

SITE PLAN ATTACHED

ONGAR GARDEN CENTRE, ONGAR ROAD, KELVEDON HATCH, ESSEX, CM15 0LB

OUTLINE APPLICATION FOR THE DEMOLITION OF THE EXISTING COMMERCIAL UNITS AND CONSTRUCTION OF NEW REPLACEMENT COMMERCIAL BUILDINGS (CLASS E AND CLASS B2) - APPEARANCE, LANDSCAPING, LAYOUT AND SCALE ARE RESERVED MATTERS.

APPLICATION NO: 23/00296/OUT

WARD	Brizes & Doddinghurst	8/13 WEEK DATE	7 June 2023
PARISH	Kelvedon Hatch		
CASE OFFICER	Mr Daryl Cook		
Drawing no(s) relevant to this decision:	Site Location Plan (date of issue 15 March 2021 and supplied by Getmapping);		

This application has been referred to Planning committee, in agreement with the Director of Place, given the high level of public objection.

1. Proposals

Outline planning permission is sought for the demolition of the existing commercial units and construction of new replacement commercial buildings (Class E and Class B2) - Appearance, Landscaping, Layout and Scale are Reserved Matters.

This application is a resubmission of the previously refused application 22/00903/OUT.

2. Policy Context

Brentwood Local Plan (2016-2033) (BLP):

- Policy BE01 Carbon Reduction, and Renewable Energy
- Policy BE02 Water Efficiency and Management
- Policy BE03 Establishing Low Carbon and Renewable Energy Infrastructure Network
- Policy BE04 Managing Heat Risk
- Policy BE05 Sustainable Drainage

- Policy BE07 Connecting New Developments to Digital Infrastructure
- Policy BE08 Strategic Transport Infrastructure
- Policy BE09 Sustainable Means of Travel and Walkable Streets
- Policy BE11 Electric and Low Emission Vehicle
- Policy BE12 Mitigating the Transport Impacts of Development
- Policy BE13 Parking Standards
- Policy BE14 Creating Successful Places
- Policy BE16 Conservation and Enhancement of Historic Environment
- Policy PC01 Safeguarding Employment Land
- Policy PC02 Supporting the Rural Economy
- Policy NE01 Protecting and Enhancing the Natural Environment
- Policy NE02 Green and Blue Infrastructure
- Policy NE03 Trees, Woodlands, Hedgerows
- Policy NE05 Open Space and Recreation Provision
- Policy NE08 Air Quality
- Policy NE09 Flood Risk
- Policy NE10 Contaminated Land and Hazardous Substances
- Policy NE11 Floodlighting and Illumination
- Policy MG01 Spatial Strategy
- Policy MG02 Green Belt
- Policy MG03 Settlement Hierarchy
- Policy MG04 Health Impact Assessments (HIAs)

The Brentwood Local Plan 2016-2033 was adopted as the Development Plan for the Borough on 23 March 2022. At the same time the Brentwood Replacement Local Plan, August 2005 (saved policies, August 2008) was revoked.

National policy and guidance

- National Planning Policy Framework 2023 (NPPF)
- National Planning Practice Guidance (NPPG)
- National Design Guide (NDG)

3. **Relevant History**

- BRW/96/93: Erection of Extension to Glasshouse

- BRW/377/93: Block paving of rear yard
- BRW/8/98: Display of 4 non-illuminated advertisements
- BRW/79/98: Retention of Polytunnel
- BRW/307/98: Retention of Polytunnel without complying with condition 1 of BRW/79/98
- ENF/BRW/315/98: Breach of planning control, the hardsurfacing of the access road and car park requiring (1) break up and permanently remove the hardsurfacing including the concrete stones and (2) permanently remove all resultant materials from the land within 28 days – Enforcement notice withdrawn and no further action taken on the appeal (T/APP/H1515/C/99/1026755) and the deemed application for planning permission
- BRW/107/99: Variation of conditions 2 and 3 of appeal decision dated 02.02.93 to permit the retail sales of goods, materials and portable buildings within an area marked on Plan ON2 – Refused and Appeal (T/APP/G1515/A/99/1026005) dismissed insofar as it relates to variation of condition 3 imposed on permission T/APP/C/92/H1515/617529),
- BRW/108/99: Single storey side extension and the re-positioning of customer and goods-in gates and an access track – Refused and Appeal (T/APP/H1515/A/99/1026004) dismissed insofar as it relates to the single storey side extension
- BRW/884/99: Resurfacing and retention of Garden Centre Car Park together with installation of replacement kerbing to driveway
- 12/00831/FUL: Single storey extension to an existing garden centre building for use as a customer restaurant - Application Permitted
- 22/00903/OUT: Outline application for the demolition of the existing commercial units and construction of new replacement commercial buildings (Class E and Class B2) - Appearance, Landscaping, Layout and Scale are Reserved Matters. – Application Refused

4. Neighbour Responses

Where applications are subject to public consultation those comments are summarised below. The full version of each neighbour response can be viewed on the Council's website via Public Access at the following link:

<http://publicaccess.brentwood.gov.uk/online-applications/>

This application has been advertised by way of neighbour notification letters and public site notice and press advert.

At the time of writing this report, a total of 591 representations have been received for this application of which 578 object to the proposals. It should be noted some parties have commented on more than one occasion. Furthermore, some representations have not been accepted as these failed to provide the necessary information to be formally registered. The Planning team tried to contact those people to request the additional information with mixed success.

For comparison purposes, the previous application was subject to a total of 4 neighbour representations (neutral comments and objections).

Due to the number of representations received, the representations are summarised under the following headings:

- Current Garden Centre does not intend to close, a lease is being sought under separate legislation and the business remains viable contrary to the applicant's submission
- The existing lease benefits from "security of tenure" under the Landlord and Tenant Act 1954 meaning the lease, among other things, did not come to an end on expiry in 2021 and entitles current occupiers to a new lease which is currently being determined by the court
- Inappropriate development within the Green Belt
- Overdevelopment and intensification of use of the site
- There are other more appropriate brownfield sites designated for redevelopment, with the site not selected for redevelopment
- Impacts of the proposed development upon the character, appearance and visual amenity of the area (and in comparison to the existing)
- Flood risks associated with the development
- Pollution risks given proposed use and proximity to river
- Impacts of the development on landscape, ecology and biodiversity
- Impacts of the development during the construction phase
- Highway impacts of the development e.g., congestion, capacity, safety and efficiency
- Unsustainable transport provision with reliance on private vehicles rather than public transport
- Noise impacts of the development
- The existing site and building use is active and a community facility/asset providing a meeting place for residents/others
- Application documents contain errors / is misleading i.e., the Design and Access Statement incorrectly suggest the site is not operational and that the lease has expired.

- Inaccuracies and insufficient information within the supporting drawings and documents e.g., overestimates trip generation based on floor areas of the development
- There are existing Garden Centres and Gyms nearby
- The loss of other Garden Centres nearby mean there is no alternative choices to residents and keen gardeners
- Concerns regarding loss of existing local jobs for the existing use (and economic consequences) with other representations outlining there will be more jobs created (and economic benefits). Note: the application form states 15 existing full time employees (FTE) with 150 FTE proposed, whereas representations range in how many jobs will be lost ~37.
- Ongar has lost too many retail outlets and the loss of the centre will restrict access to items
- No infrastructure for new developments
- The existing centre provides disabled access and is a place which benefits mental wellbeing

For Members benefit, the below are examples of matters which are NOT material planning considerations:

- Preference for another business operator
- The applicant's motives, conduct or history
- Moral judgements
- Matters controlled under non-planning legislation (such as Building Regulations or Licensing)
- Loss of value to an individual property
- Loss of a private view
- Private rights to light
- The existence of private agreements, covenants or rights of way
- Boundary disputes

5. Consultation Responses

- **Planning Policy:** No response received at the time of writing this report

- **Natural England:** No response received at the time of writing this report
- **Affinity Water:** No response received at the time of writing this report
- **Essex Wildlife Trust:** No response received at the time of writing this report
- **Gas Pipeline:** No response received at the time of writing this report
- **Epping Forest District Council:** No response received at the time of writing this report
- **Police Architectural Liaison Officer:**

Further to our previous response, dated 24th March 2023, the 'Essex Police - Designing out Crime Office' (DOCO) welcomes the opportunity to comment once again on the proposed redevelopment of Ongar Garden Centre.

