

# PLANNING COMMITTEE AGENDA

**Tuesday 24th January 2023 at 7.15pm**

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

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

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

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

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

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

### **Membership:-**

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

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

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

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

**D GASCOYNE**  
Chief Executive

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **PUBLIC SESSION**

## **Page**

- 1 Apologies for Absence**
- 2 Declarations of Interest**  
To declare the existence and nature of any Disclosable Pecuniary Interest, Other Pecuniary Interest, or Non-Pecuniary Interest relating to Items on the Agenda having regard to the Code of Conduct for Members and having taken appropriate advice where necessary before the meeting.
- 3 Minutes of the Previous Meetings**  
To approve as a correct record the Minutes of the meetings of the Planning Committee held on 1st November 2022, 15th November 2022, 29th November 2022 and 20th December 2022 (copies to follow).
- 4 Public Question Time**  
(See paragraph above)
- 5 Planning Applications**  
To consider the following planning applications
- 5a App. No. 22 02806 FUL – Jenkins Farm, Kings Lane, STISTED** **6-30**
- 5b App. No. 22 03156 FUL – Land at Blackwater Lane, WITHAM** **31-58**
- 6 Urgent Business - Public Session**  
To consider any matter which, in the opinion of the Chairman, should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.
- 7 Exclusion of the Public and Press**  
To agree the exclusion of the public and press for the consideration of any Items for the reasons set out in Part 1 of Schedule 12(A) of the Local Government Act 1972.  
*At the time of compiling this Agenda there were none.*

## **PRIVATE SESSION**

## **Page**

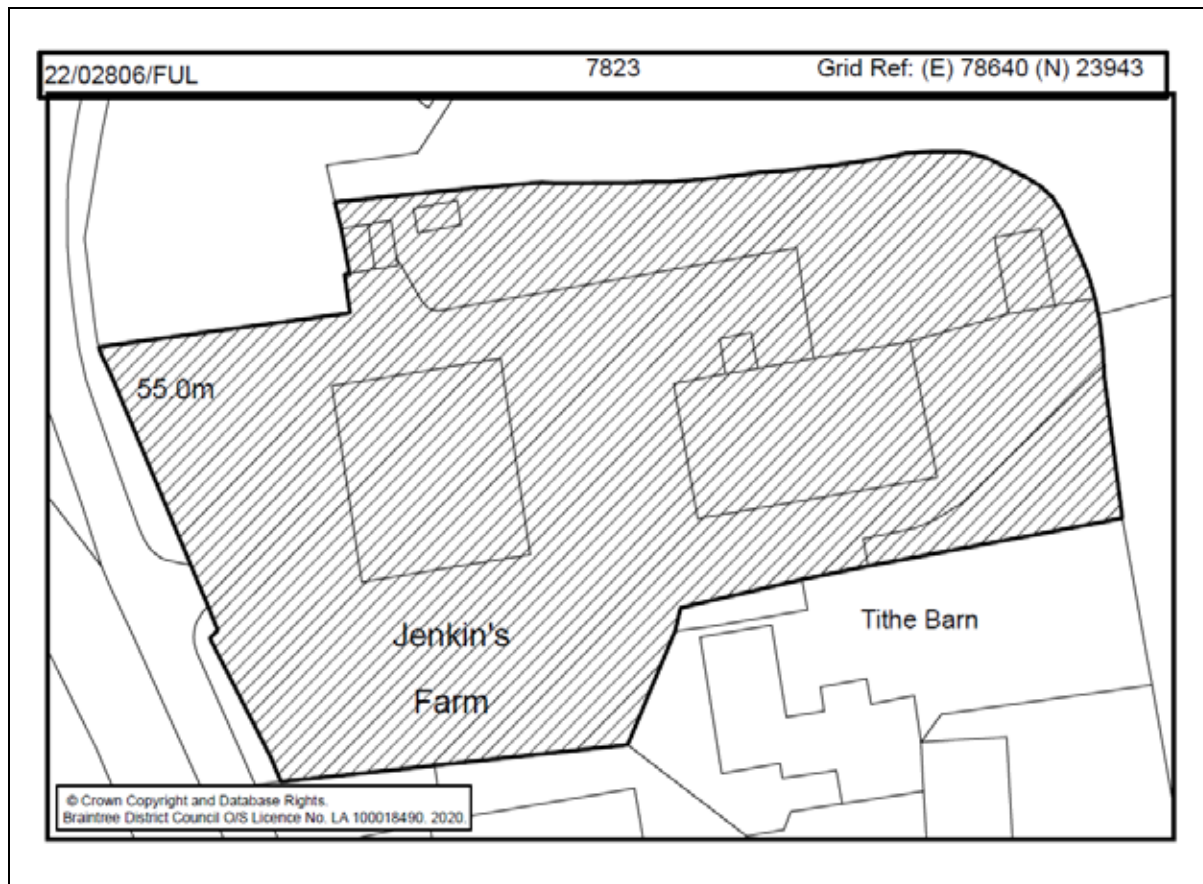
## **8 Urgent Business - Private Session**

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

**Agenda Item: 5a**

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|---|--|--|
| <b>Report to:</b> Planning Committee              |  |  |
| <b>Planning Committee Date:</b> 24th January 2023 |  |  |
| <b>For:</b> Decision                              |  |  |
| <b>Key Decision:</b> No                           |  | <b>Decision Planner Ref No:</b> N/A                      |
| <b>Application No:</b>                            | 22/02806/FUL   |  |
| <b>Description:</b>                               | Demolition of 2No. agricultural buildings and erection of 2No. new buildings to provide 6No. commercial units (Class B2) with ancillary car parking.   |  |
| <b>Location:</b>                                  | Jenkins Farm, Kings Lane, Stisted  |  |
| <b>Applicant:</b>                                 | Mr Colin Roberts, Moondrop Limited, Park View Nurseries, Theobolds Park Road, Enfield, EN2 3BQ   |  |
| <b>Agent:</b>                                     | Mr Malcolm Horswill, Marden Ash Planning Limited, Acorn Cottage, Mill Lane, Harlow, Essex, CM17 0LN  |  |
| <b>Date Valid:</b>                                | 26th October 2022  |  |
| <b>Recommendation:</b>                            | It is RECOMMENDED that the following decision be made:<br>§ Application REFUSED for the reasons outlined within Appendix 1 of this Committee Report.   |  |
| <b>Options:</b>                                   | The Planning Committee can:<br>a) <b>Agree</b> the Recommendation<br>b) <b>Vary</b> the Recommendation<br>c) <b>Overturn</b> the Recommendation<br>d) <b>Defer</b> consideration of the Application for a specified reason(s)    |  |
| <b>Appendices:</b>                                | <b>Appendix 1:</b>   | Reason(s) for Refusal<br>Submitted Plan(s) / Document(s) |
|   | <b>Appendix 2:</b>   | Policy Considerations                                    |
|   | <b>Appendix 3:</b>   | Site History   |
| <b>Case Officer:</b>                              | Janine Rowley<br>For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2551, or by e-mail: <a href="mailto:janine.rowley@braintree.gov.uk">janine.rowley@braintree.gov.uk</a> |  |

**Application Site Location:**



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



|                           |  |
|---------------------------|--|
|                           | <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>  |
| <b>Background Papers:</b> | <p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> <p>The application submission can be viewed online via the Council's Public Access website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 22/02806/FUL.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan 2013 - 2033</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD's) (if applicable)</li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p> |

1. EXECUTIVE SUMMARY

- 1.1 The application site is not identified as being within a development boundary in the Adopted Local Plan and as such is on land designated as 'countryside' where there is a presumption against new development. There is no policy support within the Adopted Local Plan for the erection of new buildings to support commercial businesses in the countryside. The proposed development is therefore contrary to the Development Plan.
- 1.2 Whilst the general policy support within the NPPF for sustainable development, and sustainable growth and expansion of businesses in rural areas is given weight, the proposal does not meet the criteria set out. The building is not 'well designed' nor 'sensitive to its surroundings' within this countryside location. The development is therefore not considered to result in material consideration that would indicate that permission be determined not in accordance with the Development Plan.
- 1.3 The proposed development by reason of layout, size, scale, siting, form and poor elevational design would be harmful to the wider character and appearance of this countryside location. The proposal would fail to protect and enhance the landscape and intrinsic character and beauty of the countryside.
- 1.4 The proposal would also give rise to harm to the character and appearance of the local area, be harmful to residential amenity, have a detrimental impact on highway safety, and would fail to provide a suitable sustainable urban drainage system. The development would accrue some economic and social benefits however, this would not outweigh the principle objection to development in this locality and the harm upon the character and appearance of the locality.
- 1.5 It is therefore recommended that planning permission be refused.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 The application site is currently vacant but has previously been used by a road marking firm and for industrial purposes. The site is located beyond the settlement boundary. There are two buildings currently on site with a large area of hardstanding surrounding the buildings. There are residential properties to the south abutting the boundary which are Grade II Listed buildings and residential properties to the north. To the west and east of the is open countryside.

6. PROPOSAL

- 6.1 The application seeks planning permission to demolish two former agricultural buildings and erect of two new buildings to provide 6 commercial units (Class B2) with ancillary car parking.
- 6.2 The proposed two buildings measure 30m wide, 24m deep and 8.9m high (6m high eaves).
- 6.3 The proposed materials would include Kingspan trapezoidal rooflights, cladding and windows with brickwork plinth. All colours of material are to be agreed.
- 6.4 Twenty-seven parking spaces and a cycle/motorcycle parking area are proposed.

7. SUMMARY OF CONSULTATION RESPONSES

7.1 Anglian Water

- 7.1.1 No objections as the proposal will not affect assets owned by Anglian Water. There would be sufficient treatment capacity for wastewater treatment. Based upon the submitted information the proposal will lead to an unacceptable risk of flooding downstream and Anglian Water will need to plan effectively for the proposed development. A number of conditions

and informatives are recommended. No objections raised to the sewage network.

## 7.2 National Highways

7.2.1 Advises that National Highways has been appointed by the Secretary of State for Transport as a strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SRN). Advises that the SRN is a critical national asset and as such National Highways work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

7.2.2 National Highways advised they are currently reviewing the Transport Assessment submitted with this application National Highways identified that the application will result in minor traffic changes at the A120 Kings Lane Junction. This location has an accident record and therefore they have advised that a GG104 risk assessment is required. A holding response was therefore issued.

7.2.3 In response, the Applicant has responded to the concerns raised by National Highways dated 21.12.2022 (response by Transport Dynamics). National Highways have reviewed the additional information and confirmed on the 06.01.2023 it has not been clearly demonstrated by the evidence provided that the site is likely to generate less traffic and given the change in accident risk at the Kings Road junction this needs to be assessed and recorded. National Highways policy and procedure requires a risk assessment if there is an increase in turning traffic or a change in composition of vehicles and therefore a GG104 risk assessment is required].

## 7.3 BDC Ecology

7.3.1 No objections. The Bat and Owl Survey (Essex Mammal Surveys, May 2022) have been assessed and sufficient ecological information has been provided whereby the proposal would not have an adverse impact on designated sites.

7.3.2 A number of biodiversity enhancement measures can be controlled by condition if the application is acceptable.

## 7.4 BDC Environmental Health

7.4.1 It is noted the application is for B2 use, which is *“B2 General Industrial-use for industrial process other than one falling within class E(g) (previously Class B1) (excluding incineration purposes, chemical treatment or landfill of hazardous waste)”*. Use classes E(g) are *“Uses which can be carried out in a residential area without detriment to its amenity”*, and include E(g)(iii) which are *“industrial purposes”*.

