst other matters, Policy RLP10 of the Adopted Local Plan, in addition to Policies LPP37 and Policy LPP55 of the Section 2 Plan, require new developments to be provided with a safe and suitable access, without detriment to the local road network, in order to maintain highway safety for all highway users. Policy LPP44 of the Section 2 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 RLP27 of the Adopted Local Plan sets out that new development for business, commercial and industrial uses shall be located to minimise the length and number trips by motor vehicles. It concludes that development for employment uses will not be permitted where it would be likely to add unacceptably to traffic congestion.

The proposed development would utilise an existing access off Rosemary Lane. This arrangement in combination with the proposed uses has been reviewed by the Highway Authority, Essex County Council Highways (ECC Highways), who have returned no objections to the application on highway safety grounds or otherwise.

Turning to the matter of parking, Policy RLP56 of the Adopted Local Plan and Policy LPP45 of the Draft Section 2 Plan require that all new development is provided with sufficient vehicle parking spaces in accordance with Essex County Council's Vehicle Parking Standards (VPS). The standards advise for a B2 use that a lower provision of vehicle parking may be appropriate in urban areas (including town centre locations) where there is good access to alternative forms of transport and existing car parking facilities.

Based upon the proposed floor space for the new units, a maximum of 36 parking spaces are required. In this case 26 parking spaces are proposed, spread across the site. The site is located within the Town Boundary of Halstead and there are a number of bus routes that connect the site to Witham, Braintree, Sible Hedingham, Great Yeldham, and Colchester. Furthermore there are a number of public car parks located close to the application site.

Paragraph 107 of the NPPF details that, amongst other matters, local parking standards for non-residential uses should take into account the accessibility of the development; the availability of and opportunities for public transport; and the need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles.

The parking provision put forward for the proposed development is therefore considered to be justifiable and acceptable when taking into account the individual merits of the proposal. The conclusions on the parking provision proposed also have regard to the fact that the proposed development would re-purpose a redundant site within a sustainable location, with the amount of development proposed representing an efficient use of previously developed land, in accordance with national and local planning policy.

To summarise, there are no objections to the application from the Highway Authority. The application site is also considered to be sustainably located, facilitating a genuine choice of sustainable modes of transport, in accordance with the objectives of national and local planning policy. In addition, it is recognised that the adopted VPS set maximum standards rather than minimum standards, with the amount of parking proposed considered to be acceptable and appropriate when having regard to the range of uses proposed; the site layout; the sustainable location; and the recommended conditions.

The Adopted Parking Standards 2009 require the parking bays to be 5.5m by 2.9m. All of the bays proposed meet these requirements.

In addition to this a vehicle tracking plan has been submitted in support of the proposals and relates to a refuse lorry and a large HGV. The tracking information sufficiently demonstrates that these size of vehicles can turn within the site and leave in a forward gear.

A further condition has been requested by ECC Highways regarding a travel plan should the site have more than 50 employees. Based on an employee density for a B2 use of 36sq.m (using the most update to date commercial density figures), the site is likely to have at least 50 employees. ECC Highways have also requested a monitoring fee (approximately £6,000) for a five year period following the occupation of the approved development in order to monitor the travel plan.

Notwithstanding the above Officers consider that given the site is quite sustainably located, it would be more beneficial for a financial sum, equivalent

to that of the monitoring fee to be put towards improving existing cycle routes close to the application site instead of monitoring a travel plan. The Council is currently working on improvements to the cycleways throughout Halstead and close by to the site.

Policy SP6 of the Section 1 Plan relates to infrastructure and connectivity. It states that all development must be supported by the provision of the infrastructure, services and facilities that are identified to serve the needs arising from the development. Part B of this policy relates to transport and travel and states that local planning authorities will work with government departments, Highways England, Essex County Council, network Rail, rail and bus operators, developers and other partners to deliver the following:

- Changes in travel behaviour by applying the modal hierarchy and increasing opportunities for sustainable modes of transport that can complete effectively with private vehicles;
- A comprehensive network of segregated walking and cycling routes linking key centres of activity.

Given the above criteria from a recently adopted policy, it is considered reasonable to secure a financial contribution for improvements of a nearby cycle route.

On this bases this will be included with the suggested heads of terms for the legal agreement, which is discussed below.

### Ecology & Trees

Paragraph 170 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.

Policy CS8 of the Core Strategy establishes that all development proposals will, amongst other matters, ensure the protection and enhancement of the natural environment, habitats and biodiversity, and geodiversity of the District. Additionally, Policy RLP81 of the Adopted Local Plan sets out that the Council will seek to protect established trees of local amenity value, whilst Policy RLP84 of the Adopted Local Plan states that planning permission will be refused for developments that would have an adverse impact on protected species. Furthermore, where a proposed development may have an impact on protected species, Policy RL84 goes on to explain that the developer will be required to undertake and submit an ecological survey, to demonstrate that an adequate mitigation plan in place to ensure there is no harm to protected species and no net loss of priority species. These objectives are reflected under Policies LPP68 and LPP69 of the Section 2 Plan.

The Council's Ecologist has reviewed the submitted documents and the submitted Biodiversity Checklist. It is noted that no ecological information has been submitted, however, given the scope and scale of the proposed works,

the impacts of development to designated sites, protected species, priority species/habitats can be predicted.

As a result, the Ecologist is satisfied that there is sufficient ecological information available for determination. This provides certainty for the LPA of the likely impacts on Protected and Priority species/habitats so the development can be made acceptable. Contrary to the submitted biodiversity checklist the application site is within 200 meters of a river course. However the site is largely surrounded by commercial buildings and is considered to have little ecological connectivity or habitat suitability and therefore the proposed development is unlikely to impact on the river habitat. The Ecologist considers that there are no suitable structures or trees that could have bat roost potential on the application site. However, the Ecologist does not consider that the retained trees on the southwestern corner of the application site and those adjacent to the boundary to the west of the site offer suitable foraging and commuting habitat for bats. Therefore to avoid disturbance to this European Protected Species a Wildlife Friendly Lighting Strategy should be secured. A suitably worded condition is recommended.

The Ecologist further recommends that bespoke ecological enhancements are implemented to secure measurable net gains for biodiversity, as outlined under Paragraph 174[d] & 180[c] of the National Planning Policy Framework. This should be provided via a Biodiversity Enhancement Layout, to be secured as a condition of any consent, prior to occupation. This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006 and a suitably worded condition is recommended.

As discussed within the above section on design, a detailed soft landscaping scheme would be secured by way of a condition.

### Flood Risk and Sustainable Drainage

The application site is located with Flood Zone 1 where the risk of flooding is low.

Notwithstanding the above, Paragraph 165 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).

Policy RLP69 of the Adopted Local Plan, Policy CS8 of the Core Strategy, and Policies LPP78, LPP79 and LPP80 of the Section 2 Plan reflect the above objective of the NPPF and require new major developments to incorporate SUDS as appropriate to the nature of the site.

A Flood Risk Assessment & Drainage Strategy has been submitted in support of the planning application. Essex County Council, as the LLFA, has been

consulted upon the application and returned no objections. In addition to this, the Environment Agency raise no objections to the application.

Therefore the proposed development is considered to be acceptable with regards to flood risk and sustainable urban drainage.

### Contamination

Policy RLP64 of the Adopted Local Plan requires that an applicant proposing development on, or near, land where contamination may exist should carry out a thorough investigation, so as to establish the nature and extent of any contamination. This same objective is reflected in Policy LPP75 of the Section 2 Plan and within the NPPF.

A Phase 1 Land Contamination Assessment and the findings of a Phase 2 Ground Investigation have been submitted in support of the application. These investigations have concluded that the risks to on-site and off-site receptors and controlled waters would be low. Environmental Health have been consulted on the application and returned no objections.

The Environment Agency raise no objection to the proposals and recommends a number planning conditions regarding groundwater and contaminated land. As set out above the Council's Environmental Health team have assessed the Phase 1 and 2 reports and have concluded that the risk to off-site receptors and controlled waters would be low, and therefore it is considered not necessary to impose some of the conditions requested by the Environment Agency.

A further condition is recommended by the Environment Agency regarding previously unidentified contamination being found during the construction works. Officers consider that this condition is reasonable and is recommended.

### Archaeology

The Essex Historic Environment (HER) Record shows that the proposed development lies within the historic settlement at Halstead and has potential for archaeological remains associated with the settlement and possible earlier activity.

Halstead originated as a medieval settlement which later became a town, planned elements of which survive including the High Street. The houses erected along the High Street were high status dwellings which reflected the town's prosperity from the East Anglian Cloth trade at the end of the medieval period and into the postmedieval period. Halstead benefited from the rise in the East Anglian cloth trade, the late post-medieval period saw major changes to the town with the introduction of the silk-weaving trade by the Courtaulds in the 18th century and the building of Courtaulds factory in 1828. Courtaulds were also responsible for the building of many public buildings within the town, including housing. At the height of the cloth-manufacturing period the density

of housing was much greater in Halstead, with crowded tenements in the yard areas behind the buildings on the frontage. To the south of the site the gas works and Colne Valley Ironworks were located. The site lies close to the river Colne, further north an assemblage of prehistoric worked flint has been recovered from the river valley and evidence for prehistoric ritual activity is associated with the valley location.

In view of this, Essex County Council recommend conditions regarding a programme of archaeological investigation, the completion of any works required by the written scheme of investigation and the submission of a post excavation assessment and these are recommended.