As we stated in our last response, Security forms a key part of a sustainable and vibrant development. Essex Police considers that it is important that, if approved, this development is designed incorporating the maximum achievable benefit of Crime Prevention Through Environmental Design principles (CPTED) for which Secured by Design (SBD) is the preferred enabler.

Essex Police therefore requests that the developer seeks to achieve the relevant Secured by Design accreditation in accordance with the current version of Secured by Design Commercial Developments. Secured by Design (SBD) is the official police security initiative that works to improve the security of buildings and their immediate surroundings to provide safe places to live and work. SBD ensures that designing out crime measures have been applied across all elements of the site, ensuring that subliminal crime prevention is apparent throughout the proposal and will ensure a safe and sustainable development. The SBD website (<https://www.securedbydesign.com/guidance/designguides>) provides full details.

- **Environment Agency:**

Thank you for your consultation we have reviewed the plans as proposed and we have no objections to the application on flood risk grounds.

Flood Risk

The proposal involves the demolition of existing commercial buildings to be replaced with new commercial buildings. The submitted FRA has assessed the flood risk and demonstrated that all new buildings are within the existing developed boundary and outside of 1%AEP+CC extents.

Informatives are recommended.

- **ECC SUDS(Lead Local Flood Authority):**

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission subject to conditions. Informative recommended.

- **Essex Badger Protection Group:**

Thank you for contacting us regarding this application and providing a copy of the Preliminary Ecological Appraisal dated August 2022.

As confirmed in the latest Wildlife and Countryside Link Report, the badger remains the most persecuted protected mammal in the UK and it is therefore imperative that the location of any badger setts remains strictly confidential and is not published on public forums.

Badgers and their setts are fully protected in the UK by the Protection of Badgers Act 1992 and by Schedule 6 of the Wildlife and Countryside Act (as amended), and Section 40 of the Natural Environment and Rural Communities Act 2006 places a public duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. The presence of badgers is therefore of material consideration when it comes to planning applications.

Condition recommended.

- **Environmental Health & Enforcement Manager:**

Noise:

Environmental Health recommend the submission of a Construction Environmental Management Plan (CEMP) be submitted to the LPA for approval prior to works commencing. The CEMP should as a minimum deal with the control of dust during construction and demolition and noise mitigation measures having regard to BS 5228-1:2009+A1:2014 Code of practice for noise and vibration control on construction and open sites. The CEMP should also outline proposed working hours. I would recommend restricting construction activities to the following hours: 08:00 to 18:00 Monday to Friday, 08:00 to 13:00 Saturdays with none on Sundays and Public Holidays.

Bonfires: No bonfires should be permitted during construction.

Contaminated Land: Any asbestos containing materials within the existing buildings should be removed by an appropriately licensed contractor before demolition commences.

A Phase 1 report is recommended to be submitted before development begins. The Phase 1 report will identify possible areas of contamination. If contamination is identified onsite, an intrusive investigation (Phase 2 Report) should be completed.

If contamination is identified within the Phase II report, a Remediation Strategy must be submitted and approved to the LPA. The scheme must include all works to be undertaken; proposed remediation objectives; an appraisal of remedial options; timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Following completion of measures identified in the approved remediation scheme a validation report must be submitted to and approved in writing by the Local Planning Authority

- **Highway Authority: initial consultee response objecting (superseded by second response reported below):**

The documents submitted with the application have been duly considered and a site visit has been undertaken.

From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reason:

1. The developer has not demonstrated that the proposal would be acceptable in terms of highway efficiency.

The proposal is therefore contrary to policy DM1 and DM2 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Notes:

A similar outline application for this site was submitted in July 2022. Following a later submission of a Transport Statement (TS), the Highway Authority recommended refusal of the application as there was insufficient evidence that the proposed development won't have a detrimental impact on the efficiency of the local highway network. Whilst addressing the issue of HGV accessibility, the latest submission is still deficient in its assessment of the peak hour impact on the local highway network.

The current lawful use of the site is as a garden centre. Its operating hours are between 0900 and 1700 hours from Monday to Saturday and 1000 to 1630 hours on Sundays. According to the planning application form, the site employs just 15 full-time staff.

The proposals entail converting the site into an employment site with 150 full-time staff. The Design and Access Statement suggests that "a large number of employees will be

operational off-site and employees will be visiting on alternate days most of the time." However, this is not substantiated and the Transport Statement has no mention of this.

150 staff amount to ten times the existing staff numbers and, as with any employment site, most could be expected to arrive and depart the site during the traditional morning and evening peak periods of 0800 to 0900 and 1700 to 1800 hours. Depending on the exact use, a development of this type can also be expected to generate a significant number of trips throughout the day which, from the documents provided, would include an undefined number of HGV movements.

The TS asserts that the proposed use would generate less trips to/from the site compared to the existing permitted use. Whilst a comparison exercise of the two land uses is appropriate, it needs to be recognised that the proposal is for an employment site which would operate principally during the week when morning and evening peak hour traffic flows are higher and the highway network is under greater strain. Consequently, the comparison exercise should consider the operation of the garden centre during the week. The TS, however, only considers weekend garden centre data in its TRICS database assessment, so a true comparison is not achieved. In the interests of firmly establishing the level of usage of the current site and in the absence of any suitable data in the TRICS database, the applicant is advised to carry out a survey of the existing access on a weekday.

There are also questions about the predicted trip generation for the proposed use. The TS contains calculations of trip numbers for 2,323sqm of office development (land use E(g)(i)), together with 3,555sqm of commercial warehousing and 400sqm of self-storage warehousing (both B8 use). However, the planning application form details proposals for 5,440sqm of B2 usage plus 170sqm of Class E use. This needs to be clarified as each land use generates different levels of trips.

With regard to selection of sites within the TRICS database, this should follow TRICS Best Practice guidance. In the instance of the self-storage warehousing trip rate for example, only one site has been used, so its reliability is questionable. The applicant is also advised that, for a rural site such as this which has very few public transport services, it is not appropriate to include sites within the Greater London area in the TRICS interrogation.

The TS's trip distribution assessment is also considered questionable. It refers to automatic traffic counts installed at the site entrance in May 2022 and asserts that, over a week, traffic flows had a 50/50 split in both directions. The raw data has not been supplied with the TS to support this assertion however. In particular, there is no consideration that daily traffic flows are often tidal with one direction being more prevalent than the other in the morning peak and vice-versa in the evening peak. A more reliable method of establishing peak period employment trip distribution would be to use Census Journey to Work data though.

Once suitable trip generation and distribution numbers have been established, it is possible to properly assess the impact of the development on the local highway network (such as at the previously-mentioned Brentwood Road / Stanford Rivers Road / St James Avenue / Coopers Hill junction). This would normally be undertaken using the industry standard Junctions 10 software from TRL. The TS does indicate that the applicant is willing to make a s106 contribution to that junction's improvement. However, until the junction is properly assessed with the proposed development's traffic movements, it is not clear if an improvement is required to mitigate the development in the first place and, if it is necessary, what that improvement should be, whether it is deliverable and what it might cost. As with the previous application therefore, the Highway Authority may be able to reconsider its position should the applicant address the above issues and concerns satisfactorily.

The applicant is also reminded that an employee Travel Plan would be a condition of any eventual recommendation of approval from the Highway Authority.