- 7.4.2 There are residential dwellings in very close proximity to the proposed site, both to the north and to the south. It is therefore relevant for this application to include consideration of the potential noise impact and to demonstrate the development would not unduly impact the amenity of existing residents or that mitigation may be required to offset any such impact. No information within the formal submission demonstrates this.
- 7.4.3 The application form suggests hours of operation are not considered relevant to the application, however they are relevant given the potential noise impact on the existing residents.
- 7.4.4 On the basis that the Applicant has not provided any kind of assessment to consider the potential impact from noise sources that may be present from the site's own activities (such as machinery/process use) and the comings and goings associated with vehicle movements, insufficient information has been provided and the application is recommended to be refused.
- 7.4.5 As a final aside, it should also be noted that some properties, including Tithe Barn, appear to be immediately adjacent to the site and could have their amenity impacted by exhaust/vehicle fumes and dust generated from movements on site, including to their gardens which is not acceptable.
- 7.5 ECC Highways
- 7.5.1 No objections, subject to a number of conditions relating to construction traffic management plan, travel plan, and improvements to site access.
- 7.6 ECC Historic Buildings Consultant
- 7.6.1 No objections raised. Although the new buildings are larger, their general appearance will not notably alter the setting of the listed buildings. Information regarding materials, hardstanding and landscaping will be required if the application is approved.
- 7.7 ECC SUDs
- 7.7.1 Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we wish to issue a holding objection to the granting of planning permission based on the following:
- Confirmation is sought as to where surface water will be stored. Sufficient storage should be provided to ensure no internal flooding as a result of the development during all storm events up to and including the 1 in 30 year storm event and no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
  - Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.

8. PARISH / TOWN COUNCIL

8.1 Stisted Parish Council

8.1.1 Objection the submitted information is incorrect.

8.1.2 Design and Access Statement Comments: Only two charging points TA states 3. Statement is incorrect as no links to sustainable transport or pedestrian access. There is no paved access.

8.1.3 Transport Assessment Comments: paragraph 1.8 Stisted is North East and 1.6km as the crow flies or 2km by Kings Lane. Braintree centre (Junction of Bank Street and Coggeshall Road) is 3.3km by road or 3km as the crow flies. Paragraph 2.4 There is only one access to the site from Kings Lane. Paragraph 2.9 This is misleading. There is the PO, open Mon & Thurs, and pub open Thurs to Sun. Paragraph 2.10 Fails to mention that there are no footways, i.e. paved path, between the A120 and Stisted, only public footpaths, entirely of a rural nature and therefore difficult to traverse during the wetter and colder months when mud is prevalent and snow and ice may also be present. Paragraph 2.12 The topography between the site and Kings Lane is not flat with a reasonably steep approach to the village with a 24 metre total ascent.

8.1.4 Paragraph 2.16 Dispute the claims here. The site does not offer “broadly good accessibility by sustainable modes of transport, with both public transport, cycling and pedestrian linkages being viable”. 2.17 Dispute these claims as no safe pedestrian access to the site from public transport. SPC currently trying to establish a safe route to the bus stops on the A120 so school children are able to access these by foot. Paragraphs 2.18, 2.19 Fail by the same measure as 2.16, 2.17. Paragraph 3.10 EV requirements as of June 2022 which were part of the changes to Building Regulations state that “All new non-residential buildings with more than 10 parking spaces must have a minimum of one chargepoint and cable routes for one in five (20%) of the total number of spaces.” so this figure needs to double to six EV charging points. Possibly consider making an EV charging point available by the HGV parking spaces.

8.1.5 Paragraph 3.15 Swept Path Analysis only covers 7.5 tonne lorry, not tractor and trailer units. Since there are currently no restrictions on HGV traffic on this road and there is no guarantee about the sort of traffic the units will attract, this would appear to be a huge omission. Analysis also fails to consider that the corner on Kings Lane immediately before the site and also the junction with The Street and Rectory Road are unsuited to HGV traffic. Paragraph 3.17 HGV parking spaces do not appear large enough for a 16m - 18m lorry and trailer. Paragraph 4.4 Fails to provide current transport levels. Paragraph 4.6 The forecast 87 car movements is a significant increase in traffic. Using the daily totals provided by the Speed Survey data from the previous planning application 15/01575/FUL it would suggest that based on the average totals for a week (approx 1240) this is an increase of

7%. Paragraph 5.1 By not presenting present usage and traffic data it has failed to demonstrate this. Paragraph 5.7 Pure speculation. No evidence to support this claim. Surely HGV and LGV traffic to the site will be solely determined by the type of businesses that use the units.

- 8.1.6 General comments. Fails to mention that the junction between Kings Lane and Coggeshall Road (A120) is an accident black spot.
- 8.1.7 No provision for EV charging for LGV and HGV traffic which may tend the site. It is not clear how the new buildings will be powered and heated. There is no provision of renewable energy sources of power and / or heat .e.g solar, GSHP etc. These would have the benefit of lowering running costs, making the units more attractive.
- 8.1.8 Would like more detail on the types of building materials to be used. Surely these should be eco-friendly and sustainably sourced. No details on roofing construction. There is an opportunity here to use green roofing which should be seized.
- 8.1.9 This is an opportunity to implement a dual plumbing system; using grey waste water for toilet flushing etc.

## 9. REPRESENTATIONS

- 9.1.1 A site notice and neighbours notified and 32 letters of representation have been received objecting to the proposed development for the following reasons:

- The current usage is about acceptable as there is not constant movement from the site.
- Any additional vehicles is unacceptable.
- Many cars already drive down the road and high speeds harming pedestrian safety and residents.
- There are no paved footpaths for residents.
- The planned development is not in keeping with a rural area.
- The site is prone to flooding and car parks and hardstanding will add to this issue.
- The junction with the A120 is notorious for accidents and national highways are aware of the accidents.
- The road cannot cope with the increased traffic.
- The proposal will give rise to noise pollution and given the proximity of the residential properties on the boundary it is not acceptable.
- Lack of sustainability included within the application.
- Access from Kings Lane to the yard is already dangerous and with the added traffic would be unacceptable.
- The area is residential and the proposal to have industrial units here is unacceptable.
- No information on operating hours has been considered given the residents around this site.

- Loss of light and overbearing to residents.
- Buildings not of high architectural quality.
- There is very limited information on waste storage.
- Landscaping proposals are minimal or non-existent.
- No information on lighting in this countryside location.
- A residential development of the site would be more suitable and supported by residents.
- Drainage and effluent arrangements from the site are unclear.
- In response to the Transport Dynamics letter from the director Tom Swift dated 19<sup>th</sup> December in relation to the Assertion 1: *"The proposal will not result in an intensification of use because a very similar level of traffic will be generated in the future as is already the case now"*.
- There is currently no traffic generated from and to the site because the two main agricultural building are vacant.
- Previously the buildings/site were occupied by a Highways Line Painting contractor who would have two lorries entering and exiting the site on a daily basis but at times outside the rush hour (often during the evening/at night).
- The planning application has space for 27 vehicles and identifies that there will be delivery/dispatch lorries accessing the site: this will create much more traffic than was experienced when the site was in use.
- Assertion 2: *"The existing use of the site...generates large, slow moving and low acceleration Heavy Goods vehicles, which typically perform unsatisfactorily at any access or road junction"*.
- As identified, the previous traffic movement was largely outside of rush hour times and it is almost certain the Planning proposal will result in higher traffic flows at the key rush hour times of the day.
- There will still be delivery lorries and their acceleration is likely to be similar to the previous users but in all likelihood the number of journeys will be greater than 2 lorries leaving and returning on a daily basis. Hardly the "significant removal of slow moving and low acceleration HGV's" as claimed by Transport Dynamics.
- Assertion 3: *"the same volume of traffic as now is likely to be produced"*.
- This seems a highly contentious claim given the previous traffic flow.
- Unless the future occupiers of units have already been identified (and their usage patterns known) it would seem unlikely that the same volume of traffic will be produced. 6 separate industrial units with 27 parking spaces must in all probability generate a higher volume of traffic than has hitherto been the case.
- The current proposal will increase traffic volumes significantly onto Kings Lane and out onto the already dangerous junction with the A120, which it would seem highly appropriate be the subject of a GG104 Risk Assessment as recommended by the National Highways.



## 10. PRINCIPLE OF DEVELOPMENT

- 10.1.1 Paragraph 11 of the National Planning Policy Framework [NPPF] (2021) sets out that plans and decisions should apply a presumption in favour of sustainable development. Paragraph 12 of the NPPF states, however, that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. In addition, paragraph 47 of the NPPF states that planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 10.1.2 Currently the Council's statutory Development Plan consists of the Braintree District Local Plan (2013-2033).
- 10.1.3 The application site is located outside of a designated development boundary and not allocated for residential use. As such, the site is located on land designated as countryside as identified by Policy LPP1 of the Adopted Local Plan.
- 10.1.4 Policy LPP1 of the Adopted Local Plan states development outside development boundaries will be confined to uses appropriate to the countryside whilst also protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils to protect the intrinsic character and beauty of the countryside.
- 10.1.5 Policy LPP7 of the Adopted Local Plan states outside of development boundaries, proposals for small-scale development, which involve the conversion and re-use of existing buildings that are of permanent and substantial construction and capable of conversion without complete re-building, will be considered acceptable subject to the following criteria:
- A. The access and traffic generated by the development can be accommodated without adverse impact on the local road network;
  - B. There is no unacceptable impact on residential amenity;
  - C. There is no unacceptable impact on the character of the site or the surrounding countryside and its landscape value.
- 10.1.6 In light of the above, the site is not located on employment land but outside of the settlement boundary and planning permission is sought to demolish the existing buildings and rebuild two buildings to accommodate six industrial units which is unacceptable and contrary to Policy LPP7 of the Adopted Local Plan.
- 10.1.7 Stisted is located within a third tier as set out within the settlement hierarchy of the local plan. Third tier villages are considered to be the small villages within the district lacking services and poor transport links and travel by private vehicle is required. The site is not considered to be a sustainable location and future users of the site will rely highly on private

car use which is not acceptable. The site has been previously used by a road signing company.

- 10.1.8 It is acknowledged the site is not allocated for employment purposes in the Adopted Local Plan. The Council would not support intensification of the existing use and whilst it is accepted the site is brownfield land, this does not justify an approval for the proposed redevelopment of this site which would be contrary to Policies LPP1 and LPP7 of the Adopted Local Plan.

## 11. SITE ASSESSMENT

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

- 11.1.1 Paragraph 126 of the National Planning Policy Framework (NPPF) sets out that 'the creation of high quality buildings and places is fundamental to what the planning and development process should achieve'. It then goes on to cite good design as a 'key aspect of sustainable development'.
- 11.1.2 Paragraph 127 of the NPPF details that planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.
- 11.1.3 Paragraph 174 of the NPPF, amongst other matters, explains that when making decisions local planning authorities should recognise the intrinsic character and beauty of the countryside. The emphasis on local responsiveness and high-quality design is also reaffirmed within the National Design Guide (NDG).
- 11.1.4 Policies SP6 and LPP52 of the Adopted Local Plan 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 to reflect or enhance the area's local distinctiveness.
- 11.1.5 The proposed industrial units would be dominated by hardstanding extending round the whole site with car parking in every part of the site in an ad hoc manner representing poor design. The siting of the buildings has resulted in car parking dominating the main entrance with the façades of the buildings resulting in blank frontages onto the street which is unacceptable. All buildings must have the same high quality of design for all facades but this proposal results in the buildings having blank frontages facing the street with one single door.
- 11.1.6 Overall the elevations appear confused with elements of industrial and domesticated appearance which is incongruous to the mass, scale and form of the proposed development. The poor design and detailing is further exacerbated by the poor quality materials that again lack authenticity of real wood, slate roofs and brickwork detailing.