## PLANNING OBLIGATIONS

Policy SP6 of the Section 1 Plan states that all development must be supported by the provision of the infrastructure, services and facilities that are identified to serve the needs arising from the development, which could include transportation and travel, social Infrastructure, digital connectivity and water and waste water.

Paragraph 57 of the NPPF sets out that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. This is in accordance with Regulation 122 of the Community Infrastructure Levy (CIL) Regulations.

The following are identified as being those matters that the District Council would seek to secure through a planning obligation, if it were preparing to grant permission and the applicant has agreed to enter in to a S106 agreement in respect of these matters.

### Open Space

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

The Council's Open Space SPD sets out further details on how these standards will be applied. A development of this size would be expected to make provision for a financial contribution towards the provision of off-site public open space (amenity green space and outdoor sports).

In terms of off-site financial contributions, the applicant has agreed the following contribution which is consistent with the Council's Open Space SPD:

- £10,518.53 towards the provision of projects of improvement to the River Walk adjacent to Broton estate and football ground Halstead and/or the Public Gardens Halstead

### Cycle Route Improvements

A condition has been requested by ECC Highways regarding a travel plan should the site have more than 50 employees. Based on an employee density for a B2 use of 36sqm (using the most update to date commercial density figures), the site is likely to have at least 50 employees. ECC Highways have also requested a monitoring fee (approximately £6,000) for a five year period following the occupation of the approved development in order to monitor the travel plan.

Notwithstanding the above Officers consider that given the site is quite sustainably located, it would be more beneficial for a financial sum, equivalent to that of the monitoring fee to be put towards improving existing cycle routes close to the application site instead of monitoring a travel plan. The Council is currently working on improvements to the cycleways throughout Halstead and close by to the site.

Policy SP6 of the Section 1 Plan relates to infrastructure and connectivity. It states that all development must be supported by the provision of the infrastructure, services and facilities that are identified to serve the needs arising from the development. Part B of this policy relates to transport and travel and states that local planning authorities will work with government departments, Highways England, Essex County Council, network Rail, rail and bus operators, developers and other partners to deliver the following:

- Changes in travel behaviour by applying the modal hierarchy and increasing opportunities for sustainable modes of transport that can complete effectively with private vehicles;
- A comprehensive network of segregated walking and cycling routes linking key centres of activity.

Given the above criteria from a recently adopted policy, it is considered reasonable to secure a financial contribution for improvements of a nearby cycle route.

- £6,000 towards the improvements of nearby cycle routes in Halstead.

These contributions would be secured through the S106 Agreement.

### PLANNING BALANCE & CONCLUSION

The presumption in favour of sustainable development sits at the heart of the NPPF. The Framework is clear in its instruction at Paragraph 11d, that for decision-taking this means where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (which in this case is considered to be applicable given that Policies RLP27 and RLP28 of the Adopted Local Plan, which relates to employment land provision and site allocation, is based on a now



outdated employment land needs assessment for the District) granting permission unless:

- i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

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

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

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

In terms of benefits, the proposed development would provide a significant economic and social benefit through the redevelopment of a redundant site within an Employment Policy Area, making effective use of previously developed land to provide new buildings for employment uses, creating new jobs within the District and providing a stimulus in expenditure within the local economy, through both the construction and occupation phases of the development. In this regard the proposal would accord with Policy RLP33 of the Adopted Local Plan and Policy LPP3 of the Section 2 Plan, although this emerging policy can only be afforded limited weight at the current time. Furthermore, both policies are considered to be in general conformity with the NPPF.

Social and environmental benefits would also arise from the design, layout and landscaping of the proposed development, as well as the sustainable location of the site which allows for the promotion of active and sustainable modes of transport.

No harms have been identified with regards to the proposed development.

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

### **RECOMMENDATION**

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

- **Public Open Space:**
  - Financial contribution in accordance with the Town Council and Open Spaces Action Plan for:  
£10,518.53 towards the provision of projects of improvement to the River Walk adjacent to Broton estate and football ground Halstead and/or the Public Gardens Halstead
- **Local cycle Infrastructure**
  - Financial contribution in accordance with Policy SP6 of the Section 1 Plan for:  
£6,000 towards the improvements of nearby cycle routes in Halstead.

The Planning Development Manager be authorised to GRANT permission under delegated powers subject to the conditions and reasons set out below and in accordance with the approved plans.

Alternatively, in the event that a suitable planning obligation is not agreed within 3 calendar months of the date of the resolution to approve the application by the Planning Committee the Planning Development Manager may use his delegated authority to refuse the application.

### **APPROVED PLANS**

Location Plan	Plan Ref: A341 1-01
Proposed Elevations and Floor Plans	Plan Ref: A341 2/01 Version: Units 1-6
Proposed Elevations and Floor Plans	Plan Ref: A341 2/02 Version: Units 1-3

Proposed Elevations and Floor Plans	Plan Ref: A341 2/03 Version: Units 4-6
Proposed Elevations and Floor Plans	Plan Ref: A341 3/01 Version: Unit 7
Proposed Elevations	Plan Ref: A341 3/02 Version: Unit 7
Planning Layout	Plan Ref: A341 4/01
Proposed Bin Collection Plan	Plan Ref: A341-5-01
Substation Details	Plan Ref: A341-5-02
Swept Path Details	Plan Ref: 064/2021/10 Version: P1

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

Reason

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

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

Reason

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

- 3 No above ground development shall commence until a schedule of the types and colour of the materials to be used in the external finishes has been submitted to and approved in writing by the local planning authority. The development shall only be implemented in accordance with the approved details.

Reason

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

- 4 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 without prior consent from 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).

- 5 Prior to the first commercial use of the development a Biodiversity Enhancement Layout, providing the finalised details and locations of the proposed enhancement measures, shall be submitted to and approved in writing by the local planning authority and shall be implemented in accordance with the approved details. All enhancement 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).

- 6 Prior to the commencement of development, a Written Scheme of Investigation (WSI), which shall include details for a programme of archaeological excavation shall be submitted to and approved in writing by the Local Planning Authority.

Reason

The site may be of archaeological interest.

- 7 The approved WSI as required by Condition 6 of this permission shall be fully implemented at the time of development and upon completion of the archaeological excavation the applicant shall submit to the Local Planning Authority a report of findings and confirm the deposition of the archive to an appropriate depository (to be submitted within six months of the completion of the fieldwork).

Reason

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

- 8 The development shall not be occupied until the car parking area indicated on the approved plans, including any accessible parking spaces for disabled persons has been hard surfaced, sealed and marked out in parking bays. The car parking area shall be retained in this form at all times. The car park shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

Reason

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

- 9 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local

Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason

Piling or other penetrative ground improvement methods can increase the risk to the water environment by introducing preferential pathways for the movement of contamination into the underlying aquifer and/or impacting surface water quality. For development involving piling or other penetrative ground improvement methods on a site potentially affected by contamination or where groundwater is present at a shallow depth, a suitable Foundation Works Risk Assessment based on the results of the site investigation and any remediation should be undertaken. This assessment should underpin the choice of founding technique and any mitigation measures employed, to ensure the process does not cause, or create preferential pathways for, the movement of contamination into the underlying aquifer, or impacting surface water quality.

- 10 Should contamination be found that was not previously identified or not considered in the previously submitted remediation scheme that contamination shall be made safe and reported immediately to the Local Planning Authority. The site shall be re-assessed in accordance with the above and a separate remediation scheme shall be submitted to and agreed in writing with the Local Planning Authority. Such agreed measures shall be implemented and completed prior to the first occupation of any parts of the development.

Reason

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

- 11 Prior to the occupation of the development hereby approved a scheme of landscaping shall be 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, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying where appropriate.

All areas of hardstanding shall be constructed using porous materials laid on a permeable base.

All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in the first planting and seeding seasons after the commencement of the development.

All hard surface areas agreed as part of the scheme shall be carried out

before the first occupation of the buildings or upon the completion of the development whichever is the earlier.

Any trees or plants which die, are removed, or become seriously damaged, or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting season with others of a similar size and species.

**Reason**

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

- 12 Prior to the implementation of the landscaping scheme pursuant to Condition 11, an irrigation and maintenance regime shall be submitted to and approved in writing by the Local Planning Authority. Once approved the irrigation and maintenance of the landscaping scheme shall be carried out in accordance with these details.

**Reason**

To ensure that the landscaping scheme is able to fully establish in the interests of the appearance of the development and amenity of future and that of adjoining occupiers.

- 13 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any Order amending, revoking and re-enacting that Order) the premises hereby permitted shall be used for Use Class B2 and for no other purpose.

**Reason**

To ensure the B2 use is retained in these new buildings.

- 14 There shall be no outdoor storage or display of equipment, plant, goods or materials within the site whatsoever.

**Reason**

In the interests of visual amenity.

**INFORMATION TO APPLICANT**

1 Please note the presence of a high pressure, Low Pressure & Medium Pressure gas pipeline in close proximity to the proposed development. The pipeline has a 3m building proximity distance (BPD). No buildings including footings and overhangs are permitted within 3m of the pipeline. Landscaping 3m either side of the pipeline is also restricted and must have formal written approval from Cadent Gas before commencing. The developer is to engage with [plantprotection@cadentgas.com](mailto:plantprotection@cadentgas.com) before commencing any works on site.