- **Highway Authority (second consultee response, no objection):**

PLEASE BE ADVISED THAT THIS RECOMMENDATION REPLACES AN EARLIER RECOMMENDATION FROM THE HIGHWAY AUTHORITY DATED 28TH APRIL 2023.

The documents submitted with the planning application have been duly considered and a site visit has been carried out.

The proposals involve the redevelopment of the current garden centre into an employment site that will continue to use the existing site access, which is in constant use and has no recorded road traffic incidents in the last 5 years.

The Transport Assessment that accompanied the planning application was initially considered deficient. However, following additional study and a highways capacity assessment, the Highway Authority is now satisfied that the development can be provided without a material impact on highway safety and efficiency.

Therefore, from a highway and transportation perspective, the impact of the proposal is acceptable to the Highway Authority subject to conditions and planning obligation.

Informative recommended.

- **Arboriculturalist/Ecologist:**

A previous application (22/00903/OUT) for this site was refused due to lack of information on highways and flood risk. This application has sought to address these reasons for refusal. There have been some changes in the suggested designs of the proposed buildings however appearance, landscaping, layout and scale are all reserved matters.

The site is set back from Ongar Road and contains a mix of single storey buildings, polytunnels and hardstanding used for car parking and storage.

There are small trees lining the access creating an attractive avenue and trees on the roadside boundary. These help filter views into the site.

There is a large poplar beside the existing car park area and a small group of larger trees in the southwest corner of the site to the rear of the existing buildings. There are no other trees to the rear of the site that are visible

There is existing hardstanding close all of the existing trees therefore it is not envisaged that the scheme would have any significant effects on these; however if the scheme is permitted I would require a full arboricultural impact assessment to be submitted with the reserved matters application to determine any effects.

An ecological survey carried out for the previous application found that the existing site had low ecological value. This is considered appropriate given that the red line boundary comprises hardstanding and buildings.

The site is close to the River Roding and there are several woods locally. It will be important to ensure that external lighting is designed to minimise light spill over the surrounding areas as it is likely that commuting and foraging bats will be in the area. An external lighting condition would be required if this scheme were permitted. The indicative block plan appears to show some existing areas of hardstanding could be removed. This could provide opportunities to achieve biodiversity enhancements in accordance with the NPPF and Local Plan. Although BNG is not currently mandatory the applicant should demonstrate what level of gains could be achieved by submitting a completed BNG metric calculation with a reserved matters application.

The indicative building heights have been reduced compared to those proposed in the previous scheme. This would be beneficial as it would lessen their overall mass and visual effects. All the building roofs are coloured green on the plans; however it is assumed that those on Buildings 1 & 2 could not be green roofs due to them having pitched roofs. It is possible for Building 3 to have a green/living roof. If the scheme is permitted will be vital that these buildings are properly detailed to enable an accurate assessment of their visual effects to be made. Green roofs could also make a useful contribution to biodiversity enhancements.

No illustrative landscape plan has been provided with this outline application. If the scheme were permitted I would require a full landscape scheme to be submitted. There is no objection to the proposal on landscape and ecology grounds in principle; however if the scheme were permitted there will need to be detail provided regarding measures to protect existing trees, a detailed landscape plan and a suite of biodiversity enhancement measures required to achieve a biodiversity net gain in accordance with policy.

- **County Archaeologist:**

Thank you for consulting the Historic Environment Advisor to Brentwood Borough Council on the above planning application.

The Essex Historic Environment Record (EHER) shows that the proposed development site, as accurately attested by the submitted Heritage Statement, lies outside the plotted extents of Kelvedon Hatch's Historic Settlement area (EHER 19247). Additionally, historic OS mapping shows that a substantial amount of the site was quarried as part of a gravel pit in the early 20th century, which is likely to have removed any archaeological remains that were present.

The above evidence, coupled with the lack of any known archaeological remains in the immediate vicinity, suggests that the proposed development is unlikely to impact upon any significant archaeological deposits.

Therefore, based on our current knowledge, there appear to be no archaeological implications for the proposed development, and we have no recommendations to make.

- **Parish Council:**

After due consideration by Kelvedon Hatch Parish Council, we object to this proposal on the following issues:

1. The transport assessment is misleading or incomplete in several respects:
 - a. It overstates the access to the site by public transport. It is only served by only one bus route which only has an unreliable hourly service. The driving times to Brentwood and Epping stations are unrealistic at peak times.
 - b. It has failed to estimate the increase in HGV journeys to the site, concentrating instead on the number of journeys for all vehicles.
 - c. The five year accident history quoted only refers to a very short and straight section of Ongar Road south of the entrance (approx. 150m).
 - d. Swept-Path diagrams are only included for HGVs entering or leaving the site from the south. No analysis of HGVs accessing the site from the north across Langford Bridge with its dog leg and narrow lanes has been included.
 - e. There is no mention of busy entrance to the Great Myles estate which is opposite the entrance to the site.
2. The flood prevention measures are over-reliant on routine maintenance to keep drainage channels clear of litter, debris and vegetation.
3. The legal dispute over the right of the current operator of the garden centre to continue in business on the site needs to be resolved before this application is progressed any further.

4. The proposed development breaks Green Belt guidance (NPPF Section 13, Protecting Green Belt land, Paras 147 + 148) in that the development would be inappropriate by reason of its size (spatial impact) and its visual impact. The plans show a main office and warehouse 85m long and 16m facing Ongar Road. The existing buildings are single storey and have a much smaller frontage. The proposed development would therefore have a significant spatial and visual impact on the openness of the Green Belt.

- **Historic Buildings and Conservation Officer**

N.B. No revised response was received prior to the publication of the Agenda. The follow is reproduced from the previous application, 22/00903/OUT.

In respect of the Historic Environment, a minimal Heritage Statement (HS) has been submitted, it does however offer recognition for both archaeology and built heritage as requested a preapplication.

This application seeks 'Outline permission' and matters of scale and appearance are reserved, the conclusion offered in the HS is as follows:

'Due to the nature of the site's surroundings, it is clear that the proposed development on a previously developed site continuing to operate commercially will have no detrimental on the surrounding heritage assets. The impact of the proposal is limited to the agricultural fields surrounding the site. The closest listed buildings are a great distance from the site and will have no direct sight-lines to the proposed development'.

However, from my assessment, such a conclusion cannot be relied upon as the baseline for further reserved matters applications given there is no 'assessment' of setting as set out in the Historic England Planning Note 3 and no evince of the sightlines studies; from my own assessment it is clear the intent for built form is too large, Plot 2 in particular being overly bulky and deep which can be avoided through a more considered contextual response.

As I advised at preapplication, once the parameters of development are mutually agreed with the LPA given its PDL (Previously Developed Land) and Green Belt designation, then the approach to future design at this rural location should be informed in the first instance by an appraisal of context, this includes studying any potential for impact upon the setting of Designated Heritage Assets.

Furthermore, in terms of sustainable architecture and reducing carbon (Corporate Objective), the arrangement of built form can be rationalised to result in greater energy efficiency. A courtyard grouping of buildings for example would reduce bulk and afford improved capture of solar gain on the roofscape for renewable energy. This is but one example of how greater investment in the design process is required.

In respect of this outline application, I have no 'in principle objections' subject to the comments above being adhered to in terms of reserved matters.

- **Health Impact Assessment Steering Group (earlier refusal):**

The council welcomes the inclusion of the HIA report undertaken for this outline application. It is acknowledged that not all the details related to this site have been completed yet; therefore, high level comments have been provided. It is recommended that consideration be given to the comments provided so that a complete and robust HIA can be submitted with the full planning application.

6. Summary of Issues

The starting point for determining a planning application is the Development Plan, in this case the Brentwood Local Plan 2016-2033. Planning legislation states that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Relevant material considerations for determining this application include the NPPF and NPPG. Although individual policies in the Local Plan should not be read in isolation, the plan contains policies of particular relevance to this proposal which are listed in section 4 above.