11.1.7 The proposed development would appear at odds within this countryside location by reason of its layout, scale, massing, form and poor detailed design resulting in an urban pattern of development more akin to development within an employment business park rather than this rural location set within the countryside.

## 11.2 Heritage

11.2.1 Both the Development Plan and the NPPF seek to ensure that new developments preserved the significance of heritage assets and their settings. The application site is located within the setting of a listed buildings at Jenkins Farm to the south of the site. The existing site is not considered to harm their significance.

11.2.2 The Historic Buildings Consultant raises no objection on heritage grounds to developing the site and whilst the buildings are larger, the general appearance of the buildings will not notably alter the setting of the listed buildings but would require further detail in relation to materials, hardstanding and landscaping if the application is approved.

## 11.3 Landscaping

11.3.1 Policy LPP76 of the Adopted Local Plan states that in determining applications, the LPA will take into account the different roles and character of the various landscape areas in the District and recognise the intrinsic character and beauty of the countryside, in order to ensure that any development permitted is suitable for the local context. Proposals for new development should be informed by, and be sympathetic to, the character of the landscape as identified in the District Council's Landscape Character Assessments. Proposals which may impact on the landscape such as a settlement edge, countryside or large schemes will be required to include an assessment of their impact on the landscape and should not be detrimental to the distinctive landscape features of the area such as trees, hedges, woodlands, grasslands, ponds and rivers. Development which would not successfully integrate into the local landscape will not be permitted.

11.3.2 The site is located within the Braintree Landscape Character Area A9 Blackwater River Valley.

11.3.3 The key characteristics of the Blackwater River Valley area as follows:

- Shallow valley.
- The valley sides slope gently up from the valley floor.
- Predominantly arable farmland on the valley slopes.
- The Lower Blackwater near the confluence with the River Chelmer has gently valley slopes.
- Overall strong sense of place and tranquillity away from the settlements of Braintree, Witham and Maldon and the A120, A12 and the railway line.

- 11.3.4 The proposed development would not have a detrimental impact on upon the Blackwater River Valley taking into account the development is set between residential development to the north and west of the site and the existing development on site. It would maintain views across the site. Whilst the proposed development would detract from the character of the area in other ways, as stated elsewhere in the report, it is conceivable that a landscaping scheme could be controlled by condition that could represent an enhancement to the local area.
- 11.3.5 Officers consider that the development would have highly localised effects given the site is a brownfield site and does not contain any landscape interest and importance. As such, any potential impact would be to localised views. Therefore, at this time there are no objections to the scheme from a landscape perspective.
- 11.3.6 In relation to trees, the Agent has indicated there are trees on the site however no arboricultural report has been submitted for future consideration. Insufficient information has therefore been submitted to formally assess the impact of the layout upon the trees. Accordingly, an arboricultural report is required to fully assess the potential harm.
- 11.4 Ecology
- 11.4.1 Policy LPP64 of the Adopted Local Plan is relevant in terms of Protected Species, Priority Species and Priority Habitat. It details that Nationally Designated sites (including Sites of Special Scientific Interest (SSSIs)), should be protected from development which is likely to adversely affect the features for which they are designated. In regard to the protected species, it details that where there is a confirmed presence or reasonable likelihood of protected species or priority species being present on or immediately adjacent to a development site, the developer will be required to undertake an ecological survey and will be required to demonstrate that an adequate mitigation plan is in place to ensure no harm to protected species and no net loss of priority species.
- 11.4.2 The Councils Ecology Consultant has reviewed the submitted Bat and Owl Survey (Essex Mammal Surveys, May 2022), submitted by the Applicant and is satisfied the proposal would not result in any likely impacts on designated sites, Protected and Priority Species and Habitats given there is no evidence of bats and no bat roosting potential, and no evidence of barn owls or suitability to support nesting barn owls, in the buildings to be demolished. However, a number of biodiversity enhancement measures are recommended as per The Bat and Owl Survey (Essex Mammals Surveys, May 2022) and can be controlled by condition if the application is deemed acceptable.

## 11.5 Highway Considerations

- 11.5.1 Paragraph 104 of the NPPF is explicit that development proposals should identify and pursue opportunities to promote walking, cycling and modes of transport. Paragraph 105 of the NPPF goes on to state the planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. Paragraph 111 of the NPPF states development shall only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 11.5.2 Policy LPP42 of the Adopted Local Plan states sustainable modes of transport should be facilitated through new developments. Policy LPP43 states that development will be required to provide vehicular and cycle parking in accordance with the EPOA Vehicle Parking Standards whereby 1 space per 50sq.m is required for a Class B2 use.
- 11.5.3 The application is accompanied by a transport statement carried out by Transport Dynamics reference PCD-461-RP-01 Revision 01 dated August 2022. The overall conclusions state the scheme allows for improvements to the site including obstructions in the existing visibility splay sightline; relocation of the edge of the carriageway gateline and adjustments to the geometry of the access arrangement.
- 11.5.4 The internal floorspace of all the units equates to 1440sq.m and therefore 28.8 parking spaces would be required in accordance with the current policy requirements. The parking layout shows 27 parking spaces including 2 lorry spaces with a cycle and motorcycle parking area although the spaces have not been provided. As such the proposal would fall marginally below the required level of parking provision.
- 11.5.5 The site would be served from one main access from Kings Lane. The ECC Highways Officer states has raised no objection to the proposals on highway grounds subject to a construction management plan, travel plan and changes to the main principal access to incorporate sustainable modes of transport.
- 11.5.6 However, given the proximity of the site to the A120 to the south of the site, National Highways have been consulted and raised objection to the proposal on the basis the proposal will result in minor traffic changes at the A120 Kings Lane Junction. This location has an accident record and therefore a GG104 Risk Assessment is required. The Applicant has responded with a subsequent letter from Transport Dynamics dated 19<sup>th</sup> December 2022 stating the request for safety audit by National Highways at the junction of Kings Lane and the A120 is somewhat distant from the actual site and the request is unnecessary. National Highways have reviewed the submitted information and confirm a holding objection is maintained in the absence of a GG104 risk assessment.

- 11.5.7 In light of the above, given the objection raised by National Highways it is therefore considered the application is contrary to policy.
- 11.6 Impact upon Neighbouring Residential Amenity
- 11.6.1 The NPPF seeks to secure a good standard of amenity for all existing and future occupants of land and buildings. Similarly, Policy LPP52 of the Adopted Local Plan which emphasises the need to protect the amenity of nearby properties, by preventing any loss of privacy, increase in overshadowing, loss of light, or overbearing impact.
- 11.6.2 The nearest residential properties are to the south of the site including Tithe Barn which has a habitable room set 1m away from the existing boundary treatment, although it is noted the red line on the submitted drawings accompanying this application shows the property being further away with their rear garden along the southern boundary of the site. Hay Barn is located 5m away from the southern boundary. The residential dwelling Oakwood to the north of the sites garden abuts the boundary of the site with the dwelling set 27m-39m away from the boundary with the existing site which is sufficient to mitigate against any harm in terms of overlooking and loss of privacy.
- 11.6.3 The new buildings are set off the boundary to the north and south and by reason of height and scale varying site levels it is not considered that the proposed development would result in overbearing, overshadowing or loss of privacy to the amenities enjoyed by existing residential occupiers.
- 11.6.4 However, no information has been submitted with this application in relation to noise to assess the impact of the new development which is unacceptable. The Council's Environmental Health Officer has reviewed the application and raised objection and recommended refusal given there are residential dwellings in very close proximity to the proposed site, both to the north and to the south.
- 11.6.5 It is therefore relevant for this application to include consideration of the potential noise impact and to demonstrate the development would not unduly impact the amenity of existing residents or that mitigation may be required to offset any such impact.
- 11.6.6 No information has been submitted within the formal submission to demonstrate the proposal would be acceptable by reason of noise, hours of operation, exhaust/vehicle fumes, and dust generated from movements on site, which is not acceptable given the proximity of the neighbouring properties.
- 11.6.7 On the basis that the Applicant has not provided any kind of assessment to consider the potential impact from noise sources that may be present from the site's own activities (such as machinery/process use) and the comings

and goings associated with vehicle movements, insufficient information has been provided.

- 11.6.8 In light of the above, the proposal fails to demonstrate the proposed development would not affect the amenities enjoyed by existing residential occupiers by reason of noise, disturbance or highways implications.

11.7 Flooding and Drainage Strategy

- 11.7.1 Section 14 of the NPPF is concerned with how the Government expects the planning system to consider climate change, flooding and coastal change, and recognises that planning plays a key role in, amongst other things, providing resilience to the impacts of climate change.
- 11.7.2 Policy LPP74 of the Adopted Local Plan states new development should be located within Flood Risk Zone 1. The site is located within Flood Risk Zone 1 (a low probability of flood risk). A sequential test is therefore only relevant if the proposed development is within Flood Risk Zone 2 or 3 which is not applicable in this instance.
- 11.7.3 Policy LPP76 of the Adopted Local Plan states major commercial developments will be required to incorporate Sustainable Drainage Systems (SUDs) appropriate to the nature of the site and such systems should provide optimum water runoff rates and volumes taking into account the relevant local and national standards.
- 11.7.4 The application is accompanied by a Sustainable Drainage Assessment carried out by Richard Jackson dated October 2022. The ECC Suds have reviewed the submitted information and raised a holding objection on the basis insufficient information has been provided to confirm where the surface water will be stored. Sufficient storage should be provided to ensure there is no internal flooding as a result of the development during all storm events up to and including the 1 in 300 year storm event, and no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event. Nor has the proposal demonstrated the storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- 11.7.5 In the absence of this information and the objection raised by Essex County Council, it is therefore considered the application is contrary to Policy LPP76 of Adopted Local Plan.

11.8.1 Contamination

- 11.8.1 Policy LPP70 of the Adopted Local Plan states that proposed for all new developments should prevent unacceptable risks from all emissions and other forms of pollution (including light and noise pollution) and ensure no deterioration to either air or water quality.

- 11.8.2 The Design and Access Statement accompanying this application states that the site has historically used for commercial purposes and as a fully hard surfaced site the likelihood of contaminants entering the land is minimal. No contamination report has been submitted with this application, however Environmental Health Officers have confirmed if the application is deemed acceptable a suitable condition can be imposed to ensure full details of contamination are reviewed accordingly.

## 11.9 Construction Activity

- 11.9.1 In order to safeguard the amenity of existing residents in the locality, should the application be approved, a condition is recommended requiring the Applicant to submit for approval a comprehensive Construction Management Plan for the development covering for example, construction access, hours of working, dust and mud control measures, contractor parking; points of contact for existing residents.