2 Should any protected species or evidence of protected species be found prior to or during the development, all works must immediately cease and a suitably qualified ecologist must be contacted for further advice before works can proceed. All contractors working on site should be made aware of the advice and provided with the contact details of a relevant ecological consultant.

3 To avoid killing or injuring small animals which may pass through the site during the construction phase, it is best practice to ensure the following measures are implemented:

- a) Trenches, pits or holes dug on site should be covered over at night. Alternatively, ramps (consisting of a rough wooden plank) or sloped/stepped trenches could be provided to allow animals to climb out unharmed;
- b) materials brought to the site for the construction works should be kept off the ground on pallets to prevent small animals seeking refuge;
- c) rubbish and waste should be removed off site immediately or placed in a skip, to prevent small animals using the waste as a refuge.

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

a) Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.

b) Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.

c) It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.

d) The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.

e) We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

<b>Report Title: To consider an Objection to Tree Preservation Order No. 01A/2021/TPO Garden Cottage, Mill Lane, Pebmarsh, CO9 2NN</b>	
<b>Report to: Planning Committee</b>	
<b>Date: 31st August 2021</b>	<b>For: Decision</b>
<b>Key Decision: No</b>	<b>Decision Planner Ref No: N/A</b>
<b>Report Presented by:</b> Shaun Taylor, Landscape Services, Tree and Landscape Officer	
<b>Enquiries to:</b> David Watson, Tree and Landscape Officer <a href="mailto:David.Watson@braintree.gov.uk">David.Watson@braintree.gov.uk</a> 01376 551414 EXT: 2586	

## **1. Purpose of the Report**

- 1.1 This report considers the objections raised by Mr Braybrook to the making of Tree Preservation Order 01A/2021.

## **2. Recommendations**

- 2.1 That Tree Preservation Order No. 01A/2021 at Garden Cottage, Mill Lane, Pebmarsh, CO9 2NN is confirmed.

## **3. Summary of Issues**

### Background

- 3.1 A Section 211 Notice informing the Council of the intent to carry out tree works in a Conservation Area was submitted by Mr Allan Braybrook on the 11th December 2020, and validated on the 14th December 2020. This notification was passed to Essex County Council's Place Services as part of their role in supporting the Landscape Services Department. The work requested was to fell two Scots pine trees. The site was visited by Anne Hooper, Senior Arboricultural Consultant for Place Services, and the subsequent report (Appendix 6) was passed to the author on the 5th January 2021 to assess further with regards to serving a Tree Preservation Order (TPO). A further site visit was carried out by the author in order to verify the report and the TEMPO assessment submitted by Place Services (Appendix 2), as well as to assess trees separately to corroborate the scores given by Place Services (Appendix 3). Following the site visit and further discussion with Anne Hooper, it was felt that the loss of the two pines was unacceptable.
- 3.2 A provisional Tree Preservation Order (TPO) was subsequently served on 18th January 2021. A copy of the provisional Order was sent to Garden Cottage and neighbouring properties.



- 3.3 On the 14th July 2021, the provisional TPO was re-served because the original TPO had reached its provisional 6 month expiry date before the objections could be considered by Planning Committee.
- 3.4 After the original TPO was served, a phone call was received from Mrs Braybrook in the following days to discuss the matter; during the conversation she was advised that she was entitled to raise an objection to the Order. A few days later, Mr S. Braybrook made contact to discuss the TPO and inform the author that he would be representing Mr. and Mrs. A. Braybrook. The phone call involved discussion around the TPO, details of the original application and the resulting report from Place Services, as well as the process that would follow should the matter be reported to the Planning Committee. A formal objection letter (Appendix 4) was received on 28th January 2021.
- 3.5 Further communication was made by e-mail but the objections could not be resolved by further discussion so the confirmation of the TPO is presented to the Planning Committee for a decision.

#### Assessment

- 3.6 The pines are located on the road frontage of the property and appear in good health, providing a high level of amenity to the area. Both trees are visible from Mill Lane and from the surrounding residential properties; they are also visible from the main thoroughfare through the village and from the entrance to St John the Baptist Church. The trees are located to the east of the property, with the shadow they cast falling away by late morning.
- 3.7 The canopies of both trees have been lifted in past years to provide clearance over the adjacent power lines.
- 3.8 The original application contains various reasons in support of felling the trees. A number of these focused on nuisance and damage resulting from the natural processes of trees. Issues caused by natural processes relating to tree growth are not recognised as a 'legal nuisance' and are not felt to be sufficient to justify felling these trees. Appendix 9 contains Braintree District Council's leaflet 'Landscape Services – problems with trees', which explains the Council's approach to tree management.
- 3.9 Both trees are a substantial height but at some distance from the roof of the bungalow. Supplementary photos showing the context in relation to the property are included in Appendix 7.
- 3.10 The applicant also raises concerns about poor television reception; the trees have been a significant feature for many years and in all such cases the owner is asked to demonstrate that all engineering solutions have been explored before tree pruning or removal can be considered.
- 3.11 The application to fell the trees also states that the trees are too high for a residential area. There is no height limit for a tree other than that governed by its own growth, and as also pointed out in the Place Services report, the trees

have both “attained maturity and are unlikely to grow any larger”. It is this height and stature that gives the trees their amenity value.

- 3.12 An application (Application Reference 20/00180/TPOCON) to fell 2 Scots pines was received from the owners of the neighbouring property in June 2020. The application was passed to the Essex Place Services team for their evaluation and as with the application for Garden Cottage was recommended for refusal. However because of staff changes within the team and Covid restrictions over this period the process of serving a TPO at the property was delayed and the current owner of Hunters, Mill Lane felled the trees shortly after the determination date.
- 3.13 Historically the pine trees had been protected by a TPO served in 1960 (TPO 5/60) by Essex County Council. Circa 2010 all Essex County Council Tree Preservation Orders were revoked following government advice, since this power had been devolved to District and Borough Councils. Since the trees were within the local Conservation Area it was considered that they were safeguarded by the need for an owner to serve a Section 211 Notice for any surgery or removal and could be considered to have an element of protection if a tree was found to be under threat again in the future, a new TPO could then be served, negating the need to re-serve the revoked TPO at that time.

#### Conclusion

- 3.14 Both pines are prominent trees within the local vicinity and provide good amenity value. They are clearly visible from various publicly accessible locations (Appendix 7 and photos within Place Services’ report, Appendix 6). They are an attractive feature in the local street scene and as conifers are considered to have seasonal interest. It is recommended that Tree Preservation Order No. 01A/2021 Garden Cottage, Mill Lane, Pebmarsh, CO9 2NN be confirmed.

#### **4. Options**

- 4.1 The options are:
- 1) To confirm the provisional Tree Preservation Order in the interests of amenity.
  - 2) Not to confirm the provisional Tree Preservation Order and allow the owner to prune/fell the trees as they see fit.

#### **5. Financial Implications**

The cost of making the TPO has been met from existing budgets.

#### **6. Legal Implications**

- 6.1 The Council is required to follow the legislative framework in place for making a Tree Preservation Order. The proposals set out within this report are in line with that legislative framework.

## **7. Other Implications**

### **7.1 Environment and Climate Change**

If the Order is not confirmed there is a risk that the visual amenity of the Conservation Area will be diminished and the trees' contribution to carbon sequestration will be lost.

### **7.2 Risk**

Compensation rights could arise if the Council subsequently refuses an application for tree work and the tree or a part of it then fails, or causes damage.

## **8. List of Appendices**

- 8.1 Appendix 1: Tree Preservation Order 01A/2021
- 8.2 Appendix 2: Copy of TEMPO assessment submitted by Place Services
- 8.3 Appendix 3: Copy of TEMPO as assessed by BDC Tree Officer D. Watson
- 8.4 Appendix 4: Letter of objection from Mr Stewart Braybrook, acting on behalf of Mr & Mrs Allan Braybrook - dated 28th January 2021
- 8.5 Appendix 5: Copy of Section 211 Notification of Intent to do Tree Works in a Conservation Area
- 8.6 Appendix 6: Site Report regarding application by Place Services, Essex County Council, dated 18th December 2020
- 8.7 Appendix 7: Supplementary photos of the trees
- 8.8 Appendix 8: TPO letters of support for confirmation from local residents of Pebmarsh – redacted
- 8.9 Appendix 9: 'Landscape Services – problems with trees'

## **9. Background Papers**

- 9.1 Part VIII of the Town and Country Planning Act 1990 (as amended)
- 9.2 The Town and Country Planning (Tree Preservation) (England) Regulations 2012
- 9.3 Section 192 of the Planning Act 2008
- 9.4 Part 6 of the Localism Act 2011

**THE TOWN AND COUNTRY PLANNING (TREE PRESERVATION) (ENGLAND)  
REGULATIONS 2012**

**Town and Country Planning Act 1990  
TPO 01A/2021/TPO**

The Braintree District Council, in exercise of the powers conferred on them by sections 198 of the Town and Country Planning Act 1990 make the following Order:- Garden Cottage, Mill Lane, Pebmarsh, CO9 2NN

**Citation**

1. This Order may be cited as TPO 01A/2021/TPO

**Interpretation**

2. (1) In this Order "the authority" means the Braintree District Council.  
(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012

**Effect**

3. (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.  
(2) Without prejudice to subsections (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners), and subject to the exceptions in regulation 14, no person shall—
- (a) cut down, top, lop, uproot, wilfully damage or wilfully destroy; or
  - (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