Outline planning permission is sought for the demolition of the existing commercial units and construction of new replacement commercial buildings (Class E and Class B2) - Appearance, Landscaping, Layout and Scale are Reserved Matters. Access is not a reserved matter.

Revised information has been submitted during the lifetime of the application relating to transport impacts of the development as requested by the Highway Authority.

Site context

The application form states the site comprises an area of approximately 3.92 hectares (although this differs from the site location plan which depicts the extent of the red outline – see Other Matters) on land situated to the western side of Ongar Road, a classified road A.128. The site falls gently down from the south to north to the River Roding and is set in a tract of open countryside well outside the built-up confines of Ongar to the north and Kelvedon Hatch to the south. The character of the locality is drawn from the openness and the gentle topography of the landscape and its predominantly agricultural use. The site falls wholly within the Metropolitan Green Belt which washed over the locality.

The application site currently contains a mix of single storey buildings, polytunnels and hardstanding used for car parking and storage.

In respect of the current site occupiers, British Garden Centres, it is understood that there is an ongoing legal dispute regarding the extension of a previous lease which, per land registry documents, expired in 2021. Certificate B has not been served on them, but at the time of the application, they were not considered to be an 'owner' for the above purposes. In any event, representations from them and their legal team have been (and were previously) made and they were clearly aware of the application. The

terms of or renewal of the lease is not considered to be material to the determination of this planning application.

Foreword

The main issues which require consideration as part of the determination of this application relate to the principle of the development and the proposed access.

Indicative drawings accompany the scheme illustrating the site layout (block plan), elevations and floor plan though in respect of appearance, landscaping, layout and scale, these matters are all reserved. However, it should be noted that a basic level of information on all other matters to inform the assessment is required.

The Development Management Procedure Order defines access, in relation to reserved matters, to mean the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network; where “site” means the site or part of the site in respect of which outline planning permission is granted or, as the case may be, in respect of which an application for such a permission has been made.

Whilst this application only indicatively outlines accessibility to and within the site with the submission of revised drawings, it is considered that this could be suitably controlled by way of condition i.e., restricting the occupation of building(s) until details of access for all users in and around the site has been demonstrated to be acceptable, matters which will be dealt with at the reserved matters stage.

Recent Planning History

This application is a resubmission of the previously refused application 22/00903/OUT, refused on the following grounds:

R1 *Insufficient information has been submitted to demonstrate that the proposed development would not give rise to an unacceptable impact upon highway safety, efficiency and the transport network contrary to the requirements of policy BE08, BE09 and BE12 of the Brentwood Local Plan and the aims and objectives of the National Planning Policy Framework.*

R2 *Insufficient information has been submitted to demonstrate that the proposed development would not lead to an adverse flood risk with the absence of a flood risk assessment and sustainable drainage features required for major development proposals contrary to policies BE05, BE14, NE09 of the Brentwood Local Plan and Chapter 14 of the National Planning Policy Framework.*

This report will look to identify whether the reasons for refusal above have been overcome through revisions made.

Consistency in decision-making

Members are reminded that National Planning Practice Guidance (NPPG) advises that similar cases should be determined in a consistent manner and failing to do so may amount to unreasonable behaviour. Planning authorities must behave equitably between applicants and must be seen to do so.

Caselaw on this point includes:

- *R (Midcounties Co-Operative Limited) v Forest of Dean District Council [2017] EWHC 2050*
- *Baroness Cumberlege v Secretary of State for Communities & Local Government [2017] EWHC 2057*

These two court decisions emphasise the need for consistency in planning decision-making, especially when assessing similar developments. This is not so onerous so as to mean all previous decisions (at the site or nearby) must be considered. However, it is clear that there are instances where decisions are so similar that to fail to take them into account would be unreasonable.

In this respect differentiating between officer or committee decisions is not relevant. As indicated above, the proposal has previously been before the authority and that decision is relevant to this application. The applicant has had an opportunity to provide further information to overcome previous concerns, and members will be aware that a 'follow up' application is not an opportunity for the authority to return to first principles to reassess matters of principle.

Green Belt considerations

Chapter 13 of the National Planning Policy Framework (NPPF) relates to the protection of Green Belt land. Paragraph 137 states that the Government attaches great importance to Green Belts and the protection of its essential characteristics – its openness and permanence. Green Belt is a spatial designation not a qualitative one, therefore the requirement to protect openness applies just as much to attractive countryside as to less attractive areas of Green Belt. Paragraph 147 states that where development is considered to be inappropriate, this is by definition harmful to the Green Belt and should not be approved except in Very Special Circumstances (VSC). However, VSCs would not exist unless the potential harm is clearly outweighed by other considerations. Policy MG02 of the BLP indicates that development will be considered in accordance with the provisions of national planning policy, i.e., the NPPF.

The NPPF stipulates that new buildings are inappropriate development in the Green Belt, unless one of a short list of quoted exceptions in paragraph(s) 149 or 150. Here, the applicant identifies that paragraph 149(g) is relevant. No other exception is considered to be applicable, and an assessment is made on that basis:

“149(g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- *not have a greater impact on the openness of the Green Belt than the existing development; or*
- *not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.”*

The proposal has nothing to do with affordable housing and therefore the last bullet point can be disregarded in this instance.

There is no official measure to assess openness and the NPPF does not suggest a method to compare existing and proposed development or judge openness. However, this issue was addressed to some degree in National Planning Practice Guidance (001 Reference ID: 64-001-20190722). This guidance is based on caselaw and indicates that assessing the impact on openness:

“requires a judgment based on the circumstances of the case. By way of example, the courts have identified a number of matters which may need to be taken into account in making this assessment. These include, but are not limited to:

- *openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume;*
- *the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and*
- *the degree of activity likely to be generated, such as traffic generation.”*

Even before the publication of the guidance, officers have long advised that as openness is a visual quality, normally considered to be the lack of buildings, a useful way to assess the new build elements of proposals in comparison with existing lawful development is a visual comparison of the massing, spread and position of existing and proposed buildings. This is in compliance with the first bullet point above, taking volume to mean massing rather than a mathematical calculation. While it's not unusual for people to quote numerical data for footprint, floorspace or volume when considering redevelopment proposals in the greenbelt, reliance on mathematical data can be misleading. This remains officers' view and equating volume in visual terms as size, massing, bulk is both an appropriate method of assessment and consistent with this national advice.

No existing elevations or floor plans accompany the submission although reviewing planning history of the application site - the existing garden centre building, including salesfloor area, kitchen and back of house areas extends to approx. 820sqm.

Of the existing buildings and structures to be removed, these are broadly single storey in height and contained to one part of the application site. The indicative drawings illustrate built form which is split into three separate buildings (plots 1 through 3) and

notably taller than the existing buildings. No floor plan for Plot 1 is provided and the roof form of the building conflicts with that illustrated within the Block Plan (815/22/001). Indeed, the indicative buildings illustrated appear to spread across a larger area than that existing with an increase in quantifiable built form.

Within the application form, the proposal describes that the existing gross internal floorspace is 6906sqm for Use Class E with the proposed floorspace 170sqm. On paper, this is a reduction of 6736sqm but is unclear how this has been calculated given the existing structures on site. The proposal also seeks to introduce Use Class B2 (General Industrial) with 5440sqm of gross internal floorspace. This would total a combined 5610sqm of floorspace.

These factors combined when assessing the indicative drawings would culminate in buildings which would undoubtedly have a significantly greater impact upon openness than the existing development.

However, the acceptability of the layout, appearance and scale of the development, or landscaping is not for consideration at this stage - they would be considered at reserved matters stage at which point the LPA would assess the impact upon openness and the applicant would be encouraged to provide information on the positioning and massing of existing buildings, in line with the advice above, in order for that judgement to be made.