## 12. CONCLUSION

- 12.1 The application site is located outside a designated development boundary as defined within the Adopted Local Plan, and as such is on land designated as 'countryside' where there is a presumption against new development. There is no policy support within the Adopted Local Plan for the erection of new buildings to support commercial businesses in the countryside. The development is contrary to the Development Plan.
- 12.2 Whilst there is general policy support within the NPPF for sustainable development, and sustainable growth and expansion of businesses in rural areas is given weight, the proposal does not meet the criteria set out as the development is not 'well designed' nor 'sensitive to its surroundings' within this countryside location. The development is therefore not considered to result in a material consideration that would indicate that permission be determined not in accordance with the Development Plan.
- 12.3 The proposed development by reason of layout, design and scale would be dominated by hardstanding extending round the whole site, the siting of the buildings has resulted in car parking dominating the main entrance with the façades of the buildings resulting in blank frontages onto the street which is unacceptable. The overall quality of the elevational design is poor incongruous to the mass, scale and form of the proposed development appearing at odds within this countryside location. The development by reason of its layout, scale, massing, form and poor detailed design resulting in an urban pattern of development more akin to development within an employment business park rather than this rural location set within the countryside.
- 12.4 The proposed development would impact on residential amenity as insufficient information has been submitted to demonstrate the proposed development would prevent unacceptable risks from all forms of pollution including noise which is afforded significant weight.



- 12.5 The proposed scheme fails to demonstrate the proposal would not have a detrimental impact on the wider highway network with respect to the A120 junctions with Kings Lane to the south which is afforded significant weight.
- 12.6 Insufficient information has been submitted in relation to proposals for a sustainable urban drainage system such it has not been possible for the Local Planning Authority to make an assessment.
- 12.7 The development would accrue some economic and social benefits with jobs created however very limited weight is assigned to this. There would be a negative environmental impact with the harm to the character and appearance of the locality. The development would not fall to be 'sustainable development'.
- 12.8 When considering the planning balance as detailed above, Officers have concluded that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. Consequently, it is recommended that planning permission is refused for the proposed development.

13. RECOMMENDATION

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

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## APPENDIX 1:

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

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

| <b>Plan Description</b> | <b>Plan Ref</b> | <b>Plan Version</b> |
|-------------------------|-----------------|---------------------|
| Location / Block Plan   | 513/P/001B      | N/A                 |
| Proposed Plans          | 513/P/002A      | N/A                 |
| Proposed Plans          | 513/P/003A      | N/A                 |
| Existing Plans          | 3/001           | N/A                 |
| Existing Plans          | 5/001           | N/A                 |

#### Reason(s) for Refusal

##### Reason 1

The site is located within a countryside location, wherein there is a presumption against such inappropriate development. The proposed development, by reason of its layout, size, scale, siting and form, fails to secure a well-designed development; would be unduly prominent within the locality; harmful to the character and appearance of the locality; and would fail to protect and enhance the landscape and intrinsic character and beauty of the countryside. The development is thereby contrary to Policies SP1, SP3, SP7, LPP1, LPP47, LPP52, LPP67 and LPP70 of the Braintree District Local Plan 2013 - 2033 and the National Planning Policy Framework.

##### Reason 2

Insufficient information has been provided to demonstrate the proposal would not result in adverse impact on the amenities enjoyed by existing residential occupiers to the north and south of the site by reason of noise impacts arising from the development. The development is thereby contrary to Policies SP1, SP7, LPP1, LPP52, and LPP70 of the Braintree District Local Plan 2013 - 2033 and the National Planning Policy Framework.

##### Reason 3

The proposal would result in minor traffic changes at the A120 Kings Lane Junction. Insufficient information has been submitted to demonstrate the proposed development would not result in an unacceptable degree of hazard to all users of the highway. The proposal therefore would be to the detriment of highway safety contrary to NPPF and Policy LPP52 of the Braintree District Local Plan (2013-2033).

##### Reason 4

Insufficient information has been submitted in relation to proposals for a sustainable urban drainage system as such it has not been possible for the Local Planning Authority to make an assessment. The proposal is therefore considered to be contrary to the National Planning Policy Framework, and Policy LPP76 of Braintree District Local Plan (2013-2033).

#### Reason 5

In the absence of an aboricultural report, it has not been possible for the Local Planning Authority to make an assessment in relation to the impact of the proposed development on existing trees and landscape failing to take into account of the function that the site serves in landscape terms and would significantly harm the intrinsic character of the site, streetscene and surrounding area contrary to the principles and guidance set out in the National Planning Policy Framework and Policies SP7, LPP1, LPP52, and LPP65 of Braintree District Local Plan (2013-2033).

#### Positive and Proactive Statement

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

## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

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

#### Braintree District Local Plan 2013 - 2033

|       |  |
|-------|--|
| SP1   | Presumption in Favour of Sustainable Development   |
| SP3   | Spatial Strategy for North Essex   |
| SP6   | Infrastructure & Connectivity  |
| SP7   | Place Shaping Principles   |
| LPP1  | Development Boundaries   |
| LPP7  | Rural Enterprise   |
| LPP42 | Sustainable Transport  |
| LPP43 | Parking Provision  |
| LPP47 | Built and Historic Environment   |
| LPP52 | Layout and Design of Development   |
| LPP64 | Protected Sites  |
| LPP66 | Protection, Enhancement, Management and Monitoring of Biodiversity                             |
| LPP67 | Landscape Character and Features   |
| LPP70 | Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards |
| LPP74 | Flooding Risk and Surface Water Drainage   |
| LPP76 | Sustainable Urban Drainage Systems   |

### APPENDIX 3:

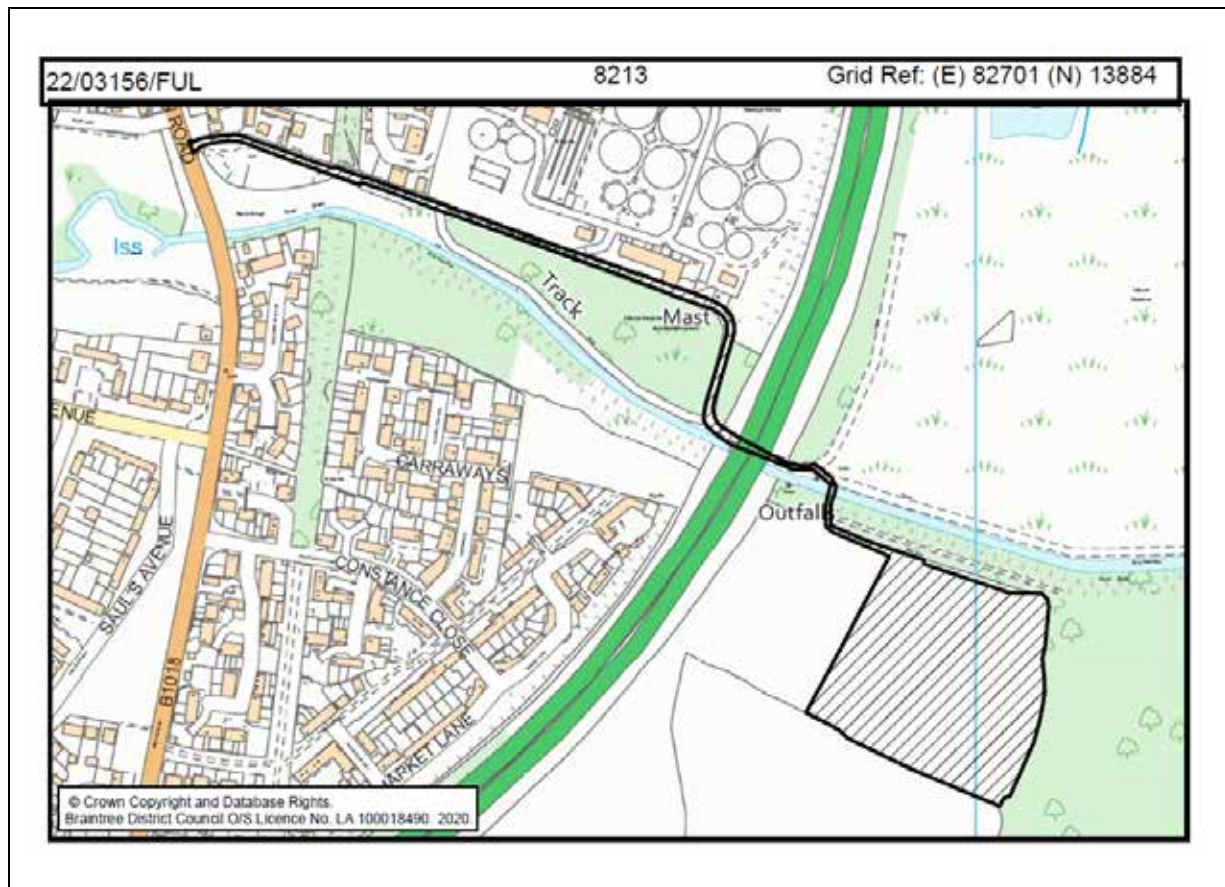
#### SITE HISTORY

| <b>Application No:</b> | <b>Description:</b>   | <b>Decision:</b> | <b>Date:</b> |
|------------------------|---|------------------|--------------|
| 00/00455/LBC           | Removal of modern partitions and glass, new wc, new pamment floor to kitchen area, new windows and remove plastic roof  | Granted          | 25.05.00     |
| 03/00009/FUL           | Reconstruction of listed barn following fire damage   | Granted          | 24.03.03     |
| 03/00010/LBC           | Reconstruction of listed barn following fire damage   | Granted          | 24.03.03     |
| 90/00029/PFBS          | Change Of Use Of Land From Highway To Private   | Granted          | 27.02.90     |
| 91/00403/PFBS          | Alterations To Form Sun Room And Construction Of Fish Pond  | Granted          | 13.05.91     |
| 92/00193/PFBS          | Change Of Use Of Redundant Farm Buildings To Business/ Light Industrial Use   | Granted          | 26.05.92     |
| 92/00194/PFBS          | Change Of Use Of Redundant Farm Buildings To Business/ Light Industrial Use   | Granted          | 26.05.92     |
| 15/01575/FUL           | Conversion of redundant farm buildings to create 3 no. dwellings. Works to include demolition of existing modern building group, erection of extensions and open bay garaging, together with associated landscaping and engineering works | Granted          | 02.06.16     |
| 15/01576/LBC           | Conversion of redundant farm buildings to create 3 no. dwellings. Works to include demolition of existing modern building group, erection of extensions and open bay garaging, together with associated landscaping                       | Granted          | 02.06.16     |

|              |   |           |          |
|--------------|---|-----------|----------|
|              | and engineering works   |           |          |
| 16/01456/FUL | Demolition of existing single storey later addition, erection of single storey rear extension, erection of detached garaging and associated landscaping | Withdrawn | 18.10.16 |
| 16/01457/LBC | Demolition of existing single storey later addition, erection of single storey rear extension, erection of detached garaging and associated landscaping | Withdrawn | 18.10.16 |
| 17/00170/FUL | Demolition of existing single storey later addition, erection of single storey rear extension, erection of detached garaging and associated landscaping | Granted   | 07.07.17 |
| 17/00171/LBC | Demolition of existing single storey later addition, erection of single storey rear extension, erection of detached garaging and associated landscaping | Granted   | 07.07.17 |
| 18/00894/DAC | Application for approval of details reserved by condition nos. 1, 2, 3, 5, 6, 7, 8, 10, 11, 12, 13 and 14 of approved application 15/01575/FUL.         | Granted   | 24.08.18 |
| 18/00898/DAC | Application for approval of details reserved by condition nos. 1, 2, 3, 4, 5 and 6 of approved application 15/01576/LBC.                                | Granted   | 24.08.18 |
| 19/00571/DAC | Application for approval of details reserved by condition nos. 4 and 9 of approved application 15/01575/FUL.  | Granted   | 28.06.19 |
| 20/00381/HH  | Formation of tennis court with associated fence enclosure.  | Granted   | 22.01.21 |