**Application to trees to be planted pursuant to a condition**

4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provisions for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 14<sup>th</sup> day of July 2021

The Common Seal of BRAINTREE DISTRICT COUNCIL was hereunto affixed in the presence of:

Authorised Signatory



**SCHEDULE**  
**SPECIFICATION OF TREES**

**Trees specified individually**  
(encircled in black on the map)

REF. ON MAP	DESCRIPTION	SITUATION
T1	Pine	Northernmost tree to frontage at Garden Cottage, Mill Lane, Pebmarsh, CO9 2NN
T2	Pine	Southernmost tree to frontage at Garden Cottage, Mill Lane, Pebmarsh, CO9 2NN

**Trees specified by reference to an area**  
(within a dotted black line on the map)

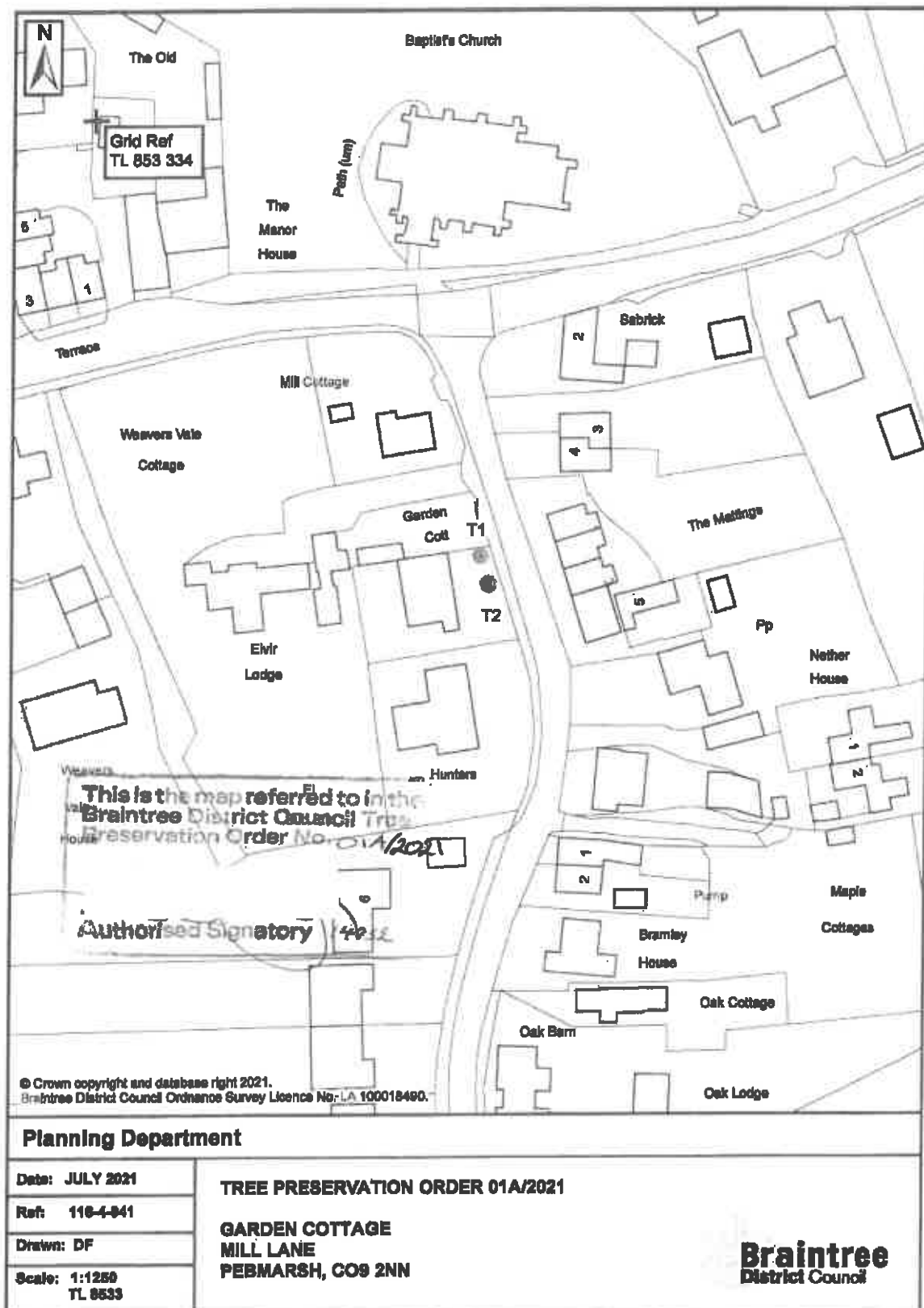
REF. ON MAP	DESCRIPTION	SITUATION
	NONE	

**Groups of trees**  
(within a broken black line on the map)

REF. ON MAP	DESCRIPTION	SITUATION
	NONE	

**Woodlands**  
(within a continuous black line on the map)

REF. ON MAP	DESCRIPTION	SITUATION
	NONE	



## Appendix 2

### Appendix 2

#### TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

##### SURVEY DATA SHEET & DECISION GUIDE

Date: 22.12.2020	Surveyor: Anné Hooper TechArbA
<b>Tree details</b> TPO Ref (if applicable): Owner (if known):	
Tree/Group No: T1	Species: Scots Pine
Location: Northernmost tree to frontage at Garden Cottage, Mill Lane, Pebmarsh, CO9 2NN	

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

##### Part 1: Amenity assessment

##### a) Condition & suitability for TPO; where trees in good or fair condition have poor form, deduct 1 point

5) Good	Highly suitable	<b>Score &amp; Notes</b>  4
3) Fair	Suitable	
1) Poor	Unlikely to be suitable	
0) Dead/dying/dangerous*	Unsuitable	
*Relates to existing context and is intended to apply to severe irremediable defects only		

##### b) Retention span (in years) & suitability for TPO

5) 100+	Highly suitable	<b>Score &amp; Notes</b>  2
4) 40-100	Very suitable	
2) 20-40	Suitable	
1) 10-20	Just suitable	
0) <10*	Unsuitable	
*Includes trees which are an existing or near future nuisance, including those <u>clearly</u> outgrowing their context, or which are significantly negating the potential of other trees of better quality		

##### c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

5) Very large trees with some visibility, or prominent large trees	Highly suitable	<b>Score &amp; Notes</b>  3
4) Large trees, or medium trees clearly visible to the public	Suitable	
3) Medium trees, or large trees with limited view only	Suitable	
2) Young, small, or medium/large trees visible only with difficulty	Barely suitable	
1) Trees not visible to the public, regardless of size	Probably unsuitable	

##### d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

5) Principal components of arboricultural features, or veteran trees	<b>Score &amp; Notes</b>  4
4) Tree groups, or members of groups important for their cohesion	
3) Trees with identifiable historic, commemorative or habitat importance	
2) Trees of particularly good form, especially if rare or unusual	
1) Trees with none of the above additional redeeming features (inc. those of indifferent form)	

##### Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

5) Immediate threat to tree	<b>Score &amp; Notes</b>  5
3) Foreseeable threat to tree	
2) Perceived threat to tree	
1) Precautionary only	

##### Part 3: Decision guide

Any 0	Do not apply TPO	<b>Add Scores for Total:</b>  18	<b>Decision:</b>  Definitely merits TPO
1-6	TPO indefensible		
7-11	Does not merit TPO		
12-15	TPO defensible		
16+	Definitely merits TPO		

## TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

### SURVEY DATA SHEET & DECISION GUIDE

Date: 22.12.2020	Surveyor: Anné Hooper TechArbA
<b>Tree details</b> TPO Ref (if applicable): Owner (if known):	
Tree/Group No: T2      Species: Black Pine Location: Southernmost tree to frontage at Garden Cottage, Mill Lane, Pebmarsh, CO9 2NN	

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

#### Part 1: Amenity assessment

##### a) Condition & suitability for TPO; where trees in good or fair condition have poor form, deduct 1 point

5) Good 3) Fair 1) Poor 0) Dead/dying/dangerous*	Highly suitable Suitable Unlikely to be suitable Unsuitable	<div style="border: 1px solid black; padding: 5px;"> <b>Score &amp; Notes</b>   <div style="font-size: 1.5em; font-weight: bold;">5</div> </div>
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*\*Relates to existing context and is intended to apply to severe irremediable defects only*

##### b) Retention span (in years) & suitability for TPO

5) 100+ 4) 40-100 2) 20-40 1) 10-20 0) <10*	Highly suitable Very suitable Suitable Just suitable Unsuitable	<div style="border: 1px solid black; padding: 5px;"> <b>Score &amp; Notes</b>   <div style="font-size: 1.5em; font-weight: bold;">4</div> </div>
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*\*Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality*

##### c) Relative public visibility & suitability for TPO

*Consider realistic potential for future visibility with changed land use*

5) Very large trees with some visibility, or prominent large trees 4) Large trees, or medium trees clearly visible to the public 3) Medium trees, or large trees with limited view only 2) Young, small, or medium/large trees visible only with difficulty 1) Trees not visible to the public, regardless of size	Highly suitable Suitable Suitable Barely suitable Probably unsuitable	<div style="border: 1px solid black; padding: 5px;"> <b>Score &amp; Notes</b>   <div style="font-size: 1.5em; font-weight: bold;">5</div> </div>
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##### d) Other factors