Therefore, a condition would be recommended to exclude those drawings which exceed matters covered by this application i.e., only approving the site location plan. A further condition is also recommended that the floorspace as proposed is not accepted. For the avoidance of doubt, the assessment accepts the principle of redevelopment only and in respect of Green Belt considerations is made on the site location plan only which depicts the extent of the red outline and where development is to be located within having regard to the location of existing built form. All other drawings are excluded either for reasons of unacceptability or inaccuracy; a matter explored further below.

To conclude, in accordance with the exception outlined above, the site depicted within the Site Location Plan would constitute previously developed land and would trigger the exception listed above (para 149g) in principle. All other matters shall be controlled at reserved matters stage.

Viability considerations

The applicant and representations received have provided conflicting views of whether viability is a material planning consideration here. Indeed, the applicant's representative had previously confirmed that it is not material. Representatives from the current occupiers of the site insist the current use is viable.

Notwithstanding, whether the site would shut or remains viable/in active use in this case is not considered to be material to the determination of the application. Nor is preference for another business operator. Whilst the viability of the scheme would go to the principle of development, redevelopment of the site into alternative uses is not objected to in principle.

Heritage, Design and Neighbour Amenity considerations

S66 (1) of the Planning and Listed Building and Conservation Areas Act 1990 makes it clear that local planning authorities (LPA) should have special regard to the desirability of preserving the Listed Building and its setting or any features of special architectural or historic interests which it possesses.

Chapter 16 of the National Planning Policy Framework aims to conserve and enhance the historic environment with paragraph 199 stating that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the heritage asset's conservation. Significance can be harmed or lost through alterations or destruction of the heritage asset or development within its setting. Policy BE16 of the BLP is also relevant.

Policy BE14 seeks to create successful places ensuring new development meets high design standards (including materials) and delivers safe, inclusive, attractive and accessible places. Buildings should be sustainable including the surrounding places and spaces capable of adapting to changing conditions. Proposals should respond positively and sympathetically to their context building upon existing strengths and characteristics and, where appropriate, retain or enhance existing features which make a positive contribution to the character, appearance or significance of the local area (including natural and heritage assets). The integration of the natural environment to enhance biodiversity should be incorporated into designs and proposals should seek to incorporate trees into development. Proposals should also protect the amenities of future occupiers and neighbours living conditions, provide suitable parking provision and refuse/recycling points whilst mitigating the impact of air, noise, and other pollution.

The preamble text for policy BE14 also identifies that the Essex Design Guide (EDG) is a useful starting point for a development.

The context and character of the local area is partially derived from it being located within the Green Belt and a rural location characterised by openness and spaciousness. There are Heritage Assets including a Grade II* listed building 'LITTLEBURY' (List UID: 1306771) within the wider setting of the application site.

County Archaeologist (Place Services, Essex County Council) have advised that the proposed site would lie outside of the plotted extents of Kelvedon Hatch's Historic Settlement area (EHER 19247). In addition, historic OS mapping shows that a substantial amount of the site was quarried in the early C20 and archaeological remains would have been removed and therefore there is likely to be any impact upon deposits arising from this development and no conditions are recommended.

The Historic Buildings and Conservation Officer has previously had an opportunity to review redevelopment of this scheme. At the time of writing this report, no additional comments have been received. They previously raised concerns regarding the lack of assessment upon setting. They considered that the intent for built form is too large with plot 2 overly bulky and deep. A more considered contextual response is required here including the need to provide sustainable architecture and reducing carbon to result in a

greater energy efficient scheme which could all be rationalised with greater investment at the design stage. Notwithstanding, they advise there are no in principle objections but subject to the above comments being adhered to if the scheme were to progress to reserved matters.

The indicative drawings depict buildings which are considered to be dominant features and incongruous within this locality. However, they are indicative and recommended to be excluded from the determination of the application. Layout, appearance and scale are reserved matters the application for which would provide an opportunity for these matters to be addressed alongside all other aspects of policy BE14.

In terms of neighbour amenity, no noise impact assessment accompanies the application, but can be controlled through condition. Further conditions would also be recommended were consent given. This could restrict operations such as, but not limited to, outdoor storage and outdoor working as well as operating hours. Further measures such as noise at site boundaries being reduced, in accordance with the latest British Standard, below background noise could also be covered by way of condition.

Use and Employment considerations

Per the proposal description, the proposed development would seek to provide a mixed-use development falling within Use Classes B2 and E. The proposal would seek to provide 150 FTE jobs, an uplift of 135 jobs from the existing situation per the application form. Notwithstanding Green Belt considerations in respect of the floor areas listed within the application form, the proposed uses and additional employment is considered to be acceptable.

The application form sets out that the opening hours are as follows:

Use Class B2: 09:00-17:00 Monday to Friday
 09:00-15:00 Saturdays
 No working on Sundays

Use Class E: 09:00-17:00 Monday to Friday
 09:00-16:00 Saturdays
 No working on Sundays

These are considered to be acceptable subject to a bank holiday restriction for B2 use in the interests of neighbour amenity and a condition to this effect is recommended.

The site falls outside of a designated employment area as identified on the policies map but is recognised as an employment area under policy PC01. No change to a non-employment use is proposed. Whilst policy PC02 has a presumption in favour of diversifying uses within rural sites (and farms) to promote the rural economy, this is subject to compliance with Green Belt considerations, the effect of particular activities could be reasonably assessed through a noise impact assessment to include mitigation measures.

Sustainability considerations

No sustainability appraisal or strategy accompanies the application. Policies BE01, BE02, BE04 and BE07 are relevant. Information on how the proposed buildings could achieve higher levels of energy and power efficiency, generate low carbon electricity and mitigate heat gain could be controlled by way of condition were permission granted. There is also a requirement to achieve BREEAM 'excellent' rating unless robustly justified. A condition is recommended for a sustainability strategy.

Natural Environment considerations

The Councils Arboriculturalist and Ecologist has reviewed the submission which consists of indicative drawings. The site is generally considered to be of low ecological value as confirmed by the preliminary ecological assessment. There is scope for biodiversity enhancement and measures can be sought through condition and a completed biodiversity net gain (BNG) metric calculation (albeit BNG is not currently mandatory).

They also raise concerns regarding those buildings indicatively marked as 1 and 2 being "green roofs" given they are pitched, and future documents will need to properly detail what can be achieved for biodiversity enhancement. Conditions regarding landscaping (in the absence of an illustrative landscape plan) and measures to protect existing trees are also requested.

They also advise that given the presence of the river and nearby woods, details of external lighting and floodlighting will need to be controlled by way of condition in accordance with policy NE11 of the BLP to avoid light spill and impacts upon nocturnal species.

The Essex Badger Protection Group has previously provided comments raising no objection in principle. As the ecological appraisal is provisional and due to the time passed, a further walkover study is recommended and shall incorporate mitigation measures during the construction phase. A condition to this effect is recommended.

No Air Quality Impact Assessment accompanies this application. However, this is a matter which is considered could be suitably addressed by condition.

Land contamination considerations

The Historic Environment record identifies that part of the application site has formally been used as a quarry before uses were altered to horticultural and garden centre uses. There has evidently been a level of infilling in the preceding years. Whilst no contamination reports accompany the application, the Environmental Health team have not identified land contamination as a concern at this stage. It is considered that a Phase I assessment could be sought by way of condition to address potential risks and to ensure compliance with policy NE10 of the BLP; Chapter 15 of the NPPF; and the aims of the NPPG. Conditions are recommended.

Flood risk considerations

The application site is located to the south of the River Roding. The Environment Agency (EA) mapping indicates that whilst a vast proportion of the site lies within Flood Zone 1, the lowest level of flood risk, a proportion of the site toward the north lies within fluvial Flood Zones 2 and 3.