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|---|--|---|
| <b>Report to:</b> Planning Committee              |  |   |
| <b>Planning Committee Date:</b> 24th January 2023 |  |   |
| <b>For:</b> Decision                              |  |   |
| <b>Key Decision:</b> No                           |  | <b>Decision Planner Ref No:</b> N/A   |
| <b>Application No:</b>                            | 22/03156/FUL   |   |
| <b>Description:</b>                               | Change of use to ecological mitigation area (linked to the A12 widening scheme) including the creation of 4 ponds, 257metres of ditches, creation of 5 bunds and one area of wider re-grading of land from on-site excavated material, perimeter fencing and associated landscaping. |   |
| <b>Location:</b>                                  | Land Blackwater Lane Witham  |   |
| <b>Applicant:</b>                                 | Mr Kampandila Kaluba, National Highways, Woodlands, Bedford, MK41 6FS  |   |
| <b>Agent:</b>                                     | Mrs Sophie Douglas, Jacobs, 1 City Walk, Leeds, LS11 9DX   |   |
| <b>Date Valid:</b>                                | 17th November 2022   |   |
| <b>Recommendation:</b>                            | It is RECOMMENDED that the following decision be made:<br><br>§ Application GRANTED subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.  |   |
| <b>Options:</b>                                   | The Planning Committee can:<br><br>a) <b>Agree</b> the Recommendation<br>b) <b>Vary</b> the Recommendation<br>c) <b>Overturn</b> the Recommendation<br>d) <b>Defer</b> consideration of the Application for a specified reason(s)  |   |
| <b>Appendices:</b>                                | <b>Appendix 1:</b>   | Approved Plan(s) & Document(s)<br>Condition(s) & Reason(s) and Informative(s) |
|   | <b>Appendix 2:</b>   | Policy Considerations   |
|   | <b>Appendix 3:</b>   | Site History  |
| <b>Case Officer:</b>                              | Lisa Page<br>For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2516, or by e-mail: <a href="mailto:lisa.page@braintree.gov.uk">lisa.page@braintree.gov.uk</a>   |   |

**Application Site Location:**





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

|                           |  |
|---------------------------|--|
|                           | <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p> <p>The Equality Impact Assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.</p>  |
| <b>Background Papers:</b> | <p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> <p>The application submission can be viewed online via the Council's Public Access website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 22/03156/FUL.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan 2013 - 2033</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD's) (if applicable)</li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p> |

## 1. EXECUTIVE SUMMARY

- 1.1 The application seeks full permission for an ecological mitigation area to facilitate the translocation of reptile populations prior to the construction of the A12. It would also mitigate loss of scrub habitat within the adjacent Whetmead Local Nature Reserve (LNR) and Local Wildlife Site (LWS) and would contribute to Biodiversity Net Gain of the A12 works. The ecological mitigation area would include ponds, a ditch network, bunds, features for reptiles, and associated tree, shrub and grassland planting, enclosed by 1.1 metre high fencing.
- 1.2 The principle for the change of use to an ecological area is supported by a number of Policies within the Adopted Local Plan (Policies SP7 and LPP64) which encourage biodiversity creation and enhancement measures, and net gain in priority habitats. Support is also attributed to the NPPF (Paragraphs 174 and 180) which requires planning to contribute to and enhance the natural and local environment by protecting and enhancing sites of biodiversity value, and also seeks to secure measurable net gains for biodiversity. Although the development would result in the loss of Grade 2 agricultural land, weight is attributed to the fact that this site would enable the mitigation measures and features to be easily integrated and embedded with existing nearby habitats, and that to achieve this outcome, it would inevitably require the loss of such agricultural land. Overall, the principle of development is considered acceptable.
- 1.3 In terms of layout and landscape impacts, the development would inevitably result in a change in the character of the land, altering from an open agricultural field to an ecological area with artificial land formation and features, and subdivision of an existing larger field parcel. The impact of this change would primarily be seen from public views along the PROW to the west. However, it is considered that the impact would be reduced due to the modest change associated with the re-levelling work, limited height of the bunds and other features, and low level and appropriately designed fencing. In addition, the development would be seen against the backdrop of the existing landscaping to the northern and eastern boundary and the extensive proposed tree and shrub planting. Furthermore, the development would be viewed within the context of the adjacent Local Nature Reserve (LNR) and Local Wildlife Site (LWS) and river corridor. On this basis, it is not considered that the development would result in harm to the character and appearance of the local landscape.
- 1.4 Access to the site for construction purposes would be via Maldon Road (B1018) onto Blackwater Lane which extends under the A12, and then crosses over the River Brain onto the existing agricultural field. Due to the low level of vehicles associated with the development (a total of 52 vehicle movements a day) and given that these are 'light vehicles', there would be no harmful impact to the highway network. The submitted Construction Traffic Management Plan (CTMP) satisfactorily sets out how traffic management would be undertaken throughout the construction period and

provides for appropriate management of vehicles, including to prevent conflict with pedestrians on the PROW.

- 1.5 In terms of heritage there would be no harm to the setting of nearby listed buildings and no harm to the setting of the Witham Conservation Area. A condition is imposed to provide for archaeology monitoring.
- 1.6 In regard to ecology and landscape considerations, the location of the site between Whetmead LNR, the LWS and area of deciduous woodland within the floodplain of the River Blackwater is supported, as it would strengthen the ecological networks at this location and within the District more widely. The development would result in no significant ecological constraints and any impacts can be addressed via mitigation proposed. Equally, the proposed soft landscaping scheme is acceptable, and the creation of biodiversity net gain is supported.
- 1.7 The site is mostly located within Flood Zone 1, but parts of it are located within Flood Zones 2 and 3. Although the NPPF categorises 'nature conservation and biodiversity' as 'water compatible development', and as such the development is considered appropriate within all Flood Zones, there is a requirement to apply the 'sequential test'. The LPA have undertaken the sequential test and conclude that there are clear and justified reasons why the development needs to be located at this site and that there are no other suitable or available other sites of lower flood risk which could accommodate the proposed development.
- 1.8 Furthermore, the application is submitted with the required Flood Risk Assessment, which demonstrates that the development would have a negligible impact on flood risk. The Local Lead Flood Authority and the Environment Agency raise no objections to the development.
- 1.9 In terms of neighbouring amenity, given the distance from neighbours, the relatively low level of vehicle movements and limited size of vehicles, restricted construction working hours, and dust mitigation measures (all as set out within the CTMP), the development would result in no unacceptable harm to neighbouring amenity.
- 1.10 A 'land quality conceptual model' has been submitted which clarifies that there is no evidence of significant contamination to groundwater from the past landfill use on nearby land. The risk assessment has identified a very low risk of contaminants migrating to the proposed ponds via groundwater migration, but a watching brief is required during construction to monitor water quality with the water quality of the proposed ponds monitored for 12 months post construction.
- 1.11 Taking the above factors into account, the application is recommended for approval subject to conditions.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

3. POLICY CONSIDERATIONS

See Appendix 2

4. SITE HISTORY

See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 The site is located to the south-east of Witham and covers a total area of 2.42 hectares (including the land required for the access to the site from the public highway and the main site area wherein the ponds and landscaping would be formed).
- 5.2 The main part of the site is a roughly rectangular parcel of land to the east / southeast of the A12. To the north of the main parcel of land is the river Brain (with Whetmead Local Nature Reserve further north beyond the River Brain); to the east is a Cricket Bat Willow Plantation; to the south lies further arable farmland; and to the north, the land is in arable use (with the A12 beyond).
- 5.3 The application site area also includes the access to the site, which is from Maldon Road (B1018), along Blackwater Lane, under the A12, and into the main part of the application site via the existing bridge over the watercourse. To the north of the first stretch of Blackwater Lane from Maldon Road, lie residential dwellings, whilst to the south are some informal commercial uses. As one moves along Blackwater Lane, sited to the north are the rear of commercial units within Perry Road, and then the sewage treatment works. A landscaped area lies to the south of Blackwater Lane.
- 5.4 The main part of the site lies within arable use. The Agricultural Land Classification (ALC) is Grade 2.
- 5.5 The majority of the site is located within Flood Zone 1, but some areas lies within Flood Zones 2 and 3. A Flood Risk Assessment (FRA) has been submitted with the application.
- 5.6 There are no Tree Preservation Orders (TPOs) within the site boundary.
- 5.7 The site is not located within a Conservation Area. The nearest Listed Buildings are at Benton Hall (Grade II listed) approximately 230 metres to

the south of the site, and Sauls Bridge (Grade II listed) located along the river Brain, approximately 370 metres west of the access to the proposed development.

- 5.8 In addition to the Whetmead Local Nature Reserve (LNR) to the north, there are two Local Wildlife Sites (LWSs) within 250m of the site: Whetmead LWS (which overlaps the LNR of the same name), and Riverview Meadows LWS.
- 5.9 There is a Public Right of Way (PROW) from Maldon Road and along a stretch of Blackwater Lane from which the proposed access is to be taken. Although the PROW then diverts across a field, it re-joins the proposed access route for this application at the A12 underpass, a stretch beyond it and then its route crosses the river via the existing bridge. The PROW then extends to the north, away from the application site.

## 6. BACKGROUND TO THE PROPOSAL

- 6.1 The proposal forms part of the wider Nationally Significant Infrastructure Project (NSIP) proposed for widening the A12 between Chelmsford and Colchester. A Development Consent Order (DCO) application for this NSIP was accepted for examination by the Planning Inspectorate on the 12th of September 2022.
- 6.2 The DCO identifies a number of ecological mitigation areas to help mitigate the impacts of the A12. The Applicant (National Highways) is seeking full permission under the Town and Country Planning Act 1990 for 16 ecological mitigation areas through the submission of 13 planning applications across the Districts of Braintree, Colchester and Chelmsford in order to enable the creation of habitats in advance of the A12 construction.
- 6.3 The ecological mitigation areas have already been identified within the DCO which provides a high-level indicative layout for each ecological mitigation area. This planning application provides the detailed design with regards to the scale and nature of the proposal and how the ecological mitigation area would be constructed, operated and maintained.