*Trees must have accrued 7 or more points (with no zero score) to qualify*

5) Principal components of arboricultural features, or veteran trees 4) Tree groups, or members of groups important for their cohesion 3) Trees with identifiable historic, commemorative or habitat importance 2) Trees of particularly good form, especially if rare or unusual 1) Trees with none of the above additional redeeming features (inc. those of indifferent form)	<div style="border: 1px solid black; padding: 5px;"> <b>Score &amp; Notes</b>   <div style="font-size: 1.5em; font-weight: bold;">4</div> </div>
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#### Part 2: Expediency assessment

*Trees must have accrued 9 or more points to qualify*

5) Immediate threat to tree 3) Foreseeable threat to tree 2) Perceived threat to tree 1) Precautionary only	<div style="border: 1px solid black; padding: 5px;"> <b>Score &amp; Notes</b>   <div style="font-size: 1.5em; font-weight: bold;">5</div> </div>
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#### Part 3: Decision guide

Any 0 1-6 7-11 12-15 16+	Do not apply TPO TPO indefensible Does not merit TPO TPO defensible Definitely merits TPO	<div style="border: 1px solid black; padding: 5px;"> <b>Add Scores for Total:</b>   <div style="font-size: 1.5em; font-weight: bold;">22</div> </div>	<div style="border: 1px solid black; padding: 5px;"> <b>Decision:</b>   <div style="font-size: 1.2em; font-weight: bold;">Definitely merits TPO</div> </div>
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## Appendix 3

### Appendix 3

#### TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

##### SURVEY DATA SHEET & DECISION GUIDE

Date: 14-01-21

Surveyor: David Watson

##### Tree details

TPO Ref (if applicable):

Tree/Group No: T1

Species: Scots pine

Owner (if known):

Location: Frontage of Gordon Cottage, Edmonstone

##### REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

##### Part 1: Amenity assessment

a) Condition & suitability for TPO; where trees in good or fair condition have poor form, deduct 1 point

- 5) Good Highly suitable
- 3) Fair Suitable
- 1) Poor Unlikely to be suitable
- 0) Dead/dying/dangerous\* Unsuitable

\* Relates to existing context and is intended to apply to severe irremediable defects only

##### Score & Notes

3

b) Retention span (in years) & suitability for TPO

- 5) 100+ Highly suitable
- 4) 40-100 Very suitable
- 2) 20-40 Suitable
- 1) 10-20 Just suitable
- 0) <10\* Unsuitable

\* Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

##### Score & Notes

4

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- 5) Very large trees with some visibility, or prominent large trees
- 4) Large trees, or medium trees clearly visible to the public
- 3) Medium trees, or large trees with limited view only
- 2) Young, small, or medium/large trees visible only with difficulty
- 1) Trees not visible to the public, regardless of size

- Highly suitable
- Suitable
- Suitable
- Barely suitable
- Probably unsuitable

##### Score & Notes

4

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- 5) Principal components of arboricultural features, or veteran trees
- 4) Tree groups, or members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features (inc. those of indifferent form)

##### Score & Notes

1

##### Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

- 5) Immediate threat to tree
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

##### Score & Notes

5

##### Part 3: Decision guide

- Any 0 Do not apply TPO
- 1-6 TPO indefensible
- 7-11 Does not merit TPO
- 12-15 TPO defensible
- 16+ Definitely merits TPO

##### Add Scores for Total:

17

##### Decision:

TPO

# TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

## SURVEY DATA SHEET & DECISION GUIDE

Date: 14-01-21	Surveyor: David Watson
<b>Tree details</b> TPO Ref (if applicable): Owner (if known):	
Tree/Group No: T2	Species: Black Pine
Location: Frontage of Gordon Cottage, Peamarsk	

## REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

### Part 1: Amenities assessment

a) Condition & suitability for TPO; where trees in good or fair condition have poor form, deduct 1 point

5) Good	Highly suitable	Score & Notes 4
3) Fair	Suitable	
1) Poor	Unlikely to be suitable	
0) Dead/dying/dangerous*	Unsuitable	
* Relates to existing context and is intended to apply to severe irremediable defects only		

b) Retention span (in years) & suitability for TPO

5) 100+	Highly suitable	Score & Notes 4
4) 40-100	Very suitable	
2) 20-40	Suitable	
1) 10-20	Just suitable	
0) <10*	Unsuitable	
* Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality		

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

5) Very large trees with some visibility, or prominent large trees	Highly suitable	Score & Notes 5
4) Large trees, or medium trees clearly visible to the public	Suitable	
3) Medium trees, or large trees with limited view only	Suitable	
2) Young, small, or medium/large trees visible only with difficulty	Barely suitable	
1) Trees not visible to the public, regardless of size	Probably unsuitable	

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

5) Principal components of arboricultural features, or veteran trees	Score & Notes 1
4) Tree groups, or members of groups important for their cohesion	
3) Trees with identifiable historic, commemorative or habitat importance	
2) Trees of particularly good form, especially if rare or unusual	
1) Trees with none of the above additional redeeming features (inc. those of indifferent form)	

### Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

5) Immediate threat to tree	Score & Notes 5
3) Foreseeable threat to tree	
2) Perceived threat to tree	
1) Precautionary only	

### Part 3: Decision guide

Any 0	Do not apply TPO	Add Scores for Total: 19	Decision: TPO
1-6	TPO indefensible		
7-11	Does not merit TPO		
12-15	TPO defensible		
16+	Definitely merits TPO		

## Appendix 4

Mr Stewart Braybrook

Mr David Watson  
Tree and Landscape Officer  
Braintree District Council  
Causeway House, Bocking End  
Braintree, CM7 9HB

CC Emma Goodings  
Gabrielle Spray  
Dominic Collins  
Mr & Mrs Allan Braybrook

Date: 28 January 2021

Dear Mr Watson,

**RE: Application for removal of Two Trees 20/00441/TPO and subsequent Preservation Order TPO 01/2021/TPO**

I would like to inform you that I will be handling all correspondence in relation to the above referenced TPO's on behalf of my elderly parents and would once again like to thank you for the information provided during our telephone conversation 22/01/21.

At this stage of our correspondence, I wish to appeal the decision to place a TPO on the two pine trees at Garden Cottage, Mill Lane, Pebmarsh CO9 2NN.

In your letter of 21 January 21 you state that the order has been issued because and I quote *"T1 a Scots Pine and T2 a Black Pine form a group with other conifers. Trees are in good health and offer outstanding amenity value to the locality, which is also within the Pebmarsh Conservation Area. The trees are highly visible from various points."* I strongly disagree with some of these points, they did form a group before the neighbouring trees were removed. Furthermore, I suggest a registered arboriculturist report on the health of these trees is obtained. You also mention outstanding amenity and this has to be given the necessary weight against the issues these trees are creating for many residents, not just my parents. I have briefly looked at the Pebmarsh Conservation Area appraisal and Management Plan September 2012 and would note that no specific comment is made on these particular trees although trees are of course mentioned in a greater context.

A previous TPO 5/50-A3 was revoked on the 16/04/2010. I understand that because the trees are within the Pebmarsh conservation area, it was not felt necessary to apply a TPO as the district council would need to be notified of any works to them. This makes complete sense to me but does then raise the question why the TPO has now been issued after 11 years.

It would appear that the TPO has been issued as a "knee jerk" reaction to an application 20/00180/TPO. I use the word application somewhat tongue in cheek for which I will explain later. This application was submitted by the residents of the property Hunters, the next-door neighbours of my parents on the 26/06/2020 and these trees of similar size and species have since been removed.

I only have access to the Braintree District Council's web portal however it would appear from the information made available for 20/00180/TPO, that no proper application was submitted. If it was,

then it is not on the portal as my parent's application is. Furthermore, there appears to be no correspondence sent to the Parish council, as there has been with my parents' application.

My parent's application 20/00441/TPO was reviewed by Pebmarsh Parish Council, who in my opinion quite rightly, had no comment to make. Furthermore, this would have been an agenda item on the Parish Councils website / notice board for which any resident of Pebmarsh or wider afield could have objected to their removal. It should be noted that no comments from the public were received.

As the trees at the property Hunters have now been removed it would seem unreasonable and even bizarre to deny permission to fell similar trees, in similar condition, in very close proximity and look forward to your explanation of this.

I would be happy to correspond on the reason these trees need to be removed in due course however the application outlines just some.

I would therefore urge you to reconsider revoking TPO 01/2021/TPO and look favourably on the felling of these two trees that far from "***offer outstanding amenity value to the locality***" are causing considerable distress for my parents and many other neighbouring properties and residents.

I look forward to hearing from you in due course in order to bring this unfortunate episode to a close.

Yours Sincerely

Stewart Braybrook

## Appendix 5



### Appendix 5

If you would rather make this application online, you can do so on our website:  
<https://www.planningportal.co.uk/apply>

Application for tree works: works to trees subject to a tree preservation order (TPO) and/or notification of proposed works to trees in a conservation area.

Town and Country Planning Act 1990

#### Privacy Notice

This form is provided by Planning Portal and based on the requirements provided by Government for the sole purpose of submitting information to the Local Planning Authority in accordance with the legislation detailed on this form.

Please be aware that once you have downloaded this form, Planning Portal will have no access to the form or the data you enter into it. Any subsequent use of this form is solely at your discretion, including the choice to complete and submit it to the Local Planning Authority in agreement with the declaration section.

Upon receipt of this form and any supporting information, it is the responsibility of the Local Planning Authority to inform you of its obligations in regards to the processing of your application. Please refer to its website for further information on any legal, regulatory and commercial requirements relating to information security and data protection of the information you have provided.

#### Local Planning Authority details:



**Braintree**  
District Council

Development Management  
Causeway House  
Bocking End  
Braintree  
Essex CM7 9HB

T: 01376 552525  
E: [planning@braintree.gov.uk](mailto:planning@braintree.gov.uk)  
W: [www.braintree.gov.uk](http://www.braintree.gov.uk)

#### Publication of applications on planning authority websites

Information provided on this form and in supporting documents may be published on the authority's planning register and website.

Please ensure that the information you submit is accurate and correct and does not include personal or sensitive information. If you require any further clarification, please contact the Local Planning Authority directly.

If printed, please complete using block capitals and black ink.

It is important that you read the accompanying guidance notes and help text as incorrect completion will delay the processing of your application.

#### 1. Applicant Name and Address

Title:	MR	First name:	ALLAN
Last name:	BRAYBROOK		
Company (optional):			
Unit:		House number:	
		House suffix:	
House name:	GARDEN COTTAGE		
Address 1:	MILL LANE		
Address 2:	PERMARSH		
Address 3:			
Town:	HALSTEAD		
County:	ESSEX		
Country:	ENGLAND		
Postcode:	CO9 2NN		

#### 2. Agent Name and Address

Title:		First name:	
Last name:			
Company (optional):			
Unit:		House number:	
		House suffix:	
House name:			
Address 1:			
Address 2:			
Address 3:			
Town:			
County:			
Country:			
Postcode:			

### 3. Trees Location

If all trees stand at the address shown in Question 1, go to Question 4. Otherwise, please provide the full address/location of the site where the tree(s) stand (including full postcode where available)

Unit:	<input type="text"/>	House number:	<input type="text"/>	House suffix:	<input type="text"/>
House name:	<input type="text"/>				
Address 1:	<input type="text"/>				
Address 2:	<input type="text"/>				
Address 3:	<input type="text"/>				
Town:	<input type="text"/>				
County:	<input type="text"/>				
Postcode (if known):	<input type="text"/>				

If the location is unclear or there is not a full postal address, either describe as clearly as possible where it is (for example, 'Land to the rear of 12 to 18 High Street' or 'Woodland adjoining Elm Road') or provide an Ordnance Survey grid reference:

Description:

### 4. Trees Ownership

Is the applicant the owner of the tree(s): ☒ Yes ☐ No  
If 'No' please provide the address of the owner (if known and if different from the trees location)

Title:	<input type="text"/>	First name:	<input type="text"/>
Last name:	<input type="text"/>		
Company (optional):	<input type="text"/>		
Unit:	<input type="text"/>	House number:	<input type="text"/>
House name:	<input type="text"/>		
Address 1:	<input type="text"/>		
Address 2:	<input type="text"/>		
Address 3:	<input type="text"/>		
Town:	<input type="text"/>		
County:	<input type="text"/>		
Country:	<input type="text"/>		
Postcode:	<input type="text"/>		

Telephone numbers

Country code:	National number:	Extension number:
<input type="text"/>	<input type="text"/>	<input type="text"/>
Country code:	Mobile number (optional):	
<input type="text"/>	<input type="text"/>	
Country code:	Fax number (optional):	
<input type="text"/>	<input type="text"/>	

Email address (optional):

### 5. What Are You Applying For?

Are you seeking consent for works to tree(s) subject to a TPO? ☒ Yes ☐ No

Are you wishing to carry out works to tree(s) in a conservation area? ☐ Yes ☐ No

### 6. Tree Preservation Order Details

If you know which TPO protects the tree(s), enter its title or number below.

5/60 - A3

### 7. Identification Of Tree(s) And Description Of Works

Please identify the tree(s) and provide a full and clear specification of the works you want to carry out. Continue on a separate sheet if necessary. You might find it useful to contact an arborist (tree surgeon) for help with defining appropriate work. Where trees are protected by a TPO, please number them as shown in the First Schedule to the TPO where this is available. Use the same numbers on your sketch plan (see guidance notes).

Please provide the following information below: tree species (and the number used on the sketch plan) and description of works. Where trees are protected by a TPO you must also provide reasons for the work and, where trees are being felled, please give your proposals for planting replacement trees (including quantity, species, position and size) or reasons for not wanting to replant.

E.g. Oak (T3) - fell because of excessive shading and low amenity value. Replant with 1 standard ash in the same place.

WOULD LIKE TO SCOTS PINE TREES TO BE FELLED REASONS BEING .  
1) DROPPING SAP & CONES ON MINE & VISITORS CARS ON DRIVE CAUSING DAMAGE  
2) CANNOT RECEIVE A GOOD T.V SIGNAL AS TREES BLOCK SIGNAL  
3) HAVING TO GET ROOFER TO TAKE MOSS FROM ROOF CAUSED BY TREE  
AND REPLACING TILES THROUGH DAMAGE.

## 7. Identification Of Tree(s) And Description Of Works continued ...

4/ SOME BRANCHES ARE NOT FAR FROM ROOF AND ARE NEAR ELECTRIC & TELEPHONE CABLES.  
5/ TO HIGH FOR RESIDENTIAL AREA  
6/ CONSTANTLY HAVE TO CLEAR GUTTERS & DRAINS OF NEEDLES  
7/ FRONT OF BUNGALOW ALWAYS IN SHADE LIGHTS HAVE TO BE USED DURING DAY  
8/ DO NOT WANT TO REPLANT ANY TREES AS TO NEAR BUNGALOW

## 8. Trees - Additional Information

Additional information may be attached to electronic communications or provided separately in paper format.

### For all trees

A sketch plan clearly showing the position of trees listed in Question 7 must be provided when applying for works to trees covered by a TPO. A sketch plan is also advised when notifying the LPA of works to trees in a conservation area (see guidance notes). It would also be helpful if you provided details of any advice given on site by an LPA officer.

### For works to trees covered by a TPO

Please indicate whether the reasons for carrying out the proposed works include any of the following. If so, your application must be accompanied by the necessary evidence to support your proposals. (See guidance notes for further details)

1. **Condition of the tree(s)** - e.g. it is diseased or you have fears that it might break or fall:

If YES, you are required to provide written arboricultural advice or other diagnostic information from an appropriate expert.

☐ Yes ☒ No

2. **Alleged damage to property** - e.g. subsidence or damage to drains or drives.

If YES, you are required to provide for:

☐ Yes ☒ No

#### Subsidence

A report by an engineer or surveyor, to include a description of damage, vegetation, monitoring data, soil, roots and repair proposals. Also a report from an arboriculturist to support the tree work proposals.

#### Other structural damage (e.g. drains, walls and hard surfaces)

Written technical evidence from an appropriate expert, including description of damage and possible solutions.

### Documents and plans (for any tree)

Are you providing separate information (e.g. an additional schedule of work for Question 7)?

☐ Yes ☒ No

If YES, please provide the reference numbers of plans, documents, professional reports, photographs etc in support of your application. If they are being provided separately from this form, please detail how they are being submitted.

## 9. Authority Employee / Member

It is an important principle of decision-making that the process is open and transparent. For the purposes of this question, "relating to" means related, by birth or otherwise, closely enough that a fair-minded and informed observer, having considered the facts, would conclude that there was bias on the part of the decision-maker in the local planning authority.

Do any of the following statements apply to you and/or agent? ☐ Yes ☒ No

With respect to the authority, I am:

- (a) a member of staff
- (b) an elected member
- (c) related to a member of staff
- (d) related to an elected member

If Yes, please provide details of their name, role and how you are related to them.

## 10. Application For Tree Works - Checklist

Only one copy of the application form and additional information (Question 8) is required. Please use the guidance and this checklist to make sure that this form has been completed correctly and that all relevant information is submitted. Please note that failure to supply precise and detailed information may result in your application being rejected or delayed. You do not need to fill out this section, but it may help you to submit a valid form.

### Sketch Plan

- A sketch plan showing the location of all trees (see Question 6)

☐

### For all trees (see Question 7)

- Clear identification of the trees concerned
- A full and clear specification of the works to be carried out

☒☐

### For works to trees protected by a TPO (see Question 7)

#### Have you:

- stated reasons for the proposed works?
- provided evidence in support of the stated reasons? In particular:
  - if your reasons relate to the condition of the tree(s) - written evidence from an appropriate expert
  - if you are alleging subsidence damage - a report by an appropriate engineer or surveyor and one from an arboriculturist.
  - in respect of other structural damage - written technical evidence
- included all other information listed in Question 8?

☒☐☐☐☐

## 11. Declaration - Trees

I/we hereby apply for planning permission/consent as described in this form and the accompanying plans/drawings and additional information. I/we confirm that, to the best of my/our knowledge, any facts stated are true and accurate and any opinions given are the genuine opinions of the person(s) giving them.

Signed - Applicant:

Or signed - Agent:

Date (DD/MM/YYYY):

11/12/2020

(This date must not be before the date of sending or hand-delivery of the form)

## 12. Applicant Contact Details

### Telephone numbers

Country code: National number: Extension number:

Country code: Mobile number (optional):

Country code: Fax number (optional):

Email address (optional):

## 13. Agent Contact Details

### Telephone numbers

Country code: National number: Extension number:

Country code: Mobile number (optional):

Country code: Fax number (optional):

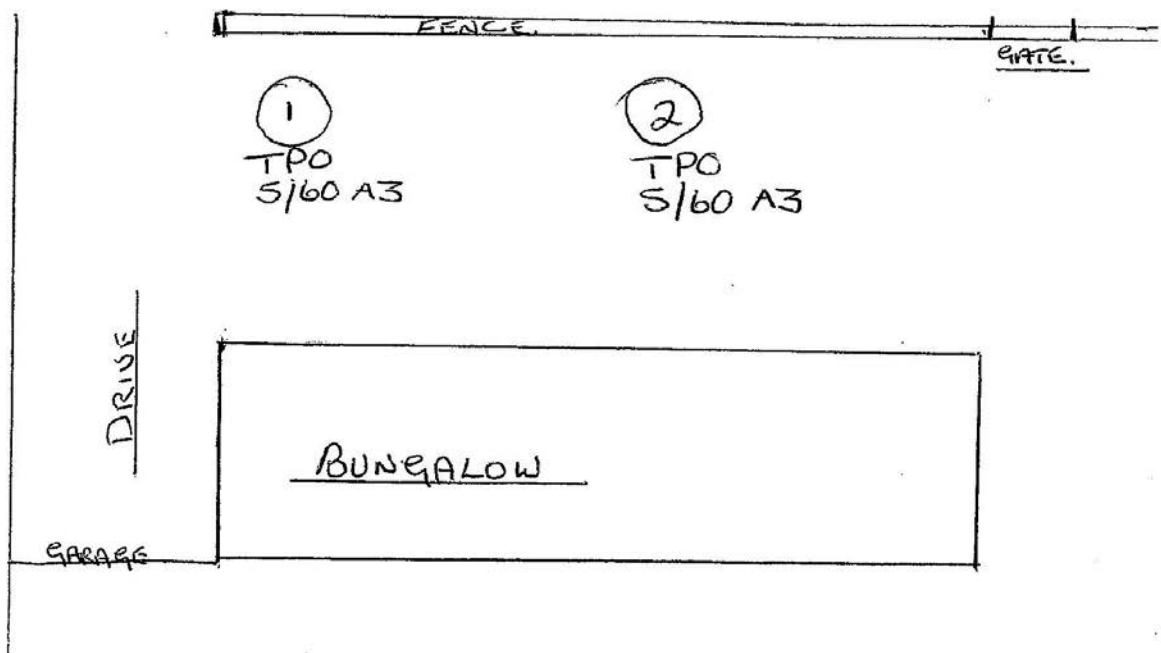
Email address (optional):

Electronic communication - If you submit this form by fax or e-mail the LPA may communicate with you in the same manner.  
(Please see guidance notes)



ROAD

14 DEC 2020



## Appendix 6

Place Services  
Essex County Council  
County Hall, Chelmsford  
Essex, CM1 1QH  
T: 0333 013 6840  
www.placeservices.co.uk



### **Background 20/00441/TPOCON**

An application was submitted on by the owner of Garden Cottage, Mill Lane, Pebmarsh, Essex, CO9 2NN

For consent to carry out the following works:

Fell 2 Scots Pine trees.

The trees are protected by Pebmarsh Conservation Area.

### **Stated Reason for Works**

- Trees dropping Sap.
- TV Signal issues.
- Increasing roof maintenance due to moss.
- Branches near roof and services cables.
- Too high.
- Debris in gutters.
- Shade to bungalow.
- Do not want replacement trees as they would be too near bungalow.

### **Representations**

None at time of writing

### **Comment**

The site was inspected in 18<sup>th</sup> December 2020.

The two Pine trees (one, T2 a Black Pine and T1 a Scots Pine) form a group with a number of other conifers which appear to have been planted contemporaneously. They appear to be in good health and offer outstanding amenity value to the locality, which is also within the Pebmarsh Conservation Area.

The trees are highly visible from various points including The Street & Mill Lane, and will also be visible from adjacent properties to the side and rear of Garden Cottage.

Place Services is a traded service of Essex County Council





To address the various points raised by the applicant,

- There is no right to good TV or satellite reception, nor is there any 'right to light' in law.
- Debris and sap from trees or the growth of moss or algae on a property are not classified as a statutory nuisances and do not justify removal.
- The branches are not encroaching on the roof.
- The trees have attained maturity and are unlikely to grow any larger.
- Power lines here are double-sheathed and capable of withstanding abrasion by trees. Overhead power lines are in any case surveyed regularly by UK Power Networks for safety and pruning is undertaken by them when found to be strictly necessary.

Considering these points, there is no arboricultural reason for the removal of these two trees, which would result in an unacceptable loss of amenity. Their loss could not be compensated for.

#### **Decision**

Consent is **refused** for the following works for the reasons given above:

- Trees dropping Sap.
- TV Signal issues.
- Increasing roof maintenance due to moss.
- Branches near roof and services cables.
- Too high.
- Debris in gutters.
- Shade to bungalow.
- Do not want replacement trees as they would be too near bungalow.

#### **Photos – see over**





**T1 & T2 viewed from Mill Lane**

**Place Services**  
Essex County Council  
County Hall, Chelmsford  
Essex, CM1 1QH  
T: 0333 013 6840  
[www.placeservices.co.uk](http://www.placeservices.co.uk)



**T1 & T2 viewed from Mill Lane**

Place Services is a traded service of Essex County Council.







**T1 & T2 viewed from the church**

Views from footpath outside St John the Baptist Church



Leaning tree is a Scots pine, belonging to neighbouring property.





## Appendix 7

### Views from Mill lane of trees on frontage of Gardens Cottage.

St John the Baptist Church can be seen in the background.

Tree canopy above power lines and adequate distance from property roof.

Black pine in foreground, Scots pine second tree along. Further Scots pines in neighbouring property forming part of a tree group with the two trees in question.





14 JUN 2021

10<sup>th</sup> JUNE 2021

MR DAVID WATSON,  
TREE & LANDSCAPE OFFICER,  
BRAintree DISTRICT COUNCIL,  
CHASEWAY HOUSE,  
CM7 9HB

DEAR MR. WATSON,

ALTHOUGH I BELIEVE WE DO NOT HAVE A DATE FOR THE NEXT MEETING OF THE COMMITTEE THAT WILL DECIDE THE FUTURE OF THE PINE TREES IN THE GARDEN OF GARDENERS COTTAGE IN MILL LANE I AM WRITING TO YOU TODAY TO ASK YOU TO REJECT THE APPLICATION FOR THEIR FELLING. THESE TREES ARE EXTREMELY ATTRACTIVE, THEY VERY MUCH ARE AN INTEGRAL PART OF MILL LANE QUITE APART FROM THE SMALL BUT IMPORTANT PART THEY PLAY IN THE SLOWING DOWN OF CLIMATE CHANGE.

THE FELLING OF MATURE TREES, SUCH AS THOSE IN QUESTION, SHOULD ONLY BE APPROVED, WITH VERY FEW EXCEPTIONS, ON GROUNDS OF DISEASE OR PROVEN DANGER TO THE PUBLIC.

WAY BACK IN THE EARLY 1950'S I WAS FORTUNATE TO WORK FOR THE FORESTRY COMMISSION IN ENNERDALE IN WHAT WAS THEN CUMBERLAND AND IT WAS THEN THAT I CAME TO REALISE, THAT WITH THE AID OF WHAT WAS THEN MODERN TECHNOLOGY, I.E. THE CHAIN SAW,

GROWTH OF MANY SCORES OF YEARS COULD BE  
TOTALLY DESTROYED IN MINUTES.

HERE'S HOPING FOR A SUCCESSFUL OUTCOME  
OF YOUR NEXT COMMITTEE MEETING RE: REJECTION  
OF THE PROPOSAL.

YOURS SINCERELY,

[REDACTED]

**From:** [REDACTED]  
**To:** [Watson, David](#)  
**Subject:** Trees Mill Lane Febmarsh  
**Date:** 06 June 2021 14:33:45

---

It has been brought to our attention that an application to fell two large pine trees at the entrance to Mill Lane has been submitted. If these trees are not dangerous, or likely to cause a hazard, we cannot understand how this could be permitted. This would significantly change the character of the Lane, and as long term residents, we would be sad to see them go.

[REDACTED]

**From:** [REDACTED]  
**To:** [Watson, David](#)  
**Subject:** Proposed further tree felling in mill lane Pebmarsh  
**Date:** 05 June 2021 14:07:17

---

Dear Sir,

I am writing in reference to a proposal to remove a further two trees from Mill Lane. I found the felling of the trees at Hunters upsetting enough but now the neighbours at Gardeners Cottage are set on getting rid of theirs too.

They have already taken out an old and established hedge and replaced it with a fence with concrete posts more suited to an urban road rather than a country lane.

The trees have existed for many decades and have not suddenly grown to their height in the last few years. It should not be acceptable for people to purchase properties with trees etc suiting and fitting in with the surroundings and then decimate it.

Trees are important aesthetically and environmentally so I really hope this vandalism will be prevented and any preservation order will remain in place.

I would be grateful if our concerns and opposition can be put to the committee about this issue

Kind regards  
[REDACTED]

**From:** [REDACTED]  
**To:** [Watson, David](#)  
**Subject:** pine trees in Pebmarsh  
**Date:** 03 June 2021 13:50:19

---

Dear David

Following our telephone conversation on Tuesday, I would like to object to the proposal to fell the pine trees at Gardeners Cottage, Mill Lane, Pebmarsh. I would be grateful if you could put the following comments to the committee when they decide the fate of these trees.

The trees, a scots pine and a black pine, are of great amenity value. They give structure to the lane and are particularly important since the trees at Hunters, Mill Lane, were felled last year. Mill Lane is a conservation area and these trees are a vital part of the look of the lane. They are not dangerous, they are not causing an obstruction and they are beautiful. The owners of Gardeners Cottage have already removed a hedge of native plant species which would have supported a variety of wildlife from birds to insects and invertebrates. The pine trees are a habitat for many creatures. A scots pine can live for 300 years. They support 170 species of insects, as well as birds and other animals.

When we are all being urged to reduce our carbon footprint and plant trees wherever possible, it cannot be acceptable to fell trees for no good reason. These trees are storing carbon. If they are cut down that carbon will be released into the atmosphere and contribute to global warming. Braintree District Council has a policy of environmental responsibility, and a Climate Change Working Group, and I'm sure it would not wish to contravene this policy.

I trust the correct decision will be reached and a permanent tree preservation order will be made.

Yours sincerely

[REDACTED]  
|

**From:** [REDACTED]  
**To:** [Watson, David](#)  
**Subject:** Trees in Mill Lane Pebmarsh  
**Date:** 03 June 2021 13:36:09

---

I hear there is an application for cutting down 2 trees in this road. The only reason for that would surely only be if they were diseased, which I don't think they are. So I hope you are successful in getting it stopped.

Regards [REDACTED]  
Sent from my iPad

**From:** [REDACTED]  
**To:** [Watson, David](#)  
**Subject:** Mill lane Pebmarsh  
**Date:** 03 June 2021 13:32:09

---

Dear Mr Watson,

It has come to my attention regarding the felling of 2 Scotts pines at Garden cottage in Mill lane, Pebmarsh Ref: 21/00943/PD.

I feel this would definitely be very detrimental to the vista of mill lane as was losing the Scotts pine at Hunters next door Ref: 20/00180/TPOCON, which according to the planning website, still says pending consideration but unfortunately and very sadly, they were cut down last Dec.

Not only do these trees provide a wonderful habitat for birds and provide food for many animals, it's also vital that we cannot remove trees just because we have grown bored of them, these trees are beautiful and should remain so.

Yours faithfully

[REDACTED]

Get [Outlook for Android](#)

**From:** [REDACTED]  
**To:** [Watson, David](#)  
**Subject:** Trees in Mill Lane Pebmarsh  
**Date:** 03 June 2021 12:50:58

---

Mr. Watson, we have heard that someone wants to cut down two trees in Mill Lane, Pebmarsh, where I live. I understand you are hoping to get a preservation order on the trees. I would like you to add my name to the supporters of your project. It is the trees that make our road so attractive. I do hope you are successful.  
Sincerely, [REDACTED]

sent from my iPad





Braintree District Council

# Landscape Services - problems with trees



[www.braintree.gov.uk](http://www.braintree.gov.uk)



## WHAT WE CAN DO:

We (Braintree District Council) own a considerable number of trees across the district.

To meet our legal obligations all tree work is prioritised on risk, focusing on the trees posing the greatest risk. Work that is non-essential or not related to high risk is unlikely to take place.

Details of our approach to tree management can be found within our tree strategy which can be viewed at: [www.braintree.gov.uk/TreeStrategy](http://www.braintree.gov.uk/TreeStrategy)

## WHAT WE CAN'T DO:

### Trees and hedges on private land

Braintree District Council is not responsible for managing trees owned by individuals or other organisations. If you are experiencing problems due to neighbouring vegetation, you will need to contact the relevant owner.

Other major owners of trees in public places in the district include: Greenfields Community Housing (01376 535400) and Essex County Council Highways (0345 743 0430). You can report a problem to Essex County Council Highways via their website [essex.gov.uk/highways](http://essex.gov.uk/highways)

## TREE OWNER DUTIES:

All tree owners have a duty under common law to maintain their trees so that they do not cause damage or injury to property or people. Under the Occupiers' Liability Act tree owners must ensure the safety of anyone that can reasonably be expected to be present on their land, including visitors and possibly trespassers.

## FREQUENTLY ASKED QUESTIONS

### I want to carry out work to a tree or hedge, what should I do?

Before you carry out work to a tree or hedge you must be sure that it is not protected. If you are uncertain whether trees or hedges are protected then the Landscape Services team at Braintree District Council will be able to advise you. Contact us:

[landscapeservices@braintree.gov.uk](mailto:landscapeservices@braintree.gov.uk)  
Tel: 01376 552525

### How can I report a problem with a tree or hedge?

If you want to report a problem with a tree or hedge, for example if it is being felled/ pruned or is under threat when you think the tree or hedge might be protected. Please contact the Landscape Services team at Braintree District Council they will be able to tell you. Contact us: [landscapeservices@braintree.gov.uk](mailto:landscapeservices@braintree.gov.uk)  
Tel: 01376 552525

### A tree which belongs to Braintree District Council is overhanging my property, what can I do?

Braintree District Council's Tree Strategy states that we do not prune overhanging trees unless they are:

- causing damage to the neighbouring property
- presenting a danger
- causing a nuisance

We are not obliged to cut back the branches at the point where they cross your property's boundary. As an adjacent landowner you are allowed by Common Law to prune branches breaching the property boundary. Please note that if the trees are protected by a tree preservation order or within a conservation area you will need to make a formal application to carry out these works.



**A tree which belongs to Braintree District Council is blocking natural light into my property, what should I do?**

The 'right-to-light' relates to loss of light over a considerable period of time and in certain specific circumstances. Where trees are concerned there is no 'right-to-light'. Braintree District Council is not required or obliged in respect of any law to prune a tree for the benefit of an individual's level of light.

**A tree which belongs to Braintree District Council is interfering with my TV and/or radio reception. What can I do?**

Interference with television or satellite is sometimes a cause of complaints from householders. Interference is usually made worse when trees are in leaf and during stormy weather.

There is no legal requirement for Braintree District Council to remove trees or even prune them for the benefit of a television reception. The council does however have a duty to protect trees and maintain them appropriately for future generations to enjoy. The responsibility for receiving a satellite television signal is with the company that erects the satellite dish and in many cases it is possible to solve these issues by finding an engineering solution.

We would only consider requests to prune trees to improve reception where all the following conditions apply:

- efforts have been made to find an engineering solution,
- the work required is consistent with good arboriculture practice and will not unduly affect the amenity or health of the tree,
- the work required can be delivered within the financial resources available

**A tree which belongs to Braintree District Council is creating a nuisance. What will you do?**

Braintree District Council will not cut down or prune trees within its ownership to resolve issues caused by natural processes as these are not recognised as a 'legal nuisance'. Some examples:

- falling leaves, pollen, sap, fruit, nuts, honey dew, bird droppings or blossom
- leaves falling into gutters, drains or onto flat roofs
- the growth of algae on fences, paths or other structures

**Children regularly climbing trees near me and I feel it is antisocial, what can be done?**

Open and green spaces are attractive, not only to wildlife, but also to people. Any leisure activity in and around green open spaces is, therefore, to be expected.

We sometime have reports of children climbing trees and acting in a way which could be classified as anti-social behaviour.

Anti-social behaviour does not constitute an acceptable reason to fell a healthy tree, so other methods to resolve anti-social behaviour must be found.

### **A tree which belongs to Braintree District Council is causing damage to my property, what will you do?**

Trees will be reduced if they are touching certain areas of the building – aerials, gutters, roofs, walls and windows.

If tree roots have directly caused damage to a property then each case will be looked at on an individual basis.

If you think a council tree has caused damage to your property, you will need to contact your insurance company and your insurer will usually arrange for a structural survey. If such a survey deems the tree to be the cause of damage to your property then please forward your report to Braintree District Council's Insurance Department where the claim will be considered further.

You can do this via:  
[landscapeservices@braintree.gov.uk](mailto:landscapeservices@braintree.gov.uk)

### **A neighbour's high hedge /tree is too high, what can I do?**

Under the Anti-social Behaviour (High Hedges) Act the council can, at the request of a resident, determine the height at which a hedge must be maintained.

To qualify hedges must meet the following criteria:

- Species must be evergreen or semi-evergreen
- Two or more crowns must meet
- The hedge must be over 2m in height
- We will only take on cases if you can demonstrate that all other efforts to resolve a dispute have been exhausted.

Contact the Landscape Services team at Braintree District Council to discuss your needs. The fee for conducting a determination is £650.

For more information please go to:  
[www.gov.uk/government/collections/high-hedges](http://www.gov.uk/government/collections/high-hedges)

Please note there are no regulations or laws establishing the maximum height limit an individual tree can reach, so Braintree District Council would not be able to take any action following complaints about the height of a tree.

### **Bird Nesting Season**

All wild bird species, their eggs and nests are protected by law. You should time your work to avoid the breeding season generally considered to be from March to August inclusive. However, in reality the nesting period may start before this and extend beyond it, so comprehensive checks should always be undertaken before work starts.

#### **LANDSCAPE SERVICES**

Braintree District Council |  
Causeway House, Bocking End,  
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