The application is accompanied by a Flood Risk Assessment (FRA). Whilst it is noted there is a singular reference to a replacement dwelling within the FRA and incorrect site area (a larger area than the site location plan depicts), the contents refer to the redevelopment for commercial use and appendices include copies of the indicative drawings.

The Lead Local Flood Authority (LLFA) have reviewed its contents and advise that, subject to conditions, it considers the proposal to be acceptable. The Environment Agency also has no objection to the application on flood risk grounds. Advice (including comments on an Environmental permit and flood resistance measures) can be brought to the developers attention by way of informative.

Therefore, the previous reason for refusal (R2) has been overcome and would be compliant with policies BE05, BE14 and NE09 of the BLP and the aims and objectives of Chapter 14 of the NPPF.

Highway and Parking considerations

The Highway Authority has reviewed the submission and carried out a site visit. The proposed site would utilise an existing access which is in constant use and has no recorded road traffic incidents in the last 5 years. From the revised documents which have been submitted during the lifetime of the application, which include additional studies and highways capacity assessment, the Highway Authority advise they are satisfied that the development can be provided without a material impact on highway safety and efficiency as a result. This is subject to conditions. The proposal is therefore considered to be compliant with policy BE12.

A financial contribution has been recommended to monitor a workplace travel plan. Such a contribution would need to be sought through an appropriate legal mechanism and it is not possible to achieve this by planning condition. This would comply with the requirements of policy BE08 to improve the highway network as deemed necessary.

Policy BE09 encourages sustainable modes of transport which should be prioritised within new developments and creating safe, secure and well connected proposals to minimise conflicts between users. A condition is recommended to ensure sustainable modes of transport are incorporated into the scheme providing full details of internal site access. This would include parking areas to ensure suitable parking spaces are provided in compliance with policy BE13.

Whilst it is accepted that the site location would likely mean a reliance on private motor vehicles, that is not dissimilar to the existing situation with numerous visitors to the site. Whilst it is anticipated there could be an increase in trips, the Highway Authority recommend upgrades to the nearby bus stops, and this would help to encourage alternative modes of transport.

In terms of other policy requirements in respect of parking standards and EV charging, conditions are recommended.

The proposal is considered to accord with policies BE08, BE09, BE11, BE12 and BE13 of the BLP.

Health Impact Assessment considerations

The proposal is accompanied by a preliminary HIA which has previously been reviewed by the Councils HIA steering group as part of the earlier refusal. High level comments have been provided and it is accepted that at this early stage, it would remain incomplete. The response outlines that robust amendments to the HIA will need to be included as part of future applications addressing the matters identified and the applicant's attention is drawn to this requirement. A condition requiring an amended HIA is recommended.

Developer Obligations and Community Infrastructure Levy considerations

As outlined above, a financial contribution has been recommended to monitor a workplace travel plan. Such a contribution would need to be sought through an appropriate legal mechanism. It is not possible to achieve this by planning condition.

At the time of writing this report and based upon a likely (on the basis it is outline with floor area not accepted) final development brought forward, this proposal would have been liable development for Community Infrastructure Levy (CIL), although this is yet to be adopted. However, if a scheme is granted outline planning permission prior to the adoption and implementation of CIL, the subsequent approval of reserved matters would not trigger a liability for CIL.

Other Matters

The proposal includes a complete site location plan (Getmapping) with a site area of approx. 14,907sqm (1.49 hectares) and a indicative block plan (reference 815/22/001/B) with a differing red outline and is notably incomplete with lines disappearing off the page. The extent of the development site differs from the application form and therefore there are discrepancies in respect of the red outline between all of the submitted documents. In reaching an assessment on this application, the site location plan has been used as it is not indicative; the block plan has been excluded.

The Parish Council has raised objection to the proposed development citing transportation and matters of principle (Green Belt) as concerns. However, for the reasons outlined above, the proposal is considered to be acceptable on these grounds.

All representations received have been fully considered as part of the determination of this application and addressed within the subsections of the report above where these are material. The benefits of the existing use raised by interested parties are not disputed although this does not prohibit redevelopment.

However, in terms of community benefits, it was previously considered that the existing site operations are not considered to be a 'community facility' for the purposes of policy PC10. To elaborate, policy text 7.68 of the BLP sets out examples of community facilities: "*village halls, community centres, libraries, and buildings for sports, leisure, healthcare, and arts venues, amongst others.*" The existing site comprises a Garden Centre attracting customers as part of a business and does form an example within this list. Furthermore, the site is not registered as an Asset of Community Value (ACV). There is no in principle objection to redevelopment of the site.

Conclusion

The resubmission has overcome the previous two reasons for refusal. Therefore, the proposals, subject to conditions and an appropriate legal mechanism for the financial contribution are considered to be compliant with the policies of the BLP and the aims and objectives of the NPPF and NDG. Therefore, the proposed development is recommended for approval.

7. Recommendation

The Application be APPROVED subject to completion of a Section 106 Agreement and to the following conditions:-

1 Approval of the details of the layout, scale, appearance and landscaping (hereafter referred to as 'Reserved Matters') shall be obtained in writing from the Local Planning Authority before the development is commenced and the development shall be carried out as approved.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2 Application for approval of the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

3 The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from date of approval of the last reserved matters to be approved.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

4 The development hereby permitted shall not be carried out except in complete accordance with the approved drawing(s) and specifications listed below:

- Site Location Plan (date of issue 15 March 2021 and supplied by Getmapping)

Reasons: To ensure that the development is as permitted by the local planning authority defining the extent of the area subject to the planning permission and for the avoidance of doubt.

5 This permission does not relate to the floorspace referred to within the application form and any supporting documents.

Reasons: Inadequate information has been provided to judge the impact of the proposal on the Green Belt and therefore this condition is required for the avoidance of doubt. In the absence of this condition, it would have been necessary to refuse planning permission.

6 No development shall commence until full details of the internal access roads (including the footway and cycleway links between the land and the local highway network, passing place and parking areas) within the site location plan as approved have been submitted to and approved in writing by the Local Planning Authority. These areas shall be retained in the approved form without impediment to their designated use.

Reasons: to ensure that suitable access as required by the Development Management Procedure Order is provided for future users of the site in the absence of detailed information and for the avoidance of doubt and to accord with local policies BE09, BE12 and BE13.

7 No development shall take place until a site wide Construction and Environmental Management Plan (CEMP) has been submitted to and agreed in writing by the Local Planning Authority. The CEMP shall include:

- a. Dust Management Plan;
- b. Protection of water resources;
- c. Protection of species and habitats (including arrangements for an updated site walkover survey undertaken by a suitably qualified Ecologist, to include mitigation measures);
- d. Arboricultural Method Statement;
- e. Emergency Planning and Incidents Response;
- f. Construction Traffic Management Plan (CTMP) to include:
 - i. vehicle routing;
 - ii. the parking of vehicles of site operatives and visitors;
 - iii. loading and unloading of plant and materials;
 - iv. storage of plant and materials used in construction;
 - v. wheel and underbody washing facilities;
- g. Waste Management;
- h. Details of site compounds, offices temporary fencing and lighting;

- i. Delivery and construction working hours (note: these should be limited to 08:00 to 18:00 Monday to Friday, 08:00 to 13:00 Saturdays with none on Sundays and Public Holidays);
- j. Details of site management practices for contractors and visitors;
- k. Wastewater strategy.

The approved CEMP shall be adhered to throughout the construction period for the development. The CEMP should have regard and be in accordance with the latest British Standard where applicable.

Reasons: in order to safeguard the character of the area; in the interests of aural, visual and neighbour amenity; to protect the natural environment; in the interests of highway safety; and for the avoidance of doubt.