## 7. PROPOSAL

- 7.1 The proposed ecological mitigation area subject to this planning application is required as a reptile receptor site to facilitate the translocation of reptile populations prior to the construction of the A12. It would also mitigate loss of scrub habitat within the adjacent Whetmead Local Nature Reserve (LNR) and Local Wildlife Site (LWS). The habitats created on the site would contribute to Biodiversity Net Gain of the A12 works.
- 7.2 The application proposes a change of use to an ecological area. This would include the construction of:

- 4 ponds with associated aquatic and marginal planting (the profile and depths vary to a maximum depth of 1.8 metres);
  - 257 metres of ditch network (maximum depth of 2 metres);
  - 5 bunds / basking banks created from excavated material (to a maximum height of 1 metre);
  - Re-grading of land with excess excavated material (to a maximum height of 0.5 metres);
  - Features for reptiles including:
    - 8no. hibernacula (approximately 0.5 metres in height);
    - 6no. log piles (to a maximum height of 1 metre);
  - 3 areas of intermittent trees and shrubs, aquatic planting, reedbed planting and seeding of species rich grassland;
  - Timber post and wire fencing around the perimeter of the site (height of 1.1 metres) and 1 metal field gate.
- 7.3 Access for construction vehicles and similar, would be from Maldon Road (B1018) via Blackwater Lane, under the A12 and to the site through a field access (including utilising the bridge over the River Brain). It is outlined that a small number of excavators and dumpers would be taken to site and remain on site for the duration of the works. At the peak, there would be up to 15 light vehicles (cars and vans) arriving daily, with up to 6 daily deliveries of materials via a small tractor and trailer or small dumper, and 5 vehicles for the main workforce. (A maximum total of 52 traffic movements a day).
- 7.4 The submission details that the construction period would be approximately 1.5 months. If granted planning permission, it is anticipated that works would commence in late February 2023.
- 7.5 There would be no public access to the site. (A perimeter fence is proposed to be erected to prevent public access).
- 7.6 The proposal does not fall within any of the descriptions of development for the purposes of the definition of 'Schedule 1 or 2 Development', as set out within the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. An Environmental Impact Assessment is therefore not required.
8. SUMMARY OF CONSULTATION RESPONSES
- 8.1 Cadent Gas (formerly National Grid)
- 8.1.1 No Objection.
- 8.2 Environment Agency
- 8.2.1 Confirm that the site lies within Flood Zone 3a and Flood Zone 2. The proposal is classified as a 'water compatible' development. The application is required to pass the Sequential Test and be supported by a site specific Flood Risk Assessment (FRA).

- 8.2.2 Note that the FRA confirms that the log piles and hibernacula would be located within Flood Zone 1, and the only aspects to be located within Flood Zone 3 are the ecological ponds which would be created below ground with no raised bunds, therefore the proposed works would not take up flood storage or increase flood risk elsewhere. Consequently, compensatory flood storage is not required.
- 8.2.3 In regard to ecology comment that it is important that native provenance plants and seeds are used as part of this proposal. There is mention in the application of native provenance plants but the image chosen of *Phalaris arundinacea* shows a variegated horticultural cultivar. Strict biosecurity will be essential. All plants should be from stock grown away from any aquatic systems to avoid any introduction of invasive aquatic species.
- 8.3 Health and Safety Executive
- 8.3.1 Do not advise on safety grounds against the granting of planning permission.
- 8.4 National Highways
- 8.4.1 Comment that the development is part of the National Highway's major road infrastructure improvement and therefore have no comments.
- 8.5 BDC Ecology
- 8.5.1 No objections.
- 8.6 BDC Landscape
- 8.6.1 No objections.
- 8.7 BDC Environmental Health
- 8.7.1 Have reviewed the submitted conceptual model, comment with no objections subject to conditions being imposed to secure a watching brief during construction to monitor water quality, and that for a period of 12 months post construction that the water quality of the ecological mitigation ponds is monitored.
- 8.8 ECC Archaeology
- 8.8.1 Confirm the need for archaeological monitoring to be secured via condition.
- 8.9 ECC Highways
- 8.9.1 Comment that from a highway and transportation perspective the impact of the proposal is acceptable subject to a condition requiring that the



development be carried out in accordance with the submitted construction traffic management plan (CTMP).

8.10 ECC Historic Building Consultant

- 8.10.1 No objections. Comment that the scheme would not have a detrimental impact on the nearest buildings / structures or the Witham Conservation Area.

8.11 ECC Local Lead Flood Authority (LLFA) – SuDS

- 8.11.1 No objection.

9. PARISH / TOWN COUNCIL

9.1 Witham Town Council

- 9.1.1 No objection subject to access to Whetmead being retained with mud removed from the underpass and access route.

10. REPRESENTATIONS

- 10.1 The application was advertised by way of site notices, newspaper notification and neighbour letter.
- 10.2 No third-party letters of representation have been received, but comments have been received from the North East Essex Badger Group and the Ramblers Association who raise the following comments:
- Are aware that there are badgers in the area. (Although have no setts recorded in the area have picked up many road casualty badgers from the Blue Mills Bridge area).
  - Footpath 101 which passes under the A12 being next to and very little above the river Blackwater is prone to flooding. Concern at the impact of the vehicle movements during construction on the surface of the public footpath. Question what provisions are in place to make good / improve the surface of the footpath post-construction.

11. PRINCIPLE OF DEVELOPMENT

11.1 The Development Plan

- 11.1.1 The Council's statutory Development Plan consists of the Braintree District Local Plan 2013-2033.
- 11.1.2 There are no made Neighbourhood Plans affecting the site. (Under the Neighbourhood Planning (General) Regulations, 2012, the Witham Neighbourhood Area has been approved. Although the application site falls within the proposed Neighbourhood Plan Area, given the stage of the

Neighbourhood Plan (Regulation 7), there are no policies to which weight can be applied).

- 11.1.3 The principle for the change of use to an ecological area is supported by a number of Policies within the Adopted Local Plan. Policy SP7 of the Adopted Local Plan requires new development to 'incorporate biodiversity creation and enhancement measures', whilst Policy LPP64 of the Adopted Local Plan states that 'proposals that result in a net gain in priority habitat will be supported in principle'.
- 11.1.4 Further policy support can be attributed to the NPPF. Paragraph 174 of the NPPF requires planning to contribute to and enhance the natural and local environment by protecting and enhancing site of biodiversity value, whilst Paragraph 180 states that 'development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.'
- 11.1.5 It is therefore considered that in terms of the principle of development, the proposed scheme would be in compliance with the Development Plan, and policy within the NPPF.

## 12. SITE ASSESSMENT

### 12.1 Loss of agricultural land

- 12.1.1 Paragraph 174(b) of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising '...the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland'.
- 12.1.2 In this regard, the loss of the existing agricultural land is a material consideration. The Agricultural Land Classification (ALC) provides a method for assessing the quality of agricultural land within England and Wales. Land is graded between 1 and 5, depending on the extent to which physical or chemical characteristics impose long-term limitations on agricultural use. Grades 1, 2 and 3a are defined as the best and most versatile (BMV) land. The development site is categorised as Grade 2.
- 12.1.3 As detailed above, this particular application is to mitigate the loss of scrub habitat within the adjacent Whetmead LNR and LWS. Due to Whetmead's LNR and LWS ground conditions, there is limited scope for additional planting to improve the existing land or to restore or improve the condition of formerly wet habitats within those sites. To provide appropriate mitigation in close proximity to the LNR and LWS, this agricultural land is considered most suitable for development.

- 12.1.4 In addition, the majority of agricultural land in the District is BMV, including a high proportion of the higher Grade 2 land. This includes alternative land in the Witham area. Paragraph 6.29 of the Local Plan confirms that the use of BMV for development is inevitable. Although the loss of the Grade 2 agricultural land is regrettable (the loss of agricultural land is around 2 hectares), it is at worst sequentially neutral in the consideration of BMV. Weight is also attributed to the fact that this site would enable the mitigation measures and features to be easily integrated and embedded with existing nearby habitats, and that to achieve this outcome, it would inevitably require the loss of such agricultural land. In this regard, the development is considered to not conflict with Paragraph 174 of the NPPF, as it would contribute to and enhance the natural and local environment (Paragraph 174(b)), whilst providing net gains for biodiversity (Paragraph 174(d)).
- 12.2 Layout appearance and Impact upon the Character and Appearance of the locality including the local landscape
- 12.2.1 As set out above, the application proposes the creation of a number of different features across the site to provide for habitats for a variety of differing species. The most notable features would be the creation of the ponds, ditches and bunds.
- 12.2.2 Across the site 4 ponds are to be created - 2 towards the north / north-eastern corner of the site and 2 towards the east / south-east corner. In terms of scale, these measure between 25 and 30 metres in length and 10 to 18 metres in width. The ponds would vary in profile and depth and vary between 0.3 metres depth to a maximum depth of 1.8 metres. The ponds would be planted with an aquatic planting mix, reedbed planting and marginal planting.
- 12.2.3 Extending from the centre of the site and towards the eastern edge is the creation of 257 metres of ditch network / water vole ditches. The ditch would have a maximum depth of 2 metres and would partially link into one of ponds, but otherwise terminates within the site itself. The ditch network would also be planted with an aquatic planting mix, marginal planting, together with a herb seed mix and wildflower mix.
- 12.2.4 The creation of 5 bunds / basking banks created from excavated material are also proposed across the site. These vary from around 3 x 4 metres in size to 10 x 4 metres. In terms of height, they are all a maximum height of 1 metre. In terms of their finish, the southern side would form a gentle slope which would be covered with a layer of gravel or scree to limit vegetation growth, whilst the remaining sides would be allowed to vegetate with grass or scrub vegetation to offer safe escape habitats from predators.
- 12.2.5 The application also seeks some wider re-grading of the land with the depositing of excess material from the excavation works. The area affected by the re-levelling is a roughly triangular shape located to the south-west / western boundary of the main site. Although the application does not include sections of the existing and proposed ground levels, the proposed

plans do include existing and proposed topographical information. Given that the level change only amounts to a maximum height increase of 0.5 metres, Officers are content that the consideration in terms of visual impact can be readily assessed. It is considered that the re-grading would only result in a relatively modest increase over the highlighted area, where there is a natural change in the land levels (the land falls from the north to the south). In addition, the submission details that the edges of this re-levelled area would be graded back into the adjacent land to form sweeping gradients, which would assist in minimising its visual impact. This element of the proposal would be read in conjunction with the aspects of the development and is not considered to result in adverse harm to the wider character and appearance of the locality.

- 12.2.6 In addition, the application also proposes a number of smaller features designed specifically for reptiles. These include the creation of 6no. log piles across the south-western section of the site (all sited within Flood Zone 1). The log piles are to be constructed of multiple size and shape cut timber, stacked randomly. Each log pile would be at around 1 metre wide and 2 metres long, with a height of around 0.5 to 1 metre (the lower-level timbers would be dug approx. 0.10 metres into the ground surface to provide stability to the pile).
- 12.2.7 To further support reptiles, is the creation of 8no. hibernacula features also to the south-western area of the site within Flood Zone 1. These are to be constructed to provide potential habitat for hibernating amphibians and reptiles. These would be 4 metres long, 2 metres wide and 1 metre high, but as they are dug into the ground by approximately 0.5 metres, the pile would sit approximately 0.5 metres above ground. The pile would be covered with a coir membrane over which soil or turf would be laid to allow grass vegetation to establish, though some rubble extrusions would be present around the edges (not covered in soil/turf) to allow access for sheltering animals.
- 12.2.8 Across the site, there are three areas of trees and shrubs planting (1 to the north-western corner of the site, 1 larger area extending the majority of the eastern boundary, and a smaller planting area to the south-eastern corner). In selecting the species for these areas of tree and shrub planting, regard has been had to the Essex County Council guide to informing tree species (Place Services: Essex Tree Palette, A guide to choosing the most appropriate tree species for Essex sites according to landscape character and soil type, 2018), and ecological considerations. Following some limited amendments to the proposed species (removal of the *Malus* and *Prunus* species), it is now considered that the proposed planting mix for the tree and shrub planting and the proposed seeding of grassland, would be appropriate for this location and would reinforce the landscape character and biodiversity of surrounding landscape.
- 12.2.9 Lastly, a 1.1-metre-high timber post and wire fence would be erected around the perimeter of the ecology area site, (in addition to a metal field gate to allow access for maintenance etc. as and when required). This is

required to prevent access (as previously noted, there would be no public access to the site). Whilst this would create a somewhat arbitrary subdivision of the wider field parcel, it would, due to the low height and appropriate design (timber construction / post and rail), be appropriate to the rural context of the site, and given the need for it, is considered appropriate.

- 12.2.10 Overall, the development would inevitably result in a change in the character of the land, altering from an open agricultural field to an ecological area with artificial land formation and features, and subdivision of an existing larger field parcel. The impact of this change would primarily be seen from public views along the PROW to the west of the main ecological mitigation site area. However, it is considered that the impact would be reduced due to the modest change associated with the re-levelling work, limited height of the bunds and other features, and low level and appropriately designed fencing. In addition, the development would be seen against the backdrop of the existing landscaping to the northern and eastern boundary and the extensive proposed tree and shrub planting. Furthermore, the development would be viewed within the context of the adjacent Local Nature Reserve, Local Wildlife Site and river corridor. On this basis, it is not considered that the development would result in harm to the character and appearance of the local landscape.

### 12.3 Heritage

- 12.3.1 The site lies outside of any Conservation Area (the Witham Conservation Area boundary lies 920 metres to the northwest). In terms of the listed buildings, the closest to the site are: Benton Hall, a Grade II listed building located approximately 230 metres to the south; and Sauls Bridge, a Grade II listed structure located along the river Brain, approximately 370 metres west of the access to the proposed development.
- 12.3.2 Due to the nature of the development, the distances to these heritage assets and the limited intervisibility, there would be no harm to the setting of the listed buildings. The development would equally not impact upon the setting of the Conservation Area. The Councils Historic Building Consultant has been consulted and raises no objections.
- 12.3.3 Further in regard to heritage is the consideration on archaeology. In this regard the Essex Historic Environment Record (HER) records a non-designated heritage asset as lying within the proposed development site. The features include an enclosure and trackway and further features can be observed on aerial photographic images which may be of archaeological origin.
- 12.3.4 As the proposed development involves ground disturbance which could disturb or destroy any surviving below ground archaeological remains, some archaeological investigation has been undertaken to determine the impact of the development on any unknown archaeological remains. The proposed layout of ponds and drains has been designed to avoid these

features as well as a buried water pipe which crosses the area from north-east to south-west. The buried pipe has been confirmed to belong to Essex and Suffolk Water and it is understood that in addition to the approximately 1metre wide and 1metre deep pipe trench, an easement approximately 12metres wide would have been disturbed during pipe laying.

- 12.3.5 Given the above, the County Archaeologist has reviewed the submission and is content that this is not a constraint to development, subject to archaeological monitoring during excavation of the ponds and drain to identify and record any archaeological remains that could be present, and that this requirement could be incorporated as an addendum to the advanced works written scheme of investigation.

#### 12.4 Ecology and Landscape

- 12.4.1 The application is submitted with a Biodiversity Statement and Mitigation Plan to indicate the impacts of the development upon designated sites, protected and Priority species / habitats, in addition to the information contained within the submitted plans and other supporting documentation. Officers are satisfied that sufficient ecological information is available for determination.
- 12.4.2 The Biodiversity Statement and Mitigation Plan confirms that there are no Ramsar sites, Special Protection Areas (SPA's) and Special Area of Conservation (SAC's) within 2km of the proposed development. There is however, one Local Nature Reserve (LNR), being Whetmead LNR, located within 250m of the proposed development. In addition, there are two Local Wildlife Sites (LWSs) within 250m of the proposed development: Whetmead LWS (which overlaps the LNR of the same name), and Riverview Meadows LWS.
- 12.4.3 The Biodiversity Statement and Mitigation Plan has confirmed no significant ecological constraints, and that any impacts can be addressed via mitigation proposed. An Impact Assessment and Conservation Payment Certificate has been prepared by Natural England and signed by National Highways for the Proposed A12 widening DCO and that this site technically would be covered under the Essex District Level Licencing Strategy for Great Crested Newt. However, as there are no ponds within 500 metres of this application and species is highly unlikely to be present and affected, it is not considered reasonable to request any additional measures for Great Crested Newt as part of this application. This provides certainty for the LPA of the likely impacts on designated sites, Protected and Priority Species & Habitats and, with appropriate mitigation measures secured, the development can be made acceptable. The mitigation measures identified in the Biodiversity Statement and Mitigation Plan should be secured and implemented in full, as this is necessary to conserve protected and Priority species and a condition is imposed to secure this.
- 12.4.4 The proposed location of the ecological mitigation area is supported. As it is positioned between Whetmead LNR and LWS and an area of deciduous

woodland within the floodplain of the River Blackwater, it would strengthen the ecological networks at this location and within the District.

- 12.4.5 Officers support the design of the ponds and ditches, which have been designed to fully maximise biodiversity potential in line with the biodiversity metrics, whilst considering the potential functional use of the waterbodies by notable species. The inclusion of the hibernacula and log piles, which have also been designed appropriately with consideration of the soil and the site topography, is also welcomed. The management of these habitat features is detailed within the submission and details that the aftercare plans would be relevant for a 20-year period, to ensure that the habitat creation would be successfully implemented.
- 12.4.6 Further support is also given to the creation of biodiversity net gain (BNG). Officers are content that the development would secure at least 10% BNG, a desire outlined with Paragraph 174d and 180d of the NPPF. Indeed, the submission details that the development site would result in a net increase of 25.01% of Habitat units, 36.06% of Hedgerow units and 156.73% of Rivers and Streams units.
- 12.4.7 In addition, Officers consider the approach to soft landscaping for the site to be acceptable. As detailed above, the proposed planting mix for the three areas of tree and shrub planting, together with the wider marginal planting, aquatic planting mix and reedbeds would be appropriate for this location and would reinforce the landscape character and biodiversity of the surrounding landscape. It is also highlighted that no trees, hedgerows or other established planting would be removed, and no development would occur within the root protection area of existing trees. The plans include details for the siting of tree protection fencing which would be required to be installed prior to the commencement of development. In terms of the wider consideration of the impact upon the local landscape character, this has been set out above.

## 12.5 Highway Considerations

- 12.5.1 Access to the site for construction purposes would be via Maldon Road (B1018) onto Blackwater Lane which extends under the A12. Although Blackwater Lane is used to access a limited number of residential properties, businesses (including the sewage treatment works), and the Whetmead Nature Reserve, existing traffic levels are low. The level of traffic that the development would generate is also considered relatively limited. A small number of excavators and dumpers would be taken to site and would remain on site for the duration of the works and daily there would be 5 vehicles daily for staff (the main workforce would utilise carsharing from the main A12 Compound in Kelvedon). In addition, at the peak, there would be up to a further 15 light vehicles (cars and vans) trips per day, and delivery of materials to the site would be via a small tractor and trailer or small dumper up to 6 trips in a day. The traffic movements per day would equate to 26 vehicles in and 26 vehicles out – a total of 52 movements.

- 12.5.2 The application has been submitted with a Construction Traffic Management Plan (CTMP) which sets out how traffic management would be undertaken throughout the construction period. In addition to setting out the anticipated traffic movements as set out above, the CTMP also details that the access under the A12 is via a dual level crossing. The lower level fords the River Brain and is passable by plant and high vehicles, the maximum height available is 3.46m and the maximum width is 4.4m (during flood events, only agricultural, construction plant or offroad vehicles would be able to use the ford). The high level is passable by standard road vehicles less than 2.92m high and 2.7m wide (this is also the route of the PROW).
- 12.5.3 Once under the A12, the access track continues towards a crossing over the river Brain into an agricultural field. The Environment Agency have been consulted due to the access over the river (and in terms of the proximity of the development to the river) and raise no objections to the application. No improvements are stated to be required to any sections of the access/access track to facilitate the development. (In terms of the suitability of the access over the River Brain, investigation has been undertaken to ensure that the bridge can accommodate the associated loads and similar). The CTMP does detail however, that in the event of wet weather, temporary construction matting would be placed where required to protect the ground and vehicles during construction, which would be implemented as and when required and removed as soon as it is no longer required.
- 12.5.4 The Highway Authority have been consulted on the application and are content that the level of traffic generated from the development would not give rise to any adverse impact to highway capacity nor in terms of highway safety. Vehicular use of the ford and high level pass when necessary is acceptable to accommodate the number and size of vehicles proposed.
- 12.5.5 In addition, safety of pedestrians along the length of the PROW has been fully considered. A vehicle holding area on Blackwater Lane is proposed where vehicles would wait until the pedestrian marshals arrives to aid vehicles in turning and to ensure the protection of pedestrians. A similar approach would be taken to vehicles leaving the main ecological mitigation area. In addition, temporary construction route signage would be installed at a number of points along the access route and along the PROW itself to provide warning to other road users and users of the PROW of the likely presence of construction vehicles. Given these measures, Officers are content that the development would not cause any safety issues with pedestrians or any other road users.
- 12.5.6 The CTMP also addresses matters of dust, stating that although it is not envisaged that large quantities of dust would be produced during the works if dust does become an issue it would be suppressed by a towable dust suppression unit. Wheel washing would also be undertaken to ensure that the wheels and undercarriages of vehicles would be clean prior to using the



public highway, but that if any material still makes it onto the highway or access roads it would be cleaned by a road sweeper.

- 12.5.7 The Highway Authority have reviewed the CTMP and find the contents acceptable. Subject to the imposition of a condition to secure that the development be carried out in accordance with the CTMP, the development would be acceptable in terms of highway considerations.

## 12.6 Impact upon Neighbouring Residential Amenity

- 12.6.1 In terms of neighbouring impacts arising from the development, given the distance from neighbours, there would be no adverse impact with the ecological site area itself (either during construction works within the site, nor once it is completed and 'in use / operational').
- 12.6.2 The only impact to neighbours would be from access during the construction period from the associated traffic movements. As detailed above, the access to the site is via Maldon Road and Blackwater Lane with a total daily movements of 52 vehicles. Given the relatively low number of vehicle movements, the size of the vehicles being limited to 'light vehicles', and the distance to neighbours, it is not anticipated that any neighbours would be unduly impacted from noise disturbance of similar.
- 12.6.3 In addition, the CTMP details that the construction hours would be from 08:00 to 18:00, Monday to Friday during the summer and 08:00 to 17:00 between November – February. Any weekend working would be carried out, when required, within the working hours set out above. This would also limit any harm to neighbours amenity. In addition, it is noted that the construction period is short (approximately 1.5 months).
- 12.6.4 The CTMP also details that whilst matters of dust is not considered to be an issue, if dust does become an issue it would be suppressed by a towable dust suppression unit.
- 12.6.5 Overall, given these matters, it is considered that the development would result in no unacceptable harm to neighbouring amenity.

## 12.7 Flooding and Drainage Strategy

- 12.7.1 The site is mostly located within Flood Zone 1, but parts of it are located within Flood Zones 2 and 3. The Flood risk vulnerability classification within the NPPF categorises 'nature conservation and biodiversity' as 'water compatible development', and as such the development is considered appropriate within Flood Zone 2 and 3. (It is noted that the habitats intended for use by hibernating animals are to be located outside of these flood risk areas).
- 12.7.2 Despite falling to be appropriate development within Flood Zones 2 and 3, there is a requirement to apply the 'sequential test'. Paragraph 162 of the NPPF explains that the aim of the sequential test is to direct development

to areas with the lowest probability of flooding and sets out a sequential approach in order to achieve this. This requires that development can be located in Flood Zone 2 and then Flood Zone 3, only if there are no reasonably available sites in Flood Zone 1.

- 12.7.3 Officers have undertaken the sequential test in this case and determine that there are justified reasons relating to wider objectives relating to the DCO and specific ecological considerations as to why this site has been selected. This site is ideally located to provide benefits from an ecological perspective as it provides direct mitigation for reptiles and impacts from the wider A12 works upon the Whetmead Local Nature Reserve (LNR) and Local Wildlife Site (LWS). (The environmental report and information which accompanies the DCO details that there would be adverse impacts upon the Whetmead LNR and LWS in terms of air quality, loss of trees / hedgerows and distribution to wildlife). The site is directly connected to the rest of Whetmead LNR, Local Wildlife Site (LWS), as well as to the adjacent river (River Brain) and woodland, and as such would provide connectivity of existing habitats and to the existing population of reptiles and would provide long term sustainability and stability for reptiles and similar to flourish and significantly increase the areas of available habitats in the long term. Indeed, the Councils Ecologist supports the application due to the sites location between the Whetmead Local Nature Reserve (LNR), the Local Wildlife Site (LWS) and area of deciduous woodland within the floodplain of the River Blackwater, as it would strengthen the ecological networks at this location and within the District more widely.
- 12.7.4 Furthermore, this particular site was also chosen due to its close proximity to the river Brain and the potential for Water Voles to use the habitat proposed. (The creation of the 257 metres of ditch network / water vole ditch). The proposed ditch network is proposed on this site as there is evidence of a local water vole population and the scheme aims to provide additional habitat space for them. As water voles will only travel a certain distance from their existing territories, the scheme requires any new habitat to remain within a certain proximity, and therefore this location was deemed suitable. Therefore, being located within Flood Zone 2 and 3 provides a direct benefit as it has the potential to be used for water vole mitigation and / or the creation of new water vole habitats. Indeed, the ecological ponds which would enable this, are the only aspects of the development located within these Flood Zones.
- 12.7.5 The Applicant has also set out how other areas of land of lower flood risk within proximity to the Whetmead LNR and LWS and River Brain would not meet with the particular needs for ecological mitigation and the wider objectives set out by the DCO. For instance, if the development was sited to the northern end of the field parcel to which the application relates, although it would have avoided Flood Zones 2 and 3, it would have resulted in the A12 DCO attenuation basin being re-located to the south parcel. The re-siting of the SuDS system would be unacceptable as this is required to remain outside the Flood Zone to avoid potential contamination issues. In addition, as the land falls down towards the river, and as the proposed

ponds are due to be naturally filled via ground water and rainfall, the logical placement for these would be at the lowest ground level point to allow maximum ground water interface, and to allow the collection of surface water run-off that would migrate downwards across the land plot.

- 12.7.6 The conclusion of Officers is that there are clear and justified reasons why the development needs to be located at this site and why it cannot be located to an alternative site of lower flood risk. Other sites of lower flood risk which could fulfil this need, are not considered suitable or available to accommodate the proposed development. The sequential test is therefore passed, and as set out within the 'Flood risk vulnerability and flood risk compatibility table', there is no requirement to undertake the Exceptions Test.
- 12.7.7 In addition to the sequential test, there is also a requirement for a Flood Risk Assessment (FRA) to accompany the application. Such a FRA has been submitted. In addition to confirming the risk of fluvial flooding, it details that; existing surface water flood risk is high; groundwater flooding risk is very low; with a low risk from man-made water retaining infrastructure (water supply reservoirs and flood defence structure), sewers, and water mains. The FRA demonstrates that the development would have a negligible impact on flood risk elsewhere as it would involve no increase in impermeable land, no alteration of ground levels within areas at risk of surface water or fluvial flooding, (except for excavation of ponds and water vole ditches which would have negligible impact on flood risk), negligible impact on existing fluvial or surface water flood storage capacity or flows, and no interruption of groundwater flow paths or displacement of groundwater elsewhere.
- 12.7.8 The Local Lead Flood Authority (LLFA) have reviewed the FRA and raise no objections. No conditions are required to be imposed in this regard.
- 12.7.9 In addition, as the site lies within 20 metres of a main river (and requires access over the river for construction), the Environment Agency have been consulted. They have responded and raise no objections to the application. In terms of the suitability of the access over the River Brain, the Applicant has undertaken investigations to ensure that the bridge can accommodate the associated loads and similar.
- 12.8 Contamination
- 12.8.1 Although there are no on-site constraints, with the area of land having always been in agricultural use, the site does lie within 250 metres of an historic landfill, and as such consideration of the potential for contamination is a planning consideration. In this regard, a 'land quality conceptual model' has been submitted to assess if any risk exists. This concludes that there is no evidence of significant contamination to groundwater from the past landfill use to nearby land.

- 12.8.2 Whilst recognising the uncertainty with regard to groundwater movement, the risk assessment has identified a very low risk of contaminants migrating to the proposed ponds and ditches via groundwater migration. However, it is recommended that there is a watching brief during construction to monitor water quality and that the water quality of the ecological mitigation ponds is monitored for 12 months post construction. The provision of the monitoring strategy/plan and recording of the subsequent results is to be secured via condition.

### 13. CONCLUSION

- 13.1 The principle for the change of use to an ecological area is acceptable and is supported by Policies within the Adopted Local Plan and the NPPF which encourage biodiversity creation and enhancement, and net gain in priority habitats. The loss of the Grade 2 agricultural land has been justified.
- 13.2 The development would result in a change in the character of the land, altering from an open agricultural field to an ecological area with artificial land formation and features, and subdivision of an existing larger field parcel, however, it is considered that the impact would be reduced due to the modest change height / level changes proposed and as the development would be seen against the backdrop of the existing landscaping to the site boundaries and within the context of the adjacent LNR, LWS and river corridor.
- 13.3 The proposed access for construction purposes is considered appropriate and due to the low level of vehicles associated with the development and given that these are 'light vehicles', there would be no harmful impact to the highway network. The submitted CTMP satisfactorily sets out how traffic management would be undertaken throughout the construction period and provides for appropriate management of vehicles, including to prevent conflict with pedestrians on the PROW.
- 13.4 There would be no harm to the setting of nearby listed buildings and no harm to the setting of the Witham Conservation Area.
- 13.5 In regard to ecology and landscape considerations, the location of the site between the LNR and the LWS is supported as it would strengthen the ecological networks. The development would result in no significant ecological constraints and any impacts can be addressed via mitigation proposed. Equally, the proposed soft landscaping scheme is acceptable, and the creation of biodiversity net gain is supported.
- 13.6 The FRA demonstrates that the development would have a negligible impact on flood risk. The Local Lead Flood Authority and the Environment Agency raise no objections to the development. The Sequential Test has been passed.
- 13.7 There would be no adverse impact to neighbouring amenity.

13.8 Matters in relation to contamination are acceptable subject to the imposition of a condition to monitor water quality.

13.9 Taking into account the above, it is considered that the proposal complies with the Development Plan when taken as a whole. Officers consider that there are no material considerations, that indicate that a decision should be made other than in accordance with the Development Plan.

14. RECOMMENDATION

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

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## APPENDIX 1:

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

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

| <b>Plan Description</b> | <b>Plan Ref</b>                     | <b>Plan Version</b> |
|-------------------------|-------------------------------------|---------------------|
| Location Plan           | HE551497-JAC-EGN5_SCHME-SK-GI-0001  | P01                 |
| Site Plan               | HE551497-DR-L-0213                  | P01                 |
| Proposed Site Plan      | HE551497-JAC-ELS-5_SCHME-DR-L-0319  | P02                 |
| Proposed Site Plan      | HE551497-JAC-ELS-5_SCHME-DR-L-0320  | P02                 |
| Section                 | HE551497-JAC-EBD-5_SCHME-DR-LE-0002 | P02                 |
| Fencing Layout/Details  | HE551497-JAC-EBD-5_SCHME-DR-LE-0001 | P02                 |
| Landscape Masterplan    | HE551497-JAC-ELS-5_SCHME-DR-L-0321  | P02                 |
| Proposed Plans          | HE551497-JAC-ELS-5_SCHME-DR-L-0341  | P01                 |
| Proposed Plans          | HE551497-JAC-ELS-5_SCHME-DR-L-0342  | P01                 |

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

##### Condition 1

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

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

##### Condition 2

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

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

##### Condition 3

a) No development shall commence until a Written Scheme of Investigation (WSI), which shall include details for a programme of archaeological monitoring, has been submitted to and approved in writing by the Local Planning Authority.

b) The Applicant shall submit a final archaeological report or (if appropriate) a Post Excavation Assessment report and an Updated Project Design which has been approved in writing by the Local Planning Authority. This shall be done within 6 months of the date of completion of the archaeological 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: To properly provide for archaeology.

#### Condition 4

The development hereby permitted shall be carried out in accordance with the approved Construction Traffic Management Plan (December 2022).

Reason: In the interests of highway safety and convenience (including pedestrians) and neighbouring amenity.

#### Condition 5

All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained within the Biodiversity Statement and Mitigation Plan (National Highways, November 2022), the Habitat Maintenance Plan (National Highways, November 2022), Series 3000 Landscape & Ecology Specification Appendix 30 (National Highways, November 2022), and Ecological Mitigation Areas Standard Details Ecological Habitat Features PO2 (Jacobs Ltd, November 2022).

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

#### Condition 6

No development, including preparatory works or construction, shall commence until the tree protection fencing as shown within the 'Tree Protection Measures' document January 2023 has been fully implemented. The means of protection shall remain in place until the completion of the development.

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

#### Condition 7

A watching brief shall be undertaken, as per the Land Quality Conceptual Model (January 2023), to monitor water quality within the ponds and ditch system during construction works, and to ensure that the water quality of the ponds and ditches is monitored for 12 months post construction.

Reason: To ensure that the risk of contaminant migration via groundwater migration does not result in unacceptable water quality.

#### Informative(s)

##### Informative 1

You are advised that an Environmental Permit for flood risk activities may be required if you seek to do work in, under, over or within 8 metres from a fluvial main river and

from any flood defence structure or culvert or 16m from a tidal main river and from any flood defence structure or culvert. (The River Brain is designated a 'main river').

#### Positive and Proactive Statement

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



## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

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

#### Braintree District Local Plan 2013 - 2033

|       |  |
|-------|--|
| SP1   | Presumption in Favour of Sustainable Development                   |
| SP7   | Place Shaping Principles   |
| LPP1  | Development Boundaries   |
| LPP47 | Built and Historic Environment                                     |
| LPP52 | Layout and Design of Development                                   |
| LPP59 | Archaeological Evaluation, Excavation and Recording                |
| LPP63 | Natural Environment and Green Infrastructure                       |
| LPP64 | Protected Sites  |
| LPP65 | Tree Protection  |
| LPP66 | Protection, Enhancement, Management and Monitoring of Biodiversity |
| LPP67 | Landscape Character and Features                                   |
| LPP71 | Climate Change   |
| LPP74 | Flooding Risk and Surface Water Drainage                           |
| LPP75 | Surface Water Management Plan                                      |

### APPENDIX 3:

#### SITE HISTORY

| <b>Application No:</b> | <b>Description:</b>  | <b>Decision:</b>      | <b>Date:</b> |
|------------------------|--|-----------------------|--------------|
| 22/03313/FUL           | Change of use to ecological mitigation area 5 (linked to the A12 widening scheme) including the creation of 1 pond, creation of 2 bunds from on-site excavated material, perimeter fencing and associated landscaping. | Pending Consideration |              |