8 No development shall take place until a Noise Impact Assessment (NIA) has been submitted to and approved in writing by the Local Planning Authority. The NIA shall be carried out in accordance with the latest British Standard. The NIA shall include the following details:

- i) sound insulation mitigation tailored for the use of the building(s);
- ii) noise reduction mitigation to be applied near all site boundaries;
- iii) full details of any fixed external and building service plant.

All external plant, sound insulation and noise reduction mitigation shall be fully implemented prior to first occupation of the development. They shall be permanently maintained thereafter and replaced in whole or in part as often is required to ensure continued compliance with the approved noise levels. No further fixed external or building service plant shall be installed.

Reasons: in order to safeguard the character of the area; in the interests of aural amenity and to safeguard living conditions of nearby residential and business properties.

9 No development shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme shall be submitted to and be approved in writing by the Local Planning Authority prior to commencement of development. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks (where applicable) to:
 - o human health,

- o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - o adjoining land,
 - o groundwaters and surface waters,
 - o ecological systems,
 - o archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. The development shall be carried out in accordance with the approved scheme.

Reason: To ensure that risks from land contamination is understood prior to works on site both during the construction phase to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

10 No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared, submitted to and been approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The development shall be carried out as approved.

Reason: To ensure that risks from land contamination is understood prior to works on site both during the construction phase to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

11 No works except demolition shall takes place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.

- Limiting discharge rates to 1:1 Greenfield runoff rates for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change. All relevant permissions to discharge from the site into any outfall should be demonstrated.
- Provide the existing brownfield runoff rate.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event. There should be no surcharging for the 1:1 year storm event. It should be demonstrated that the attenuation basin has adequate freeboard.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features. This includes all pipework.
- An updated drainage strategy incorporating all of the above bullet points including matters already approved and highlighting any changes to the previously approved strategy.

The scheme shall subsequently be implemented prior to occupation. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA.

Reasons: In order to: prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site; ensure the effective operation of SuDS features over the lifetime of the development; and provide mitigation of any environmental harm which may be caused to the local water environment. Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

12 Concurrent with the submission of the first reserved matters application, a survey of building heights, massing/volume, footprint, floorspace and site levels and finished floor levels as existing and as proposed shall be submitted to and approved in writing by the local planning authority.

Reason: Inadequate information has been provided to judge the impact of the proposal on the openness of the Green Belt and therefore this condition is required for the avoidance of doubt.

13 Prior to or concurrently with the submission of a Reserved Matters application, a Biodiversity Enhancement Strategy for Protected and Priority Species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:

- i. Purpose and conservation objectives for the proposed enhancement measures;
- ii. detailed designs to achieve stated objectives;
- iii. locations of proposed enhancement measures by appropriate maps and plans;
- iv. timetable for implementation;
- v. persons responsible for implementing the enhancement measures; and

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

Reason: In order to ensure that the development will provide for a net gain to biodiversity in accordance with policy NE01 of the local plan and the aims and objectives of the NPPF. It is advised that the strategy considers the biodiversity net gain metric calculation as a starting point.

14 U0053419 RM- Sustainability Strategy

Prior to or concurrently with the submission of a Reserved Matters application, a Sustainability Strategy shall be submitted detailing how the development will achieve in accordance with local policy BE01:

- At least a 10% reduction in carbon dioxide emissions above the requirements of Part L Building Regulations;
- A certified 'Excellent' rating under the BREEAM New Construction (Non-Domestic Buildings) 2018 scheme, or other equivalent standards (such as LEEDs or Passivhaus where broadly in line with BREEAM standards);
- A minimum of 10% of the predicted energy needs of the development from renewable energy; and
- A statement outlining the approach to: adaptation to climate change; carbon reduction; water management; site waste management; and use of materials

In addition, the strategy shall also detail how the development will achieve the requirements of local planning policies BE02, BE03 and BE04 relating to water efficiency and management, establishing low carbon and renewable energy infrastructure, managing heat risk and adaptation to climate change.

Reasons: In order to ensure that the development would comply with local policies BE01, BE02, BE03, BE04 and the requirements of the NPPF. Limited information has been submitted in this regard. Guidance is available within Figure 5.1 of the local plan which considers areas to be covered and the recommended approach.

15 Prior to the first occupation of any building, an external lighting strategy (including details on management, external luminaries, measures to control and mitigate light spread and spillage, hours of operation and maintenance) for the site as a whole shall be submitted to and approved in writing by the Local Planning Authority. The external lighting approved shall be implemented and made operational prior to the occupation of

any building. No further lighting shall be thereafter installed on the exterior of buildings or external areas of the site.

Reasons: to safeguard the rural character of the area from increased light pollution; to maintain the existing value of biodiversity on and adjacent to the site and for the avoidance of doubt.

16 Prior to or concurrently with the submission of a Reserved Matters application, a Secure by Design Statement shall be submitted to and approved in writing by the Local Planning Authority detailing how the development would adhere to the principles of Secure by Design. The Statement shall set out how the development achieves a Certificate of Compliance in respect of the Secured by Design Commercial Developments, to the satisfaction of Essex Police. All security measures applied to the approved development shall be permanently retained thereafter.

Reason: In order to provide a high standard of safe, inclusive, attractive and accessible places to future occupants and visitors to the site reducing the risk of crime for commercial premises, in accordance with Local Plan policy BE14 and the aims and objectives of the NPPF chapter 8.

17 Prior to or concurrently with the submission of a Reserved Matters application, a scheme of hard and soft landscaping shall be submitted and shall indicate the existing trees, shrubs and hedgerows to be retained, the location, species and size of all new trees, shrubs and hedgerows to be planted or transplanted, those areas to be grassed and/or paved. The landscaping scheme shall include details of all surfacing materials and existing and proposed ground levels. The landscaping scheme shall be completed during the first planting season after the date on which any part of the development is commenced or in accordance with a programme to be agreed in writing by the Local Planning Authority. Any newly planted tree shrub or hedgerow, or any existing tree, shrub or hedgerow to be retained, that dies, or is uprooted, severely damaged or seriously diseased, within five years of the completion of the development, shall be replaced within the next planting season with another of the same species and of a similar size, unless the local planning authority gives prior written consent to any variation.

Reasons: In order to safeguard and enhance the character and appearance of the area and for the avoidance of doubt.

18 Prior to or concurrently with the submission of a Reserved Matters application, details of all trees and hedges to be retained, including trees outside the site whose canopies overhang the site, shall be protected by strong fencing, the location and type to be approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within

those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.

Reasons: In order to protect trees and hedges of importance to safeguard the character and appearance of the area.

19 Prior to or concurrently with the submission of a Reserved Matters application, an Air Quality Impact Assessment (AQIA) shall be submitted to and approved in writing by the local planning authority. The AQIA is required to meet national air quality standards and identify opportunities to improve air quality or mitigate local exceedances and impacts to an acceptable legal and safe level in accordance with the requirements of local policy NE08. The development shall be carried out in compliance with the requirements/recommendations of that report.

Reason: Insufficient information has been submitted to establish that the proposed development would not have an unacceptable impact upon air quality. This condition is necessary to ensure compliance with local policy NE08.

20 Prior to or concurrently with the submission of a Reserved Matters application, an updated and robust Health Impact Assessment (HIA) shall be submitted to and approved in writing by the local planning authority. The HIA shall follow the England Public Health's guidance on Health Impact Assessments (2021) (or as amended) and details how the proposal responds to Health Determinants. The development shall be carried out in compliance with the requirements/recommendations of that assessment.

Reason: Insufficient information has been provided due to the proposal being at outline stage. Further details are required to ensure that the proposal would comply with local policy MG04.

21 U0053427 - Services underground - GPDO

All services serving the proposed development shall be provided underground unless details of any necessary above ground service infrastructure, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), have first been submitted to and approved in writing by the Local Planning Authority. Thereafter the above ground services shall only be provided on site in accordance with the approved details.

Reasons: In order to protect the character and appearance of the area; to safeguard the amenities of neighbouring properties; and in the interests of maintaining the openness of the Green Belt.

22 No building(s) shall be occupied until it has been provided with service connections capable of supporting the provision of the highest-speed broadband from the building to the nearest broadband service connection outside the site.

Reason: in order to comply with the requirements of policy BE07 of the local plan.

23 Prior to the occupation of the development, a waste strategy, setting targets for residual waste levels, recycling levels and landfill diversion and which identifies measures to facilitate waste reduction and recycling for commercial occupiers shall be submitted to and approved in writing by the Local Planning Authority. The waste reduction measures shall be implemented in accordance with the approved strategy.

Reasons: in order to safeguard the character and appearance of the area, to protect the natural environment and for the avoidance of doubt.

24 Prior to first occupation, a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reasons: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

25 Prior to first occupation of the proposed development, the existing bus stops on either side of Ongar Road, outside of the application site, shall be provided with new poles, flags and timetable information displays.

Reason: To encourage trips by public transport and in the interest of accessibility. As the prospect of implementation is reasonable and relates to development within the Highway, it is considered that this Grampian style condition can be applied.

26 Prior to first occupation of the proposed development, an updated workplace travel plan shall be submitted to and approved in writing by the local planning authority. The travel plan shall be actively implemented for a minimum period of 5 years. The travel plan shall be implemented as approved.

Note: a monitoring fee is to be provided by way of financial obligation separately to satisfy the requirements of the highway authority.

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

27 Prior to first occupation of the proposed development, full details of electric vehicle charging points to serve the car parking areas as well as a strategy to incorporate additional charging points for all types of vehicles in the future shall be

submitted to and approved in writing by the local planning authority. The details submitted shall consist of, as a minimum, the type of charger to be installed, charge rates, scaled drawings of the charging points and manufacturers information. No unit shall be occupied until the charger(s) which relate to that unit as approved have been fully installed.

Reason: in order to provide for the transition to electromobility and reduce pollution and climate change impacts in the interests of the health and wellbeing of the public in accordance with policy BE11.

28 No outside working or outside storage (aside from areas which are to be defined for the storing of vehicles in association with the uses hereby permitted) is permitted at any time.

Reasons: in order to safeguard the character of the area; in the interests of aural amenity and to safeguard living conditions of nearby residential and business properties.

29 If, during development, contamination not previously identified is found to be present at the site, it shall be made safe and reported immediately to the local planning authority. No further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted findings (by way of a report) of an intrusive investigation together with a risk assessment and remediation strategy detailing how this unsuspected contamination shall be dealt with and how this will be monitored and maintained in the future. The report shall be submitted to and approved in writing by the local planning authority before development recommences. The remediation strategy and monitoring and maintenance plan shall be implemented as approved.

The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination is understood in the interests of the future users of the land and for impacts upon neighbouring land to be minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

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

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

31 The site opening/operational hours shall not exceed the hours listed below based on the Use Class of the building and as described within the application form:

Use Class B2: 09:00-17:00 Monday to Friday
09:00-15:00 Saturdays
No working on Sundays or bank holidays

Use Class E: 09:00-17:00 Monday to Friday
09:00-16:00 Saturdays
No working on Sundays

Reasons: in the interests of neighbour amenity and for the avoidance of doubt.

Informative(s)

1 INF02

Reason for approval: The proposal would accord with the relevant policies of the development plan as set out below. The Council has had regard to the concerns expressed in representations, but the matters raised are not sufficient to justify the refusal of permission.

2 INF04

The permitted development must be carried out in accordance with the approved drawings and specification. If you wish to amend your proposal you will need formal permission from the Council. The method of obtaining permission depends on the nature of the amendment and you are advised to refer to the Council's web site or take professional advice before making your application.

3 The following development plan policies contained in the Brentwood Local Plan 2016-2033 are relevant to this decision: BE01, BE02, BE03, BE04, BE05, BE07, BE08, BE09, BE11, BE12, BE13, BE14, BE16, PC01, PC02, NE01, NE02, NE03, NE05, NE08, NE09, NE10, NE11, MG01, MG02, MG03, MG04; National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG).

4 INF22

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 for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

5 INF32

When carrying out building work, you must take appropriate steps to reduce noise and prevent nuisance from dust. The planning permission for the development may include specific conditions relating to noise control, hours of work and consideration to minimising noise and vibration from construction which shall be complied with. Notwithstanding, the developer is reminded to ensure compliance with the requirements of the Control of Pollution Act 1974. Prior permission must be sought for all noisy demolition and construction activities outside of core hours on all sites. If no prior permission is sought where it is required, the Authority may serve a notice on the site/works setting out conditions of permitted work under section 60 of the Act. British Standard 5228:2014 'Code of practice for noise and vibration control on construction and open sites' has been recognised by Statutory Order as the accepted guidance for noise control during construction work. An action in statutory nuisance can be brought by a member of the public even if the works are being carried out in accordance with a prior approval or a notice.

The developer is also reminded that, where applicable, during the construction phase on the building site, no bonfires should be undertaken. The Environmental Protection Act 1990 outlines that smoke arising from bonfires can be considered a statutory nuisance. The Highways Act also outlines smoke drifting onto a public highway is an offence.

The developer is also reminded, where applicable, to ensure that any asbestos containing materials within existing buildings is removed by an appropriately licensed contractor before undertaking any development on site in the interests of health and safety.

6 INF33

Considerate Contractor Advice Note - The developer is advised to ensure full compliance with the 'Guidelines for good practice' when undertaking construction and demolition works during the relevant phases. A copy of the guidelines is available online: https://document.brentwood.gov.uk/pdf/pdf_1185.pdf.

7 Highways Informative

Prior to any works taking place in the highway, the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate construction.

Given that the application is outline with access only to be determined, the Highway Authority has treated all drawings relating to the internal layout of the proposal site as illustrative only. However, it is important that a suitable and appropriate passing place is designed into the site access road when a reserved matters application is submitted.

The proposals should also be in accordance with Brentwood Borough Council's adopted vehicle and cycle parking standards.

Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org.

8 The Environment Agency have provided the following informatives/advice notes in respect of this application:

Environmental permits:

The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- on the floodplain of a main river if the activity could affect flood flow or storage and potential impacts are not controlled by a planning permission

For further guidance please visit

<https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03708 506 506. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

Flood resistance and resilience:

We strongly recommend the use of flood resistance and resilience measures. Physical barriers, raised electrical fittings and special construction materials are just some of the ways you can help reduce flood damage.

To find out which measures will be effective for this development, please contact your building control department. In the meantime, if you'd like to find out more about reducing flood damage, visit the flood risk and coastal change pages of the planning practice guidance. The following documents may also be useful:

Government guidance on flood resilient construction:

<https://www.gov.uk/government/publications/flood-resilient-construction-of-new-buildings>

CIRIA Code of Practice for property flood resilience

https://www.ciria.org/Research/Projects_underway2/Code_of_Practice_and_guidance_for_property_flood_resilience.aspx

British Standard 85500 - Flood resistant and resilient construction
<https://shop.bsigroup.com/ProductDetail/?pid=00000000030299686>

9 The LLFA have provided the following informatives/advice notes in respect of this application:

- We strongly recommend looking at the Essex Green Infrastructure Strategy to ensure that the proposals are implementing multifunctional green/blue features effectively. The link can be found below:
<https://www.essex.gov.uk/protecting-environment>.
- Please note that the Environment Agency updated the peak rainfall climate change allowances on the 10 May 2022. Planning applications with outline approval are not required to adjust an already approved climate change allowance, however, wherever possible, in cases that do not have a finalised drainage strategy please endeavour to use the updated climate change figures Flood risk assessments: climate change allowances - GOV.UK (www.gov.uk).
- Offline attenuation features will not be acceptable.

BACKGROUND DOCUMENTS

DECIDED: