



## PLANNING COMMITTEE

**DATE:** Tuesday, 21 November 2023  
**TIME:** 5.00 pm  
**VENUE:** Committee Room - Town Hall,  
Station Road, Clacton-on-Sea, CO15  
1SE

**MEMBERSHIP:**

**Councillor Fowler (Chairman)**  
**Councillor White (Vice-Chairman)**  
**Councillor Alexander**  
**Councillor Bray**  
**Councillor Everett**

**Councillor Harris**  
**Councillor Placey**  
**Councillor Sudra**  
**Councillor Wiggins**

**Most Council meetings are open to the public and press. The space for the public and press will be made available on a first come first served basis. Agendas are available to view five working days prior to the meeting date and the Council aims to publish Minutes within five working days of the meeting. Meeting papers can be provided, on request, in large print, in Braille, or on disc, tape, or in other languages.**

**This meeting will be filmed by the Council for live and/or subsequent broadcast on the Council's website. The whole of the meeting will be filmed, except where there are confidential or exempt items, and the footage will be on the website for up to 24 months (the Council retains one full year of recordings and the relevant proportion of the current Municipal Year). The Council will seek to avoid/minimise footage of members of the public in attendance at, or participating in the meeting. In addition, the Council is obliged by law to allow members of the public to take photographs, film, audio-record, and report on the proceedings at public meetings. The Council will only seek to prevent this should it be undertaken in a disruptive or otherwise inappropriate manner.**

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DATE OF PUBLICATION: Monday, 13 November 2023

## AGENDA

### **1 Apologies for Absence and Substitutions**

The Committee is asked to note any apologies for absence and substitutions received from Members.

### **2 Minutes of the Last Meeting (Pages 1 - 8)**

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Tuesday 24 October 2023.

### **3 Declarations of Interest**

Councillors are invited to declare any Disclosable Pecuniary Interests, Other Registerable Interests of Non-Registerable Interests, and the nature of it, in relation to any item on the agenda.

### **4 Questions on Notice pursuant to Council Procedure Rule 38**

Subject to providing two working days' notice, a Member of the Committee may ask the Chairman of the Committee a question on any matter in relation to which the Council has powers or duties which affect the Tendring District **and** which falls within the terms of reference of the Committee.

### **5 Report of the Director (Planning) - A.1 - 22.02072.FULHH - 3 De Vere Estate, Great Bentley, CO7 8QB (Pages 9 - 20)**

Proposed drop kerb with vehicular access along with driveway and parking.

### **6 Report of the Director (Planning) - A.2 - 23.01448.FULHH - 42 Elm Grove, Clacton-on-Sea, CO15 4DH (Pages 21 - 28)**

Retrospective application for a single storey rear extension to provide facilities for disabled person.

### **7 Report of the Director (Planning) - A.3 - 23.00697.FUL - Land at 5 Hunters Chase, Ardleigh, CO7 7LW (Pages 29 - 54)**

Proposed erection of one self-build dwelling (in lieu of Prior Approval for one dwelling, subject of application 22/00360/COUNOT for Barn B).

### **8 Report of the Director (Planning) - A.4 - 21.00386.FUL - 121-123 High Street, Harwich, CO12 3AP (Pages 55 - 78)**

Proposed retention of existing frontage and ground floor commercial unit, demolition of rear outbuildings and construction of a part two/part three storey building, to form 7no. one-bedroom self-contained units and 1no. studio self-contained unit and first floor commercial unit with associated cycle storage and refuse stores to rear.

## **Date of the Next Scheduled Meeting**

*The next scheduled meeting of the Planning Committee is to be held in the Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE at 5.00 pm on Monday, 27 November 2023.*

# **INFORMATION FOR VISITORS**

## **PUBLIC ATTENDANCE AT PLANNING COMMITTEE MEETINGS**

Welcome to this evening's meeting of Tendring District Council's Planning Committee.

This is an open meeting which members of the public can attend to see Councillors debating and transacting the business of the Council. However, please be aware that, unless you have registered to speak under the Public Speaking Scheme, members of the public are not entitled to make any comment or take part in the meeting. You are also asked to behave in a respectful manner at all times during these meetings.

Members of the public do have the right to film or record Committee meetings subject to the provisions set out below:-

### **Rights of members of the public to film and record meetings**

Under The Openness of Local Government Bodies Regulations 2014, which came into effect on 6 August 2014, any person is permitted to film or record any meeting of the Council, a Committee, Sub-Committee or the Cabinet, unless the public have been excluded from the meeting for the consideration of exempt or confidential business.

Members of the public also have the right to report meetings using social media (including blogging or tweeting).

The Council will provide reasonable facilities to facilitate reporting.

### **Public Behaviour**

Any person exercising the rights set out above must not disrupt proceedings. Examples of what will be regarded as disruptive, include, but are not limited to:

- (1) Moving outside the area designated for the public;
- (2) Making excessive noise;
- (3) Intrusive lighting/flash; or
- (4) Asking a Councillor to repeat a statement.

In addition, members of the public or the public gallery should **not** be filmed as this could infringe on an individual's right to privacy, if their prior permission has not been obtained.

Any person considered being disruptive or filming the public will be requested to cease doing so by the Chairman of the meeting and may be asked to leave the meeting. A refusal by the member of the public concerned will lead to the Police being called to intervene.

Filming by the Council This meeting will be filmed by the Council for live and/or subsequent broadcast on the Council's website. The whole of the meeting will be filmed, except where there are confidential or exempt items, and the footage will be on the website for up to 24

months (the Council retains one full year of recordings and the relevant proportion of the current Municipal Year). The Council will seek to avoid/minimise footage of members of the public in attendance at, or participating in, the meeting.

# *Tendring* District Council



## **PLANNING COMMITTEE MEETINGS PUBLIC SPEAKING SCHEME March 2021**

This Public Speaking Scheme is made pursuant to Council Procedure Rule 40 and gives the opportunity for a member of the public and other parties identified below to speak to Tendring District Council's Planning Committee when they are deciding a planning application.

### **TO WHICH MEETINGS DOES THIS SCHEME APPLY?**

Public meeting of the Council's Planning Committee are normally held every 4 weeks at 6.00 pm in the Committee Room at the Town Hall, Station Road, Clacton-on-Sea CO15 1SE.

### **WHO CAN SPEAK & TIME PERMITTED?** All speakers must be aged 18 or over:

1. The applicant, his agent or representative; or (where applicable) one person the subject of the potential enforcement action or directly affected by the potential confirmation of a tree preservation order, his agent or representative. A maximum of 3 minutes to speak is allowed;
2. One member of the public who wishes to comment on or to speak in favour of the application or someone who produces a signed, written authority to speak on their behalf. A maximum of 3 minutes to speak is allowed;
3. One member of the public who wishes to comment on or speak against the application or someone who produces a signed, written authority to speak on their behalf. A maximum of 3 minutes to speak is allowed;
4. Where the proposed development is in the area of a Parish or Town Council, one Parish or Town Council representative. A maximum of 3 minutes to speak is allowed;
5. All District Councillors for the ward where the development is situated ("ward member") or (if the ward member is unable to attend the meeting) a District Councillor appointed in writing by the ward member. Member(s) of adjacent wards

or wards impacted by the proposed development may also speak with the agreement of the Chairman. Permission for District Councillors to speak is subject to the Council's Code of Conduct and the declarations of interest provisions will apply. A maximum of 5 minutes to speak is allowed;

In accordance, with Council Procedure Rule 36.1, this Public Speaking Scheme takes precedence and no other Member shall be entitled to address or speak to the Planning Committee under Rule 36.1; and

6. A member of the Council's Cabinet may also be permitted to speak on any application but only if the proposed development has a direct impact on the portfolio for which the Cabinet member is responsible. The Leader of the Council must approve the Cabinet Member making representations to the Planning Committee. A maximum of 3 minutes is allowed.

Any one speaking as a Parish/Town Council representative may be requested to produce written evidence of their authority to do so, by the District Council's Committee Services Officer (CSO). This evidence may be an official Minute, copy of standing orders (or equivalent) or a signed letter from the Clerk to the Parish/Town Council and must be shown to the DSO before the beginning of the Planning Committee meeting concerned.

No speaker, (with the exception of Ward Members, who are limited to 5 minutes) may speak for more than 3 minutes on any agenda items associated with applications (such as a planning application and an associated listed building consent application). Speakers may not be questioned at the meeting, nor can any public speaker question other speakers, Councillors or Officers. Speakers are not permitted to introduce any photograph, drawing or written material, including slide or other presentations, as part of their public speaking.

All Committee meetings of Tendring District Council are chaired by the Chairman or, in their absence, the Vice-Chairman whose responsibility is to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community. The Chairman of the Planning Committee therefore, has authority to use their discretion when applying the Public Speaking Scheme to comply with this duty.

## **WHICH MATTERS ARE COVERED BY THIS SCHEME?**

Applications for planning permission, reserved matters approval, listed building consent, conservation area consent, advertisement consent, hazardous substances consent, proposed or potential enforcement action and the proposed or potential confirmation of any tree preservation order, where these are the subject of public reports to the Planning Committee meeting.

## **HOW CAN I FIND OUT WHEN A MATTER WILL BE CONSIDERED?**

In addition to the publication of agendas with written reports, the dates and times of the Planning Committee meetings are shown on the Council's website. It should be noted that some applications may be withdrawn by the applicant at short notice and others may be deferred because of new information or for procedural reasons. This means that deferral takes place shortly before or during the Planning Committee meeting and you will not be able to speak at that meeting, but will be able to do so at the meeting when the application is next considered by the Planning Committee.

## **DO I HAVE TO ATTEND THE PLANNING COMMITTEE MEETING TO MAKE THE COMMITTEE AWARE OF MY VIEWS?**

No. If you have made written representations, their substance will be taken into account and the Committee report, which is available to all Planning Committee Councillors, will contain a summary of the representations received.

## **HOW DO I ARRANGE TO SPEAK AT THE MEETING?**

You can:-

Telephone the Committee Services Officer (“CSO”) (01255 686587 or 686584) during normal working hours on any weekday after the reports and agenda have been published; or

Email: [democraticservices@tendringdc.gov.uk](mailto:democraticservices@tendringdc.gov.uk).

## **OR**

On the day of the Planning Committee meeting, you can arrive in the Committee Room in the Town Hall at least 15 minutes before the beginning of the meeting (meetings normally begin at 6.00pm) and speak to the CSO.

If more than one person wants to speak who is eligible under a particular category (e.g. a member of the public within the description set out in numbered paragraphs 2 or 3 above), the right to speak under that category will be on a “first come, first served” basis.

Indicating to the Chairman at a site visit that you wish to speak on an item is **NOT** formal notification or registration to speak; this must be made via the Committee Services Officer in the manner set out above.

## **WHAT WILL HAPPEN WHEN THE MATTER CONCERNED IS CONSIDERED?**

- Planning Officer presents officer report
- Public speaking takes place in the order set out above under the heading “WHO CAN SPEAK?”
- Officer(s) may respond on factual issues arising from public speaking and may sum up the key policies and material planning considerations relevant to the application
- Committee Members may ask Officers relevant questions and will debate, move motions and vote

Normally, the Committee will determine the matter, but sometimes the Councillors will decide to defer determination, in order to allow officers to seek further information about a particular planning issue. If a matter is deferred after the public speaking, the Committee will not hear public speaking for a second time, unless there has been a substantial material change in the application which requires representations to be made. The Executive Summary section of the Planning Committee Report should identify whether public speaking is going to be permitted on an application being reconsidered after deferral. If there is an update since the Report was published, the Council’s website will confirm this information.

## **WHAT SHOULD I SAY AT THE MEETING?**

Please be straightforward and concise and try to keep your comments to planning matters which are directly relevant to the application or matter concerned. Planning matters may include things such as planning policy, previous decisions of the Council on the same site or in similar circumstances, design, appearance, layout, effects on amenity, overlooking, loss of light, overshadowing, loss of privacy, noise or smell nuisance, impact on trees, listed buildings or highway safety.

Matters such as the following are not relevant planning matters, namely the effect of the development on property value(s), loss of view, personality or motive of the applicant, covenants, private rights or easements and boundary or access disputes.

Please be courteous and do not make personal remarks. You may wish to come to the meeting with a written statement of exactly what you want to say or read out, having checked beforehand that it will not overrun the 3 minutes allowed.

### **WHO DO I CONTACT FOR MORE INFORMATION?**

The Council's website will help you and you can also contact the relevant planning Case Officer for the matter. The name of the Officer is on the acknowledgement of the application or in the correspondence we have sent you.

Tendring District Council, Planning Services,  
Town Hall, Station Road, CLACTON-ON-SEA, Essex CO15 1SE  
Tel: 01255 686161 Fax: 01255 686417  
Email: [planningservices@tendringdc.gov.uk](mailto:planningservices@tendringdc.gov.uk) Web: [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk)

It always helps to save time if you can quote the planning application reference number.

**As approved at the meeting of the Full Council held on 16 March 2021**



**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,  
HELD ON TUESDAY, 24TH OCTOBER, 2023 AT 5.00 PM  
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,  
CO15 1SE**

<b>Present:</b>	Councillors Fowler (Chairman), Alexander, Bray (except item 48), Everett, Placey, Sudra and Wiggins
<b>Also Present:</b>	Councillor Turner
<b>In Attendance:</b>	Gary Guiver (Director (Planning)), Joanne Fisher (Planning Solicitor), Jacob Jaarsma (Planning Team Leader), Amy Lang (Senior Planning Officer) (except item 48), Michael Pingram (Senior Planning Officer) (except items 47 and 48), Madeline Adger (Leadership Support Manager), Bethany Jones (Committee Services Officer) and Emma Haward (Leadership Support Assistant).
<b>Also in attendance:</b>	Keith Simmons (Head of Democratic Services & Elections), Keith Durran (Committee Services Officer – Technical Support for livestream of the meeting) (item 42 only) and Jennie Wilkinson (Assets Surveyor) (except items 47 and 48).

**42. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies were received from Councillors Harris and White (with no substitutes appointed).

**43. MINUTES OF THE LAST MEETING**

It was moved by Councillor Alexander, seconded by Councillor Wiggins and unanimously:-

**RESOLVED** that the minutes of the last meeting of the Committee, held on Thursday 28 September 2023, be approved as a correct record and signed by the Chairman.

**44. DECLARATIONS OF INTEREST**

Councillor Everett declared for the public record in relation to reports **A.1 – 23-00864-FUL – Jubilee Ground, Naze Park Road, Walton-on-the-Naze** and **A.3 – 22-01333-FUL – Land west of Turpins Farm, Walton Road, Kirby-le-Soken** that he was a Member of the Frinton and Walton Town Council but that he had not taken part in any debates on those applications at Town Council meetings. He therefore stated that he was not predetermined and will remain in the meeting whilst those applications were determined.

**45. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38**

There were no such Questions on Notice submitted by Councillors on this occasion.

**46. REPORT OF THE DIRECTOR (PLANNING) - A.1 - 23-00864-FUL - JUBILEE GROUND, NAZE PARK ROAD, WALTON-ON-THE-NAZE**

The Committee had the application before it as Tendring District Council was the applicant.

Members heard that the proposal involved the further temporary siting of eight beach huts following the initial temporary permission for a total of 17 beach huts in June 2023, which had expired in August 2023. Of those 17 beach huts, 9 had since been relocated, but a further temporary permission was sought in order to allow time for the completion of cliff stabilisation work. The remaining eight beach huts were to be moved back to their original location upon completion of that work.

Officers informed Members that the proposal was not considered to result in significant harm to an area of land allocated as Safeguarded Open Space, and would not harm existing trees, highway safety or the amenities of any local residents.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any responses from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council’s Senior Planning Officer (MP) in respect of the application.

There had been no updates circulated to the Committee prior to the meeting about the application.

There were no public speakers for this application.

<b>Matters raised by Members of the Committee:-</b>	<b>Officer’s response thereto:-</b>
<i>This application was before the Committee in 2022 for work to be completed, is this just a continuation of that application?</i>	<i>Yes that is correct. The original application was for a total of 17 beach huts, 9 of those 17 have been relocated across the District so this is just a temporary permission for the remaining 8 until the works are carried out.</i>
<i>Has there been any objections or incidents from the Town Council from our decision back then?</i>	<i>No, the Town Council recommend approval for this application.</i>
<i>If the Committee extend the permission until 2026, is there a possibility that the beach huts will be moved before that? Can they be moved to their location as soon as possible?</i>	<i>Yes, Officers have to put a date and 3 years is standard. Officers can’t control when the beach huts will move but we can’t see any reason why they can’t move once the work is completed.</i>

During debate Councillor Everett reminded the meeting that he had declared for the public record that he was a Member of the Frinton and Walton Town Council but that he was not predetermined.

It was moved by Councillor Alexander, seconded by Councillor Bray and:-

**RESOLVED** that:

- 1) the Head of Planning and Building Control be authorised to grant planning permission subject to the conditions as stated at paragraph 8.2 of the report (A.1), or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,
- 2) the sending of any informative notes to the applicant as may be deemed necessary.

**47. REPORT OF THE DIRECTOR (PLANNING) - A.2 - 23-00547-FUL - 225 POINT CLEAR ROAD, ST OSYTH**

The Committee heard that the application was before Members as the proposal represented a departure from the Local Plan, proposing new residential development outside of the St Osyth Settlement Development Boundary (SDB) as defined within the adopted Tendring District Local Plan 2012 to 2033 and Beyond.

Members were told that the application related to the side garden of number 225 Point Clear Road, St Osyth. The site was located on the southern side of Point Clear Road, close to the junction with Dumont Avenue and was surrounded by residential development on all sides.

Officers informed Members that the site lay outside of the defined SDB of St Osyth and that there was no defined settlement for Point Clear within the adopted Local Plan. The application was therefore contrary to the spatial strategy set out within adopted Local Plan Section 1 Policy SP7 and Section 2 Policy SPL2. However, Local Plan Policy SPL 2 did not preclude residential development outside of the defined boundary, but rather required careful consideration of the scale of development in relation to the settlement hierarchy category, site-specific characteristics, and sustainability of the site.

The Committee was also informed that in that instance, the site-specific merits of the case and a recent appeal decision were of significant weight in the assessment of the application. Namely, the previous outline application for 1 no. dwelling (reference 21/02082/OUT) refused due to the lack of RAMS UU only, and the appeal decision at a nearby site (rear of 172 Point Clear Road appeal reference APP/P1560/W/22/3311836) which had been allowed on the basis that the site was within walking distance of amenities and public transport and the scale of development would be proportionate to the size of the settlement.

Members were assured that the Officers were satisfied that existing services and facilities within Point Clear would be capable of supporting the proposed development of 1 dwelling, and that those were accessible within safe walking distance of the site. The proposed single storey dwelling was of a scale and design that would appear as an infill plot, in keeping with the linear pattern and scale of residential development in the locality.

The Committee was finally told that, in line with the conclusions of the above-mentioned appeal, other than the high-level policy conflict regarding the location of the site outside the defined settlement development boundary, the development in the opinion of the Officers would not result in any material harm in terms of design, impact, residential amenities or highway safety, and was acceptable in all other regards.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any responses from consultees, written representations received and a recommendation of approval subject to Unilateral Undertaking and Conditions.

At the meeting, an oral presentation was made by the Council's Senior Planning Officer (AL) in respect of the application.

An update sheet had been circulated to the Committee prior to the meeting with details on the rewording of Condition 7 which was as follows:

**"7. COMPLIANCE PRIOR TO OCCUPATION: SHARED ACCESS WIDTH**

*CONDITION: Prior to occupation of the development, the **shared** vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the **shared** access at its junction with the highway shall be **7.2 metres**, shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway and highway verge.*

*REASON: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety.*

Note to Members:

*Following a correction to the site notice and advert (Departure from the adopted Local Plan) confirming that the site is located outside of the defined Settlement Development Boundary for St. Osyth, the decision for the application (in line with the committee resolution) will be issued once the corrected publication period has expired."*

There were no public speakers for this application.

<b>Matters raised by Members of the Committee:-</b>	<b>Officer's response thereto:-</b>
<i>Will the dropped curb be done early?</i>	<i>Yes, the recommendation includes standard highway conditions, in this instance there is a correction to the standard conditions that are shown in the report so it now incorporates the width of the access to be in line with the double width with the access point and that incorporates the dropped curb which is slightly wider and there are specific requirements from Highways for that type of access arrangement.</i>
<i>Is that a real 'well' in the front garden? Can we have confirmation what the structure is?</i>	<i>That is an ornamental well, it doesn't have an impact on the development, and it will be removed.</i>

<p><i>Am I right in saying that for a 3-bedroom property you would need an amenity space of 100 square metres?</i></p>	<p><i>That is the old standards. In the adopted local plan, the Policy LP4 suggests that the size of the garden area of that property would be what you would expect and the character of the area. It has to be useable and private which this property meets that policy requirement.</i></p>
<p><i>Is the host property also happy with the garden size?</i></p>	<p><i>Yes. The garden is of similar sizes to each other and useable. There is no harm and there are no objections made.</i></p>

It was moved by Councillor Bray, seconded by Councillor Everett and unanimously:-

**RESOLVED** that the Head of Planning and Building Control be authorised to grant planning permission subject to:

- 1) the completed Unilateral Undertaking securing:
  - financial contribution of £156.76 (index linked) towards RAMS.
  - financial contribution towards the Public Realm (index linked in accordance with the scale of contributions) to upgrade Dumont Avenue Play Area.
- 2) the conditions stated at 9.2, of the Officer report (A.2) with the amendment of Condition 7 as set out in the update sheet, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as references is retained; and,
- 3) the sending of any informative notes to the applicant as may be deemed necessary.

**48. REPORT OF THE DIRECTOR (PLANNING) - A.3 - 22-01333-FUL - LAND WEST OF TURNPINS FARM WALTON ROAD KIRBY LE SOKEN**

The Chairman of the Committee (Councillor Maria Fowler) informed the meeting that Councillors Bray and Placey would not be able to take part in the consideration of Item 7 of the Agenda due to them not attending the site visit or the Committee meeting held in August 2023 when the application in question had first been heard. However, they both would be able to remain in the meeting, as they had not declared an Interest.

Councillor Bray recused himself from this application and retired to the public gallery.

Members were reminded that, at the submission stage this application had been for an additional 24 homes and that after consultation with Essex Place services a decision had been made to keep some of the properties as 4 Bedroom Homes as it was felt from a placemaking perspective those, mostly corner, buildings needed to have a greater presence on the street scene. When those plots had reverted to larger properties the Architects drawings had not updated the plot numbering which had continued to show numbering up to 234, the error also was not obvious in the accommodation schedule as it only included part of the site.

The Committee heard that as a result of the above, the total dwellings proposed on site was in fact 231 (3 less than the scheme presented to Members in August 2023). The difference in dwelling numbers therefore result in the following changes:

- The description of the development changed to:

*“Proposed re-plan of part of site to provide 21 additional smaller units increasing total from 210 approved to 231 (as alternative to part of planning permission 16/00031/OUT and 20/00307/DETAIL).”*

- the uplift in dwelling numbers as a result of the replan scheme is 21 (instead of 24)
- the number of affordable units that would be secured as part of the re-plan scheme equates to a total of 6 dwellings (as opposed to 7 reported to Committee in August 2023). Given that 21 additional dwellings were proposed, a total of 6 affordable units would equate to a proportionate 30% affordable housing contribution and the proposal continued to be in accordance with Policy LP5 of the adopted Local Plan.
- as a result of the downward revision of the overall dwelling numbers by 3, the proportionate Health and Education contributions would continue to be required to mitigate against the impact of the development. Both the NHS and ECC Education have both been approached for comments and confirmation of the amounts required however at the time of writing the update report the comments remained outstanding.

Members were informed that, in conclusion, the reason to return this application to Committee was a matter of correction in terms of consistency and updating of the information presented to Members previously. That essentially confirmed the reduction of numbers compared to the initial application made that was before Members previously, but given the description changes it was appropriate to seek an updated resolution to ensure no risk of challenge against the decision-making process.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council’s Planning Team Leader (JJ) in respect of the application.

An update sheet had been circulated to the Committee prior to the meeting with details of the recommendation in August 2023 which was as follows:-

The August 2023 committee resolution included the following words:

...approval subject to: *the Completion and Transfer of Public Open Space and Maintenance Contribution...*

Officer update: The recommendation on the last page of your update report dated 24 Oct 2023 remains unchanged however Members are requested to note that the replan scheme does not contain any separate or additional public open space and as such there is no need to include a s106 clause seeking the Completion and Transfer of Public

Open Space and Maintenance Contribution (because such a requirement will be unnecessary).

Town Councillor Nick Turner, speaking as the adjoining Ward Member, spoke against the application.

<b>Matters raised by Members of the Committee:-</b>	<b>Officer's response thereto:-</b>
<i>Within Condition 12, can we just have clarification?</i>	<i>Condition 12 in the August 2023 report seeks secure of the financial contribution so Officers are saying it is just an update and the recommendation is now as per the August recommendation except for the removal of Conditions 11 and 12 because those contributions will be secured as part of Section 106 legal agreement.</i>
<i>Would the footways now be in jeopardy of not receiving any financial support to upgrade them or will that still be somewhere in the new agreement?</i>	<i>It will only be in jeopardy if the replan scheme is not approved. As part of the replan scheme and comments from the Parish Council, Officers have successfully negotiated these highway improvements contributions in respect of future speed reductions. Those contributions will only be in jeopardy if the replan scheme does not get approved.</i>
<i>Could we get an update on the full application?</i>	<i>The replan scheme is only here for transparency because there are 3 less properties and one less affordable property. Financial contributions are secured through legal agreements (Section 106), although it was in the report in August 2023 to be secured as conditions, Officers don't usually secure money through planning conditions. If this development is approved and the developers decide to proceed to deliver to development in this form then those contributions are secured through legal agreement as a legal obligation. The detail of how they are spent, that would not come back to Committee. TDC just secure those funds so the work can get done.</i>
<i>What is 30% of 24 and 30% of 21 to 1 or 2 decimal points?</i>	<i>I believe 30% of 21 is 6 and 30% of 24 is 7.</i>
<i>It is one less than it was before?</i>	<i>That is correct. The affordable housing goes down by one, from 7 to 6 homes and that is still equivalent to 30% overall.</i>

It was moved by Councillor Alexander, seconded by Councillor Fowler and:-

**RESOLVED** that:-

as a result of the report, the Update Report sought to amend all references in the August 2023 Committee Report (attached to the Update Report) to 234 dwellings down to 231 dwellings, all references to an uplift of 24 units down to 21 units, and all references to 7 affordable dwellings down to 6 affordable dwellings.

The Officer recommendation remained unchanged as set out in the Recommendation section of 1 August 2023 Committee report subject to:

1. removal of conditions 11 and 12 (as these are secured as s106 planning obligations) and confirmation that NHS and Education contributions are to be secured and shall match the previous scheme amount per dwelling

*(The matters in 1 above were requested by Members at the 1 August 2023 Planning meeting when it was resolved to approve planning permission subject to all the conditions and a legal agreement set out above and in section 1 of the August 2023 Committee report).*

2. delegated authority to enable the Planning Service Manager to issue the decision once the NHS and Education comments are available confirming the contributions sought should match the previous scheme amount per dwelling, and once the Section 106 legal agreement has been completed and signed.
3. removal of the requirement to secure 'Completion and Transfer of Public Open Space and Maintenance Contribution' from the matters to be secured as a s106 planning obligation.

The meeting was declared closed at 6.02 pm

**Chairman**

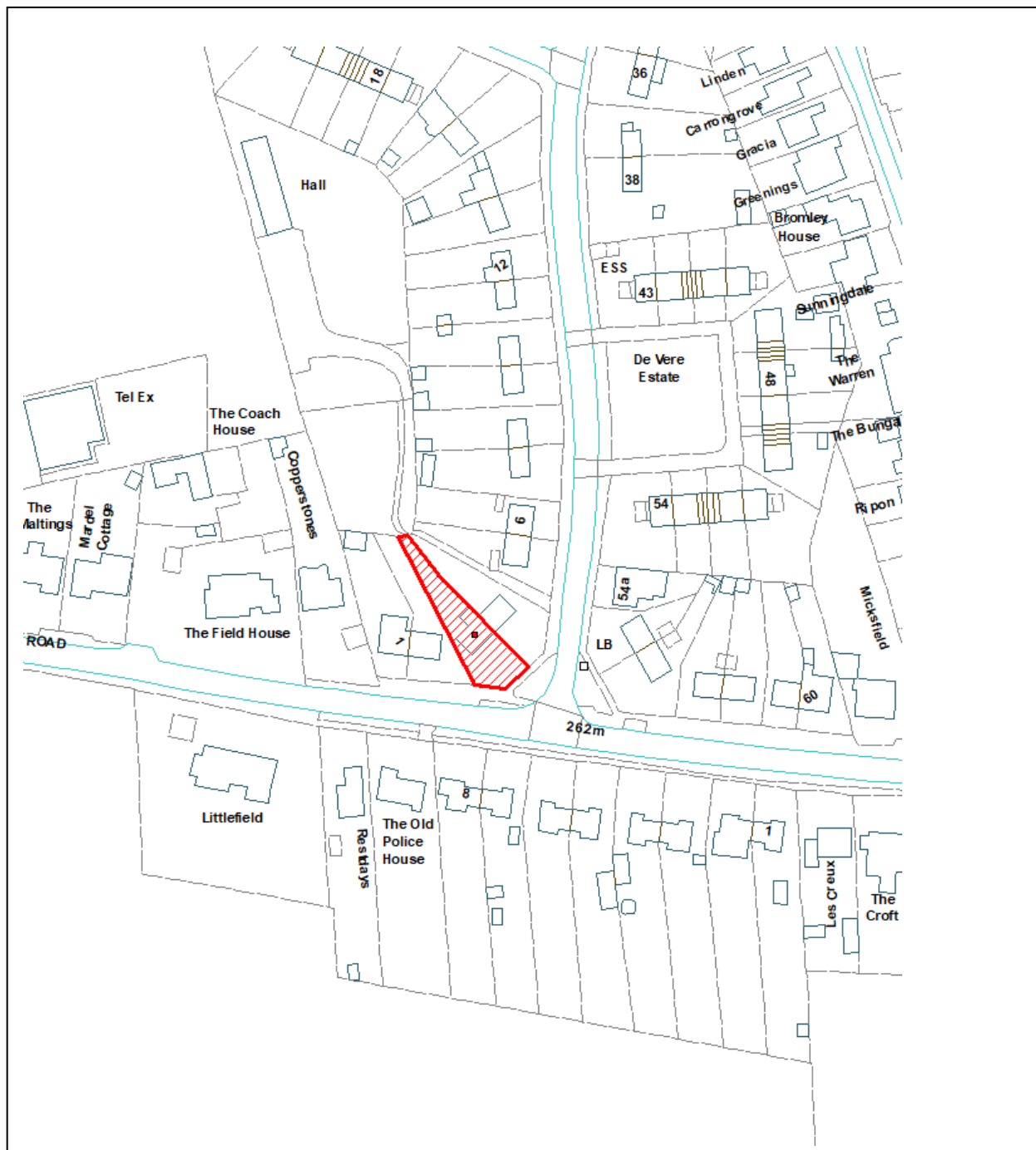


## PLANNING COMMITTEE

21<sup>st</sup> November 2023

### REPORT OF THE DIRECTOR OF PLANNING

#### A.1 PLANNING APPLICATION – 22/02072/FULHH – 3 DE VERE ESTATE GREAT BENTLEY CO7 8QB



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<b>Application:</b>	22/02072/FULHH	<b>Expiry Date:</b>	6th February 2023
<b>Case Officer:</b>	Charlotte Cooper	<b>EOT Date:</b>	18th April 2023
<b>Town/ Parish:</b>	Great Bentley Parish Council		
<b>Applicant:</b>	Mr Daniel Lancaster		
<b>Address:</b>	3 De Vere Estate Great Bentley CO7 8QB		
<b>Development:</b>	Proposed drop kerb with vehicular access along with driveway and parking .		

## 1. Executive Summary

This application involves the installation of a lowered curb providing vehicular access and a driveway that includes parking space in front of the property. The proposed development, subject to certain conditions, meets acceptable standards in terms of design and aesthetics and is not expected to have any major adverse effects on residential amenities. Essex County Council Highways have been consulted regarding the application and have indicated that it complies with highway safety requirements, subject to the conditions as included in paragraph 8.2 below.

**Recommendation:** Approval

- 1) That the Head of Planning and Building Control be authorised to grant 22/02072/FULHH planning permission subject to the conditions as stated at paragraph 8.2, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,
- 2) The informative notes as may be deemed necessary.

## 2. Planning Policy

2.1 The following Local and National Planning Policies are relevant to this planning application.

National:

National Planning Policy Framework July 2023 (NPPF)  
National Planning Practice Guidance (NPPG)

Local:

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)

SP1 Presumption in favour of Sustainable Development  
SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

SPL3 Sustainable Design  
CP2 Improving the Transport Network

Local Planning Guidance

Essex Design Guide  
Essex County Council Car Parking Standards - Design and Good Practice

### **Status of the Local Plan**

- 2.2 Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any neighbourhood plans that have been brought into force.

### **Neighbourhood Plans**

- 2.3 There is no neighbourhood – or draft neighbourhood plan in place for this area.

### **3. Relevant Planning History**

22/02072/FULHH	Proposed drop kerb with vehicular access along with driveway and parking to property front.	Current
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### **4. Consultations**

- 4.1 Below is a summary of the comments received from consultees relevant to this application proposal. Where amendments have been made to the application, or additional information has been submitted to address previous issues, only the latest comments are included below.
- 4.2 All consultation responses are available to view, in full (including all recommended conditions and informatives), on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

#### **ECC Highways Dept**

**18.09.2023**

The amended information submitted with the application has been assessed by the Highway Authority and conclusions reached based on a desktop study in conjunction with a site visit. The site is situated within De Vere Estate a local road that links to Strurrick Lane and Thorrington Road and is located with the 30-MPH speed limit for the village. The proposal would introduce a new access onto Thorrington Road, which is classed as a Secondary Distributer within the County's Route Hierarchy. To the west of the proposal is an existing lay-by and the grass verge in front of the property has an existing telegraph pole that may need to be relocated to accommodate the vehicle access. The proposal would provide two off-street parking spaces and turning within the property boundary, considering these factors:

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. As indicated on drawing no. 300/P/01 P2 and prior to first use, the road junction / access at its centre line shall be provided with a minimum clear to ground visibility splay dimensions of 2.4 metres by 43 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic.

Reason: To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway in the interest of highway safety in accordance with policy DM1.

2. Prior to first use of the access a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the property boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety in accordance with policy DM1.

3. Prior to the occupation of the dwellings the internal layout, access, and parking shall be provided in principle with drawing number:

o 300/P/01 P2 Amended proposed block plan.

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM1.

4. There shall be no discharge of surface water onto the Highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1.

5. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

6. Prior to first use of the access and as per the Essex Parking Standards (Parking Standards: Design and Good Practice, Sept 2009) 6 metres should be provided behind each parking space within the private drive to allow for manoeuvring.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

7. At no point shall gates be provided at the vehicular access. The access shall remain open and free for use thereafter.

Reason: To give vehicles using the access free and unhindered access to and from the highway in the interest of highway safety and in accordance with policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Officer comment: *The comments from ECC Highways will be considered in the relevant 'Highway Safety' section below. The recommended conditions as set out by ECC Highways above will also be considered against the NPPF tests for planning conditions, in particular in respect of whether any or all of the above-mentioned planning conditions are necessary,*

*relevant to planning and to the development, enforceable, precise and reasonable in all other respects.*

## **5. Representations**

- 5.1 Great Bentley Parish Council have provided no comments on this application.
- 5.2 No other letters of representation have been received regarding this application.

## **6. Assessment**

### Application Site

- 6.1 The application site serves a semi-detached, two-storey dwelling located on the north west corner of Thorrington Road and De Vere Estate within the settlement development boundary of Great Bentley. The semi-detached property in question, as well as the neighbouring property to the northeast, is oriented at a 45-degree angle with respect to the De Vere Estate and Thorrington Road intersection. The front amenity area of the application site extends in a southeastern direction toward the intersection of the aforementioned roads.
- 6.2 The proposed new drop kerb with vehicular access, driveway and parking to property will affect the existing layout and design of the grass verge located to the north of Thorrington Road. This area is under the ownership of Tendring District Council, which is why the application will be reviewed and decided upon by the members of the Planning Committee.

### Design and Appearance

- 6.3 The proposed works will be located to the front of the site and will therefore be visible to the public views of the streetscene.
- 6.4 The proposed new access will have dimensions of 3.6 metres in width and 6 metres in length, resulting in the removal of a small section of grass and dividing the remaining grass verge into two separate areas. This will result in a similar appearance to the layout of the grass verge area adjacent to the site, located to the east of De Vere Estate, which exhibits a higher level of hard landscaping. Therefore, this element of the proposal is considered to be in keeping with its locality and cannot be said to have any significant harmful impacts on the visual amenities of the area.
- 6.5 The proposed driveway / parking area will measure 9 metres wide by 8.9 metres deep and will be located to the front of the dwelling. The driveway will be largely shielded by the hedgerows along the front boundary which will be retained, however it will be visible from the proposed vehicular access point. It is therefore considered necessary and reasonable to impose a planning condition ensuring the existing hedge along the front (south-eastern boundary) is retained and should planning permission be granted. Moreover, this proposed driveway / parking area will be block paved and is considered to be of an acceptable size, scale and appearance with no significant harmful impacts on visual amenities.

### Impacts on Residential Amenities

- 6.6 The proposal does not include any extra living accommodations or extensions to the main dwelling. The addition of a hardstanding area in front of the application property and the establishment of the new access point are not expected to generate noise or general disturbances significant enough to justify a refusal on these grounds with respect to neighbouring

properties. As such, the proposal as a whole is not considered to have an unacceptable impact on nearby residential occupiers in terms of loss of light, privacy, noise or general disturbance.

#### Highway Safety

- 6.7 Essex County Council Highways have been consulted on this application. Their full comments have been included above and summarised in this section.
- 6.8 The Highways Department have concluded that the application is acceptable from a highway safety and parking perspective, subject to mitigations and conditions. Officers have considered each of the 7 planning conditions recommended by the Highways Department against the NPPF tests for planning conditions, and except for condition 4, it is considered that all the recommended conditions will meet these tests. Condition 4 fails the NPPF tests of enforceability and preciseness and instead, officers have included a condition seeking full details of surface water drainage from the proposed hardstanding areas to ensure the proposal does not result in hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway during the winter months.
- 6.9 In addition to the above, conversations between the case officer and Essex County Council Highways have confirmed there are no objections or concerns regarding the existing parking layby to the south and southwest of the site. Specifically, officers sought confirmation that parked vehicles using the layby will not have any impact on the visibility of drivers using the access, especially when leaving the site. Essex County Council Highways have confirmed that parked vehicles in this area will not have an impact on visibility splays because suitable views will still be possible looking west along Thorrington Road. Essex County Council Highways have also stated that the existing telegraph pole may need relocating as a result of the works, this has not been raised as a formal objection on highway safety grounds and is therefore a matter for the applicant to consider as part of the next phase of their project. Should planning permission be granted, an informative will be included making the applicant aware of potential requirement to move the telegraph pole.
- 6.10 The proposal is therefore deemed acceptable in terms of highway safety.

#### Other Considerations

- 6.11 Great Bentley Parish Council have provided no comments on the application.
- 6.12 No other letters of representation have been received.

### **7. Conclusion**

- 7.1 This application would see the installation of a drop kerb with vehicular access and driveway, incorporating parking to the front of the property. Subject to conditions, the proposed development is considered to be of an acceptable design and appearance with no significant harmful impacts on residential amenities. Essex County Council Highways have been consulted on the application and confirmed it to be acceptable in terms of highway safety subject to conditions as included below.

### **8. Recommendation**

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives.

#### 8.2 Conditions and Reasons

1. COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

CONDITION: The works to which this consent relate must be begun not later than the expiration of three years beginning with the date of this consent.

REASON: To comply with the requirements of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

NOTE/S FOR CONDITION:

The development needs to commence within the timeframe provided. Failure to comply with this condition will result in the consent becoming lapsed and unable to be carried out. If commencement takes place after the time lapses this may result in unlawful works at risk of both Enforcement Action and Criminal proceedings. You should only commence works when all other conditions requiring agreement prior to commencement have been complied with.

## 2. APPROVED PLANS & DOCUMENTS

CONDITION: The development hereby permitted shall be carried out in accordance with the drawings/documents listed below and/or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard (except for Listed Building Consents). Such development hereby permitted shall be carried out in accordance with any Phasing Plan approved, or as necessary in accordance with any successive Phasing Plan as may subsequently be approved in writing by the Local Planning Authority prior to the commencement of development pursuant to this condition.

Drawing No. 300/LP/01 P1

Drawing No. 300/P/01 P2

REASON: For the avoidance of doubt and in the interests of proper phased planning of the development.

NOTE/S FOR CONDITION:

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is not approved, unless otherwise separately referenced in other conditions that also form this decision. The second role of this condition is to allow the potential process of Non Material Amendment if found necessary and such future applications shall be considered on their merits. Lastly, this condition also allows for a phasing plan to be submitted for consideration as a discharge of condition application should phasing be needed by the developer/s if not otherwise already approved as part of this permission. A phasing plan submission via this condition is optional and not a requirement.

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

Any indication found on the approved plans and documents to describe the plans as approximate and/or not to be scaled and/or measurements to be checked on site or similar, will not be considered applicable and the scale and measurements shown shall be the approved details and used as necessary for compliance purposes and/or enforcement action.

3. COMPLIANCE REQUIRED: VISIBILITY SPLAYS

CONDITION: As indicated on drawing no. 300/P/01 P2 and prior to first use of the access and parking area hereby approved, the road junction / access at its centre line shall be provided with a minimum clear to ground visibility splay dimensions of 2.4 metres by 43 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic.

REASON: To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway in the interest of highway safety in accordance with policy DM1.

4. ACTION REQUIRED: HIGHWAYS PROVISION OF PEDESTRIAN VISIBILITY SPLAYS

CONDITION: Prior to first use of the access and parking area hereby approved, a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the property boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

REASON: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety in accordance with policy DM1.

5. COMPLIANCE REQUIRED: VEHICLE PARKING PROVISIONS

CONDITION: Prior to first use of the access and parking area hereby approved the internal layout, access, and parking shall be provided in principle with drawing number:  
o 300/P/01 P2 Amended proposed block plan.

REASON: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM1.

6. COMPLIANCE REQUIRED: MATERIALS

CONDITION: No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

REASON: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

7. FURTHER APPROVAL - SURFACE WATER DRAINAGE DETAILS

CONDITION: Full details of surface water drainage from the new access and hardstanding/parking area shall have been submitted to and approved, in writing, by the Local Planning Authority prior to commencement of any works associated with the development hereby approved. No part of the development shall be first brought into use until the agreed method of surface water drainage has been fully installed and is functionally



available for use. The surface water drainage scheme shall thereafter be maintained as approved.

REASON: To prevent hazards caused by water flowing onto the highway.

## 8. ON GOING REQUIREMENT: HIGHWAYS

CONDITION: Notwithstanding the provisions of the Town & Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) there shall be no gates/fence and/or other means of enclosure within five metres from the edge of the carriageway. Any gates to be erected on site, shall only open into the site and not over any area of the public highway and/or the minimum distance stated.

REASON: In the interests of highway safety.

NOTE/S FOR CONDITION:

Carriageway is the part of a road intended for vehicles rather than pedestrians normally define by kerb if available or edge of a bound surface.

It is an OFFENCE to carry out works within the public highway, which includes a Public Right of Way, without the permission of the ECC Highway Authority. Any conditions which involve work within the limits of the public highway do not give the applicant permission to carry them out. Unless otherwise agreed in writing all works within the public highway shall be carried out by Essex County Council or its agents at the applicant's expense."

## 9. HEDGE

CONDITION: The existing hedge located along the south-eastern front boundary of the site facing the corner of Thorrington Road and De Vere Estate shall be retained in perpetuity at a minimum height 1.2m for the entire length of the south-eastern boundary of the site up to the eastern edge of the new access hereby approved. Should the existing hedge die, get seriously damaged or seriously diseased it shall be replaced in the next planting season with others of similar size and same species and retained in perpetuity.

REASON: To enable existing landscaping to be protected and retained in the interests of visual amenity.

### 8.3 Informatives

#### Positive and Proactive Statement

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

#### Highways Informatives

1: It is noted that the new vehicular access appears to be adjacent to an existing telegraph/ electrical pole and overhead cables within the highway boundary. The agent/applicant needs to discuss this with the respective Utility Company to see what would be acceptable

to them in relation to the driveway access and what potential costs would be entailed to possibly re-locate the apparatus which would be at the applicant's expense.

2: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org)

3: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

4: The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

## **9. Additional Considerations**

### Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

### Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

#### Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

#### **10. Background Papers**

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

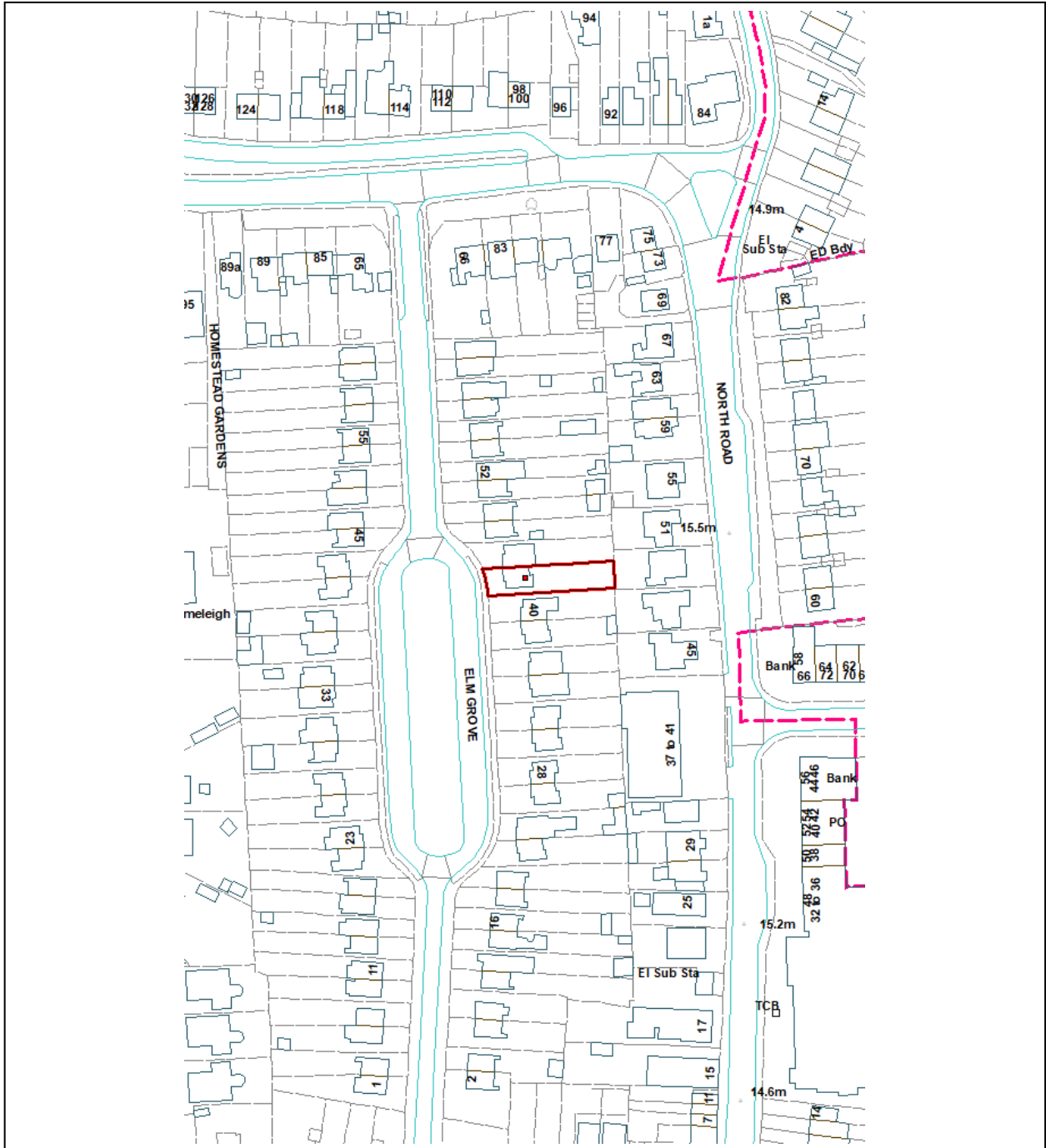
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## PLANNING COMMITTEE

21<sup>st</sup> November 2023

### REPORT OF THE DIRECTOR OF PLANNING

#### A.2 PLANNING APPLICATION – 23/01448/FULHH – 42 ELM GROVE CLACTON ON SEA CO15 4DH



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<b>Application:</b>	23/01448/FULHH	<b>Expiry Date:</b>	18th December 2023
<b>Town/ Parish:</b>	Clacton Non Parished		
<b>Applicant:</b>	Housing Portfolio Holder		
<b>Address:</b>	42 Elm Grove Clacton On Sea CO15 4DH		
<b>Development:</b>	Retrospective application for a single storey rear extension to provide facilities for disabled person.		

## 1. **Executive Summary**

- 1.1 The application is brought to Planning Committee as the building is owned by Tendring District Council.
- 1.2 This application seeks retrospective planning permission for the erection of a single storey rear extension measuring 3.8m in depth and 3.1m in height.
- 1.3 The extension is sited to the rear of the house and is deemed to be of an acceptable size, scale and appearance with no significant adverse effects on the visual amenities of the area.
- 1.4 The single storey nature of the extension means it poses no significant threat to overlooking or loss of privacy to the adjacent neighbouring dwellings. It has no significant impacts on the loss of light which are so significant as to justify refusing planning permission.

### **Recommendation:** Approval

- 1) That the Head of Planning and Building Control be authorised to grant planning permission subject to the conditions as stated at paragraph 8.2, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,
- 2) The informative notes as may be deemed necessary.

## 2. **Planning Policy**

- 2.1 The following Local and National Planning Policies are relevant to this planning application.

### NATIONAL:

National Planning Policy Framework July 2023 (NPPF)  
National Planning Practice Guidance (NPPG)

### LOCAL:

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021):

SP1 Presumption in Favour of Sustainable Development  
SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022):

SPL1 Managing Growth  
SPL3 Sustainable Design

LP3      Housing Density and Standards  
LP4      Housing Layout

Supplementary Planning Guidance:  
Essex Design Guide

No emerging or adopted neighbourhood plan

### **Status of the Local Plan**

- 2.2 Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any neighbourhood plans that have been brought into force.

### **3. Relevant Planning History**

23/01448/FULHH      Retrospective application for a single      Current  
storey rear extension to provide  
facilities for disabled person.

### **4. Consultations**

None Required.

### **5. Representations**

- 5.1 Clacton is non parished and therefore comments of this nature are not expected.  
5.2 There have been no letters of representation received.

### **6. Assessment**

#### Site Context

- 6.1 The application site comprises of a two storey semi detached dwelling within the development boundary of Clacton.  
6.2 The existing house is set back from the front boundary with off street parking to the front. The rear garden is mainly laid to lawn with boundary fencing already in situ.  
6.3 The house is brick in construction and benefits from a previous kitchen extension to the rear.

#### Proposal

- 6.4 This application seeks retrospective planning permission for a single storey rear extension to provide facilities for disabled person.  
6.5 The extension measures 3.8m in depth and 3.1m in height and has been constructed in brickwork with a fibreglass flat roof.  
6.6 The proposed addition has created an additional bedroom at ground floor and was erected at the time of the officers site visit.

#### Visual Impact

- 6.7 The proposed extension is sited to the rear and therefore not publicly visible from Elm Grove.
- 6.8 The proposed addition is of a suitable design and size which is appropriate to the existing house and has been finished in materials which is consistent with the host dwelling.
- 6.9 The site is of a suitable size to suitably accommodate the enlargement and still retain a usable area of private amenity space.
- 6.10 The proposed addition is therefore considered a suitable enlargement of the house which does not result in a harmful impact to the appearance or character of the host dwelling or streetscene.

#### Impact to Neighbours

- 6.11 The proposed extension is sited sufficiently away from the southern and eastern boundaries of the site and largely screened by aspects of the host dwelling and boundary fencing preventing it from resulting in a significant loss of amenities to these neighbours.
- 6.12 The proposed extension has been erected along the shared boundary shared with the adjoining neighbour or 44 Elm Grove. Due to this siting the proposed addition is noticeable to this neighbour and does have some impact to its existing level of light and outlook already received.
- 6.13 The sunlight/ daylight calculations specified within the Essex Design Guide have been applied to the plans. In this instance the 45-degree line in elevation would strike through this neighbours nearest window where as in plan it would only strike through a small section of it. The proposal therefore passes the tests and the level of light lost in this instance is considered not so significant to refuse planning permission upon in this instance.
- 6.14 The proposed addition is of a single storey flat roof design which can be largely screened by the existing boundary fencing reducing views. It is also minded that under permitted development this boundary fence can be increased to 2m in height which would reduce the proposal further. Whilst this neighbour does achieve views of the new extension from its nearest window it has been considered that these would not result in such a harmful impact to this neighbours outlook which would require the need to refuse permission upon in this instance.
- 6.15 The proposal is of a single storey design with no side facing windows which will look onto this neighbouring site preventing it from resulting in a loss of privacy to 44 Elm Grove.

## **7 Conclusion**

- 7.1 The proposal has been considered against the national and local policies listed above and is complicit with these. In the absence of material harm resulting from the proposed development the application is recommended for approval.

## **8 Recommendation**

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives

### 8.2 Conditions

1. COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

CONDITION: The development hereby permitted shall be begun not later the expiration of three years from the date of this permission.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.



NOTE/S FOR CONDITION:

The development needs to commence within the timeframe provided. Failure to comply with this condition will result in the permission becoming lapsed and unable to be carried out. If commencement takes place after the time lapses this may result in unlawful works at risk Enforcement Action proceedings. You should only commence works when all other conditions requiring agreement prior to commencement have been complied with.

2. APPROVED PLANS & DOCUMENTS

CONDITION: The development hereby permitted shall be carried out in accordance with the drawings/documents listed below and/or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard (except for Listed Building Consents). Such development hereby permitted shall be carried out in accordance with any Phasing Plan approved, or as necessary in accordance with any successive Phasing Plan as may subsequently be approved in writing by the Local Planning Authority prior to the commencement of development pursuant to this condition.

Drawing No A2022/10/03

REASON: For the avoidance of doubt and in the interests of proper phased planning of the development.

NOTE/S FOR CONDITION:

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is not approved, unless otherwise separately referenced in other conditions that also form this decision. The second role of this condition is to allow the potential process of Non Material Amendment if found necessary and such future applications shall be considered on their merits. Lastly, this condition also allows for a phasing plan to be submitted for consideration as a discharge of condition application should phasing be needed by the developer/s if not otherwise already approved as part of this permission. A phasing plan submission via this condition is optional and not a requirement.

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

Any indication found on the approved plans and documents to describe the plans as approximate and/or not to be scaled and/or measurements to be checked on site or similar, will not be considered applicable and the scale and measurements shown shall be the approved details and used as necessary for compliance purposes and/or enforcement action.

8.3 Informatives

Positive and Proactive Statement

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

## **9 Additional Considerations**

### Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

### Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

### Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

## **10 Background Papers**

- 10.1** In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

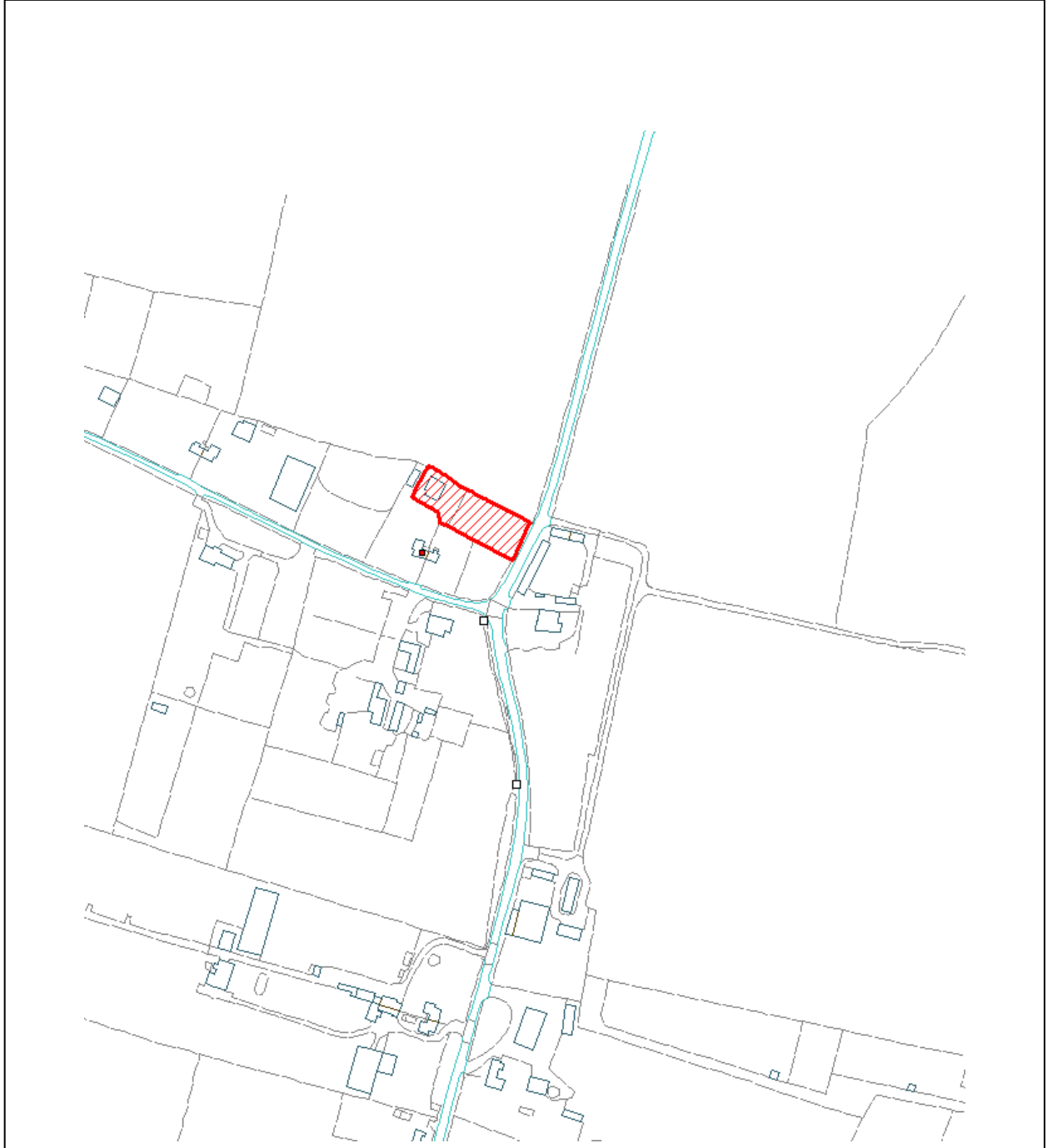
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## PLANNING COMMITTEE

21<sup>st</sup> November 2023

### REPORT OF THE DIRECTOR OF PLANNING

#### **A.3 PLANNING APPLICATION – 23/00697/FUL – LAND AT 5 HUNTERS CHASE ARDLEIGH COLCHESTER CO7 7LW**



DO NOT SCALE

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<b>Application:</b>	23/00697/FUL	<b>Expiry Date:</b>	13th July 2023
<b>Case Officer:</b>	Naomi Hart	<b>EOT Date:</b>	22nd November 2023
<b>Town/ Parish:</b>	Ardleigh Parish Council		
<b>Applicant:</b>	Mr and Mrs Buck		
<b>Address:</b>	Land at 5 Hunters Chase Ardleigh Colchester, CO7 7LW		
<b>Development:</b>	Proposed erection of one self-build dwelling (in lieu of Prior Approval for one dwelling, subject of application 22/00360/COUNOT for Barn B).		

## 1. Executive Summary

- 1.1 The application is referred to Planning Committee as the proposed development would conflict with the requirements of the Development Plan, principally Policy SPL2 (Settlement Development Boundaries) of the Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022) being located outside of any defined settlement development boundary and has a recommendation of approval.
- 1.2 Although the proposed dwelling will see an increase in height and slight increase in footprint to the development approved under prior approval 21/00360/COUNOT, due to its location and the existing vegetation and proposed landscaping, it is not considered to cause any harm to the visual or neighbouring amenities.
- 1.3 The Council's Tree and Landscape Officer has raised no concerns, while sufficient parking and private amenity space is provided, and there will not be significant harm to existing neighbouring amenities or ecology impacts. Essex Highways Authority have also raised no objections.

**Recommendation:** Approval subject to Unilateral Undertaking and Conditions, as follows:

That the Head of Planning and Building Control be authorised to grant planning permission subject to:

- 1) A completed Unilateral Undertaking securing;
  - Financial contribution of £156.76 (index linked) towards RAMS.
- 2) The conditions stated at paragraph 9.2, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,
- 3) The informative notes as may be deemed necessary.

## 2. Planning Policy

2.1 The following Local and National Planning Policies are relevant to this planning application.

### **National:**

National Planning Policy Framework July 2023 (NPPF)  
National Planning Practice Guidance (NPPG)

### **Local:**

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)

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

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- HP5 Open Space, Sports & Recreation Facilities
- PPL1 Development and Flood Risk
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- PPL10 Renewable Energy Generation
- CP1 Sustainable Transport and Accessibility
- CP2 Improving the Transport Network
- DI1 Infrastructure Delivery and Impact Mitigation

Draft Ardleigh Neighbourhood Plan 2020 – 2033 August 2022 (not yet adopted)

- GDP General Approach to Development
- EP Natural, Built & Historic Environment
- TP Transport & Parking

Essex Minerals Local Plan Adopted July 2014

- S8 Safeguarding mineral resources and mineral reserves
- DM1 Development Management Criteria

Supplementary Planning Documents

- Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)
- Tendring Provision of Recreational Open Space for New Development SPD 2008 (under review)
- Essex Design Guide
- Statutory guidance -Technical housing standards: nationally described space standard Published 27 March 2015

Local Planning Guidance

- Essex County Council Car Parking Standards - Design and Good Practice

**Status of the Local Plan**

- 2.2 Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any neighbourhood plans that have been brought into force.

In relation to housing supply:

- 2.3 The Framework requires Councils boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, Paragraph 11 d) of the Framework requires granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole (what is often termed the 'tilted balance').
- 2.4 The Local Plan fixes the Council's housing requirement at 550 dwellings per annum. On 19 October 2021 the Council's Strategic Housing Land Availability Assessment (SHLAA) updated the housing land supply position. The SHLAA demonstrates in excess of a six-and-a-half-year supply of deliverable housing land. On 14 January 2022 the Government published the Housing Delivery Test (HDT) 2021 measurement. Against a requirement for 1420 homes for 2018-2021, the total number of homes delivered was 2345. The Council's HDT 2021 measurement was therefore 165%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to applications for housing.

### **Ardleigh Neighbourhood Plan – Examination Stage**

- 2.5 A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>. In summary, without prejudice, the weight that should be applied to Neighbourhood Plans can be understood as follows:

- Stage 1: Designated neighbourhood area (Limited Weight)
- Stage 2: Preparing a draft neighbourhood plan (Limited Weight)
- Stage 3: Pre-submission publicity and consultation (Limited Weight)
- Stage 4: Submission of a neighbourhood plan (Limited Weight)
- Stage 5: Independent Examination (Limited/Significant Weight)
- Stage 6: Referendum (Significant Weight)
- Stage 7: Adoption by LPA (Full Weight)

- 2.6 On the 14th of June 2023 a Planning Inspector was appointed as the Examiner for the Ardleigh Neighbourhood Plan. The Examination for the Ardleigh Neighbourhood Plan formally opened on Wednesday 12th July 2023.
- 2.7 On the 18th of August, the Examiner sent the Council an Interim Note of Findings which detailed several questions and matters of clarification.
- 2.8 Therefore, the Ardleigh Neighbourhood Plan, and any relevant policies therein, can be understood as reaching 'Stage 4' in terms of the weight that can be attributed to it in the decision-making process, and approaching 'Stage 5' in the near future.

### **3. Relevant Planning History**



06/00724/FUL	Two storey side extension, first floor rear extension and front porch	Approved	13.06.2006
22/00359/COUNOT	Proposed conversion of an agricultural building into a dwellinghouse (Barn A).	Prior Approval Not Required	20.04.2022
22/00360/COUNOT	Proposed conversion of an agricultural building into a dwellinghouse. (Barn B)	Prior Approval Not Required	20.04.2022
22/01784/FULHH	Erection of detached cartlodge and home office.	Approved	20.12.2022
23/00773/FUL	Erection of one single-storey self-build dwelling in lieu of Barn A approved under 22/00359/COUNOT and proposed new access.	Refused	06.10.2023

#### 4. Consultations

- 4.1 Below is a summary of the comments received from consultees relevant to this application proposal. Where amendments have been made to the application, or additional information has been submitted to address previous issues, only the latest comments are included below with the exception of Essex County Council Ecology, where both the original comments and the most recent comments confirming no objection have been included. Additionally, the Council's Landscape officers' comments have been retained to provide a comprehensive view of the evolution of the landscaping proposals for the benefit of Members of the Planning Committee.
- 4.2 All consultation responses are available to view, in full (including all recommended conditions and informatives), on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

<b><u>Essex County Council Ecology</u></b>	<b><i>Latest Comments – No objection</i></b>	<b>25.08.2023</b>
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Thank you for re-consulting Place Services on the above application.

No objection subject to securing biodiversity mitigation and enhancement measures.  
Summary

We have reviewed the Ecological Survey and Assessment (Essex Mammal Surveys, August 2023) relating to the likely impacts of development on designated sites, protected and Priority species & habitats and identification of appropriate mitigation measures. We are now satisfied that there is sufficient ecological information available for determination of this application.

This provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

The mitigation measures identified in the Ecological Survey and Assessment (Essex Mammal Surveys, August 2023) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly Hedgehog and Common Toad.

We also support the proposed reasonable biodiversity enhancements of two bird nesting boxes, two solitary beehives, and a Hedgehog nesting box, which have been recommended by the Ecological Survey and Assessment (Essex Mammal Surveys, August 2023) to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021). Reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

In addition, the Ecological Survey and Assessment (Essex Mammal Surveys, August 2023) highlights that it is likely bats could be foraging/commuting within and around the site. Therefore, if any external lighting is to be proposed, it is advised that a sensitive lighting scheme is developed to minimise any impacts. This should summarise the following measures will be implemented:

- Light levels should be as low as possible as required to fulfil the lighting need.
- Warm White lights should be used at <3000k. This is necessary as lighting which emit an ultraviolet component or that have a blue spectral content have a high attraction effect on insects. This may lead in a reduction in prey availability for some light sensitive bat species.
- The provision of motion sensors or timers to avoid the amount of 'lit-time' of the proposed lighting.
- Lights should be designed to prevent horizontal spill e.g. cowls, hoods, reflector skirts or shields.

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

Impacts will be minimised such that the proposal is acceptable, subject to the conditions below based on BS42020:2013.

We recommend that submission for approval and implementation of the details below should be a condition of any planning consent.

Recommended conditions.

1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation measures and/or works shall be carried out in accordance with the details contained in the Ecological Survey and Assessment (Essex Mammal Surveys, August 2023) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

2. PRIOR TO ANY WORKS ABOVE SLAB LEVEL: BIODIVERSITY ENHANCEMENT STRATEGY

"A Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority.

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

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

Reason: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the NPPF 2021 and s40 of the NERC Act 2006 (Priority habitats & species).

And if any external lighting is proposed;

### 3. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

"A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting plans, drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority."

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

Please contact us with any queries.

**Essex County Council Ecology**

***Original Comments – Holding Objection***

**18.07.2023**

Holding objection due to insufficient ecological information on European Protected Species (bats).  
(OFFICER NOTE – Resolved – see amended response.)

**Environmental Protection**

**01.11.2023**

Contaminated Land: Given the site and surrounding areas historical use for agriculture, we are requesting a Watching Brief be conditioned and adhered to throughout the demolition and construction phase -

We request that the LPA are contacted in the event of unexpected ground conditions being encountered during construction and that the below minimum precautions are undertaken until such time as the LPA responds to the notification. I would also advise that the developer is made aware that the responsibility for the safe development of the site lies with them.

Minimum requirements for dealing with unexpected ground conditions being encountered during construction.

1. All site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department will be notified as a matter of urgency.
2. A suitably trained geo-environmental engineer should assess the visual and olfactory observations of the ground and the extent of contamination and the Client and the Local Authority should be informed of the discovery.
3. The suspected contaminated material will be investigated and tested appropriately in accordance with assessed risks. The investigation works will be carried out in the presence of a suitably qualified geo-environmental engineer. The investigation works will involve the collection of solid samples for testing and, using visual and olfactory observations of the ground, delineate the area over which contaminated materials are present.
4. The unexpected contaminated material will either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.
5. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
6. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.

7. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.
8. Where the potentially contaminated material is to be temporarily stockpiled, it will be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.
9. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.
10. A photographic record will be made of relevant observations.
11. The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions. After consultation with the Local Authority, materials should either be: o re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or o treatment of material on site to meet compliance targets so it can be re-used; or o removal from site to a suitably licensed landfill or permitted treatment facility.
12. A Verification Report will be produced for the work.

Asbestos: Should any asbestos containing materials be present on the development site, or used within the original construction of the building in question, it must be safely removed by a qualified contractor, with relevant transfer notes being obtained to confirm safe and responsible removal and disposal.

REASON: to protect the health of site workers and end users

Construction Method Statement: We are satisfied with the submitted CMS and have no comments to make in relation to this document

\*INFORMATIVE - Foul Drainage: The submitted application form advises a Sewerage Treatment Plant will be utilised as a way of disposing of foul waste; we would request, should the application be approved, that the Applicant / Agent, ensure the installation is fully compliant with the Environment Agency's Binding Rules and any other relevant Government guidance and British standards, in respect of these systems. Information on this can be found at: Septic tanks and treatment plants: permits and general binding rules: The general binding rules - GOV.UK ([www.gov.uk](http://www.gov.uk)). It is strongly recommended these rules are complied with, as they will minimise any potential nuisance to nearby residential dwellings, assist in preventing a potential Public Health nuisance, and minimise the potential for adverse incidents, of which may result in formal enforcement action.

REASON: to protect the health of residents and nearby residential premises

**UU Open Spaces**

**21.06.2023**

Public Realm Assessment

Play Space - current deficit:

- Deficit of 1.61 hectares of equipped play in Ardleigh

Formal Play - current deficit:

- Adequate formal open space in the area to cope with some future development

Settlement provision:

- Millennium Green LEAP and open space 1.6 miles from the development
- Station Road LEAP 1.7 Miles from the development

Officer Conclusions and Recommendations

Contribution necessary, related, and reasonable?  
to comply with CIL Regs\*

- No contribution is being requested. Current facilities are adequate to cope with this development.

Identified project\*:

(In consultation with Town / Parish Council on upcoming projects or needs for maintenance)

- None

**ECC Highways Dept**

***Original Comment***

**13.06.2023**

Whilst the site is located in the countryside, it is not considered that the use of the building as a dwelling would give rise to a significant increase in vehicle movements to and from the site or result in a material change in the character of the traffic in the vicinity of the site.

The documents accompanying the planning application have been duly considered. Given the scale of the proposed development and the area to be available for parking within the site, which complies with Tendring District Councils adopted parking standards, the proposal is acceptable to the Highway Authority subject to the following mitigation;

1. Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council, (to include six one day travel vouchers for use with the relevant local public transport operator)

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative

1. On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

2. Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the highway. To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

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

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org)

**Tree & Landscape Officer**

***Original Comments***

**06.06.2023**

The boundary of the application site with Coggeshall Road is demarcated by an established hedge comprising of primarily Hawthorn. As described by the applicant, in their Planning Statement, the hedge currently acts as a good screen for the site.

It appears that the position of the existing access will move slightly to the south of its existing position and that this will necessitate the removal of a short section of the boundary hedge. If this is the case, then replacement planting should be secured by a planning condition attached to any planning permission that may be granted to ensure that the rural character of the area is not significantly diminished.

With regard to the existing tree cover it is noted that there are several early mature trees situated on the grassed area between the position of the proposed dwelling and the access onto Coggeshall Road.

Taking into account the positions of the trees as part of a well treed area, it is considered that the trees on the application site have only moderate visual amenity value.

Planning Drawing HGB ' 01 appears to show indicative new tree planting between the position of the proposed new car parking area and Coggeshall Road. Further details of the tree species and specification should be secured by a planning condition.

**Tree & Landscape Officer**

***Amended Comments***

**07.11.2023**

The amended layout shown on the Amended Block Plan HGB – 01 -C shows the removal of an additional tree however if the indicative tree planting shown on the plan is secured by a planning condition attached to any planning permission that may be granted then the amended layout will not cause any more harm than the development shown on the superseded plans.

Should planning permission be likely to be granted then the details of soft landscaping, shown on the amended site layout plan, including tree planting, should be secured by a planning condition. Soft landscaping should aim to soften, screen and enhance the appearance of the development.

**5. Representations**

5.1 Ardleigh Parish Council have been consulted as part of this application and have raised an objection on the following grounds:

1. The site is outside any settlement development boundary, on a single track lane, not within easy access of local amenities except by car. The location is unsustainable and the Parish do not consider it to be suitable for further development.
2. This application has the effect of circumventing the Local Plan. By first applying for a conversion, then quickly changing the approach and seeking permission for the demolition and a new build there is effectively a loophole which, if allowed, undermines the Plan-led approach. As stated above, had the application set out to be a demolition and new build the Parish believes it would have been rejected. The Parish would like to see this application rejected and (if appealed) for the Planning Inspector to take a view on all of the relevant precedents and case law to ensure that a properly consistent and Plan-led approach is being taken.
3. Given the number of such cases we think this is the most appropriate response to ensure that the Local Plan (including our Neighbourhood Plan) is given the appropriate level of weight and prominence. For example, regarding self-build a very recent Planning Inspector decision for another application in Ardleigh (Appeal Decision APP/P1560/W/22/3295162) 'In the absence of evidence to compel the appeal scheme to be self- built, there would be no restriction preventing the scheme from evolving into a different type of development.' The Parish would urge the Council to refuse the application. If the Planning Officer were minded to approve the application, we would expect to see a legal agreement to compel the development to be self-build only, (or otherwise comply with the relevant policies of the Local Plan and Ardleigh Neighbourhood Plan -eg 'Allow for the delivery of a modest amount of specialist new homes only, namely: - Rural workers' dwellings (in accordance with policy PP 13); - Affordable housing on Rural Exception Sites (in accordance with policy LP 6); - Certain types of self-build and custom-built homes (in accordance with policy LP 7).' Ardleigh Neighbourhood Plan policy GDP page 54-55).

5.2 No letters of representation have been received.

**6. Assessment**

Site Description and Context

- 6.1 The application comprises of a parcel land located to the north east of number 5 Hunters Chase, Ardleigh. The site area is broadly rectangular in shape, extending approximately 0.19 hectares in size encompassing an existing detached barn to the rear of number 5, located to the north-western corner of the application site.
- 6.2 The site is located on the northern side of Hunters Chase, outside of the defined settlement development boundary of Ardleigh. The site is rural in character with open fields to the north and sporadic residential properties and agricultural buildings in the locality.

#### Description of Development

- 6.3 The application seeks full planning permission for the erection of 1 no. 3 bedroom detached dwelling following the demolition of the existing detached barn to the rear of number 5 Hunters Chase (Barn B). The proposed dwelling would replace the existing barn subject of a prior approval for conversion to a dwelling under application reference 22/00360/COUNOT (representing the 'fall-back' position, covered in more detail in the main assessment below).
- 6.4 The proposed dwelling would be sited to the south eastern side of the existing agricultural barn and will overlap part of the existing footprint of the barn.
- 6.5 Previously the application site was linked to the main dwelling at number 5 Hunters Chase however it has since been sold on the open market and the plot is therefore no longer is associated with number 5 Hunters Chase. The development will gain access from Coggeshall Road to serve the proposed dwelling. The accompanying block plan shows the access to the south eastern side of the application site, with a curved driveway leading to the parking and turning area which incorporates a footpath leading to the dwelling.

#### Assessment

- 6.6 The main issues and considerations relevant to the proposal can be summarised and addressed as follows:
1. Principle of Residential Development
  2. Fall-back Position – Material Consideration
  3. Design, Layout and Appearance
  4. Trees and Landscaping
  5. Residential Amenities
  6. Bin Storage and Waste Collection
  7. Access and Parking
  8. Biodiversity Mitigation and Enhancement
  9. Drainage and Foul Sewage Disposal
  10. Planning Obligation – Recreational Disturbance Financial Contribution
  11. Planning Obligation – Open Space and Play Space Financial Contribution
  12. Sustainable Construction & Energy Efficiency
  13. Conclusion

#### Principle of Residential Development

- 6.7 Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (section 70(2) of the 1990 Town and Country Planning Act and section 38(6) of the Planning and Compulsory Purchase Act 2004). The development plan for Tendring Council comprises of the adopted Tendring District Local Plan 2013-2033 and Beyond Sections 1 and 2.
- 6.8 Policy SP3 of Section 1 of the 2013-2033 Local Plan sets out the spatial strategy for North Essex and directs growth towards existing settlements. The application site lies outside of the defined

settlement boundary of Elmstead Market within the adopted 2013-2033 Local Plan. The proposed development would therefore extend outside the area planned to provide growth for this settlement. In view of the housing land supply position, the Council does not need to look beyond identified settlements to meet its housing requirement.

- 6.9 Policy SPL2 supports new development within defined Settlement Development Boundary's (SDB) which would encourage sustainable patterns of growth and carefully control urban sprawl. Within a defined SDB, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies and any approved Neighbourhood Plans.
- 6.10 The proposal therefore results in conflicts with policies SP3 and SPL2. In this case, however, the principle of one residential dwelling on this site has been established through the prior approval consent granted under planning reference 21/00360/COUNOT in April 2022. On 20 April 2022, under planning reference 22/00360/COUNOT, the Council deemed that prior approval was not required for the conversion of the agricultural building to the rear of 5 Hunters Chase (known as Barn B) into one dwelling (under the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 schedule 2 Part 3, Class Q – agricultural buildings to dwellinghouses).
- 6.11 Development under Class Q is permitted subject to the condition that development must be completed within a period of 3 years starting with the prior approval date. The conversion permitted under 22/00360/COUNOT therefore remains extant (must be completed by no later than 20 April 2025).
- 6.12 In accordance with the procedure for applications for prior approval under Part 3 set out within Paragraph W, (2) (b) of the Order, the prior approval application reference 22/00360/COUNOT was accompanied by 'a plan indicating the site and showing the proposed development'. The plan identified the barn subject of the prior approval with a red line, drawn fairly tightly around the building (0.01ha). The plan also indicated the surrounding land at; number 5 Hunters Chase; the adjacent field; part of the field to the north; and land to the side of 6 Hunters Chase outlined in blue.
- 6.13 The current proposal represents an alternative location (overlapping the existing barn), as well as an increase in height and footprint compared to the extant conversion scheme referred to above. Moreover, the prior approval conversion scheme is considered to form a material consideration in respect of the application and denotes what is considered to be a viable fall-back position as outlined below.

#### Fallback Position – Material Consideration

- 6.14 It is established in case law that permitted development rights can legitimately represent a fall-back position when considering alternative proposals for development of the same site. In summary, the relevant legal principles relating to the fall-back position were set out in R v Secretary of State for the Environment and Havering BC (1998) EnvLR189. In that case Mr Lockhart-Mummery QC, sitting as a Deputy High Court Judge, accepted submissions that there were three elements to the fall-back test:
- 6.15 "First whether there is a fall-back use, that is to say whether there is a lawful ability to undertake such a use; secondly, whether there is a likelihood or real prospect of such occurring. Thirdly if the answer to the second question is "yes" a comparison must be made between the proposed development and the fall-back use."
- 6.16 The notion of Class Q providing a lawful fall-back position was subsequently and comprehensively dealt with at the landmark Court of Appeal case, Mansell vs Tonbridge and Malling Borough Council [2017], which concluded that a realistic fall-back position in regard to Class Q would amount to a material consideration in the determining of an application.



6.17 The table below provides a comparison between the original prior approval and the new dwelling proposed under this application:

	<b>22/00360/COUNOT (Prior Approval)</b>	<b>23/00697/FUL (Current application)</b>
<b>Siting</b>	To the rear of 5 Hunters Chase, in the northern corner.	To the rear of 5 Hunters Chase, in the northern corner, relocated slightly to the south west.
<b>Access</b>	Via the existing access serving number 5 Hunters Chase.	Creation of a new access, driveway and parking areas through adjacent field with access from Coggeshall Road.
<b>Appearance</b>	Minimal changes / no materials details provided.	Single storey barn like appearance constructed from clad the building in natural larch wood with a Marley Eternit slate roof
<b>Ridge Height</b>	3.8 metres (Single Storey)	4.9 metres (Single Storey)
<b>Eaves Height</b>	2 metres	2.5 metres
<b>Identified site / site area</b>	239m2 / 0.02ha (Limited amenity)	1864m2 / 0.19ha (Garden area included)
<b>Floor Area / footprint</b>	114sqm	120sqm
<b>Bedrooms</b>	3 bedroom	3 bedroom

6.18 Having regard to the above, officers accept that there is a lawful ability to undertake the fall-back use of the building as a dwelling permitted by Class Q, and there is a likelihood or real prospect of this occurring (because the prior approval consent remains extant until 2025).

6.19 Turning to the third element of the legal fall-back position, namely ‘a comparison’ between the proposed development and the fall-back use, there are material differences and additions when compared to the prior approval scheme. In conclusion, having regard to the above, the application is considered to meet all three tests set out for a viable fall-back position in terms of the legal position set out earlier. There is a fall-back use in the form of the prior approval and it is considered that the proposed development, is, in the main, comparable to that approved under the prior approval, in terms of its siting, size, scale and external appearance.

6.20 As outlined above in the comparison table, there is a noticeable increase in the ridge height of the new dwelling and a slight increase in footprint. It is noted that within the planning statement, the planning agent has stated that the floorspace has been reduced by 4sqm in comparison to the fall-back position. Officers have undertaken their own assessment based on the information and plans provided and believe that the proposed dwelling will increase the floorspace by approximately 6sqm. Due to the dwelling being set back within the site and the increased height which is not considered to appear significantly out of keeping, it is considered that the increase will appear acceptable in this location. Therefore, the fall-back position is given significant weight in the assessment of this application.

6.21 Therefore, given the circumstances of this case, along with the legal position and the prior approval fall-back position, the principle of development for a new dwelling on this site is considered to be acceptable subject to the detailed consideration against other relevant Local Plan policies.

### Design, Layout and Appearance

- 6.22 Paragraph 126 of the National Planning Policy (NPPF) states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 6.23 Local Plan Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Furthermore, Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness. The development should relate well to its site and surroundings and should respect or enhance local landscape character and other locally important features.
- 6.24 The site comprises a parcel of land with several sporadic trees and vegetation, bounded by mature trees and hedgerow with open countryside to the rear. The narrow road, grass verges, vegetated gaps between the built form of sporadic dwellings and agricultural buildings establishes the rural character and appearance of the locality.
- 6.25 The application proposes a modest, single storey dwelling and would replace an existing structure in a similar location. The proposed dwelling would be sited to the south eastern side of the existing agricultural barn and it will overlap part of the footprint. In terms of appearance, the dwelling will be constructed in natural larch wood with Marley Eternit Slate Roof, which are materials that are considered sympathetic to the rural character. The layout of the dwelling will be rectangular in shape consisting of 3 bedrooms which is the same as the fallback scheme. The proposal will result in a slight increase of 6m<sup>2</sup> of floorspace compared to the fallback scheme however this is not considered to cause any significant impact in terms of design and appearance.
- 6.26 The distance of the proposed dwelling from the highway and the front boundary hedgerows, approximately 59 metres, will help to obscure the view of the development from Coggeshall Road, and the new dwelling will be seen in the context of the small group of buildings, namely Number 5 and 6 Hunters Chase. Therefore, in this particular instance it is considered that the location of the dwellings will have no greater impact than the existing agricultural building and it could be argued that the appearance of the dwellings would provide a better design solution.
- 6.27 In terms of the proposed scale, whilst it is noted that the dwelling is 1.9 metres higher than the existing building, well set back in the site, and set amongst existing built form. Officers consider the development would not appear overly incongruous when considered in this context, and equally would not result in an overly harmful impact on the character and appearance of the area or landscape.
- 6.28 Policy LP4 requires that new residential developments will be expected to provide for private amenity space of a size and configuration that meets the needs and expectations of residents and which is commensurate to the size of dwelling and the character of the area. The plans show that this comfortably adhered to for the proposed dwelling.

### Trees and Landscaping

- 6.29 Paragraph 131 of the NPPF sets out the importance of trees and the contribution they make to the character and quality of urban environments. It states that planning policies and decisions should ensure that opportunities are taken to incorporate trees in developments and that existing trees are retained wherever possible.
- 6.30 TDLPS2 Policy LP4 relates to housing layout and states; to ensure a positive contribution towards the District's 'sense of place', the design and layout of new residential developments will be expected to incorporate and maximise the use of green infrastructure, verges, trees and other vegetation.

- 6.31 Consultation has been undertaken with the Council's Tree and Landscape Officer. The boundary of the application site with Coggeshall Road is demarcated by an established hedge comprising of primarily Hawthorn. As described by the applicant, in their Planning Statement, the hedge currently acts as a good screen for the site.
- 6.32 It appears that the position of the existing access will move slightly to the south of its existing position and that this will necessitate the removal of a short section of the boundary hedge. If this is the case, then replacement planting should be secured by a planning condition attached to any planning permission that may be granted to ensure that the rural character of the area is not significantly diminished.
- 6.33 With regard to the existing tree cover it is noted that there are several early mature trees situated on the grassed area between the position of the proposed dwelling and the access onto Coggeshall Road. Taking into account the positions of the trees as part of a well treed area, it is considered that the trees on the application site have only moderate visual amenity value.
- 6.34 The internal layout of the application site has been amended as shown on amended block plan HGB-01 C which demonstrates the removal of an additional tree however if the indicative tree planting shown on the plan is secured by a planning condition attached to any planning permission that may be granted then the amended layout will result in the same or similar impact than the development shown on the superseded plans. A soft landscaping condition to obtain the details of the soft landscaping on the amended site layout plan including the tree planting will be imposed to soften, screen and enhance the appearance of the development.

#### Residential Amenities

- 6.35 Paragraph 130 of the NPPF includes that planning decisions should ensure developments create places that are safe, inclusive and accessible, and which promote health and well-being with a high standard of amenity for existing and future users.
- 6.36 Local Plan Policy SPL3, Part B requires that buildings and structures are designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents. Furthermore, Part B states that, new development must meet practical requirements, including provision for adequate private amenity space, waste storage and recycling facilities, vehicle and cycle parking. Policy LP4 j. states that the design and layout of new residential will be expected to provide for private amenity space of a size and configuration that meets the needs and expectations of residents, and which is commensurate to the size of dwelling and the character of the area.
- 6.37 It is considered that the application site can accommodate sufficient private amenity space to serve the proposed dwelling.
- 6.38 The single storey scale of the dwelling minimises any neighbouring impact with its low eaves' height and low ridge height. This together with the size of the plot and separation distance ensures that no harm to residential amenities in terms of light, sunlight, outlook, overlooking or privacy will result from the development.
- 6.39 The application is accompanied by a Construction Method Statement (CMS) meeting the requirements of the Council's Environmental Protection Team, thus minimising any noise or disturbance to neighbouring properties during construction. A condition will be imposed to ensure that the development is in adherence with the Construction Method Statement.
- 6.40 The amended driveway layout demonstrates that the parking area will be located to the south western side of the application site. This may be visible to the neighbouring dwelling, number 6 Hunters Chase, which adjoins the application site. However, it is considered that due to the neighbouring outbuilding which is currently in situ, as well as the existing boundary treatment, the proposed parking area will not cause any harm to neighbouring amenities.

### Bin Storage & Waste Collection

- 6.41 TDLP Policy SPL3 Part states that all new development must meet practical requirements, including provision for adequate waste storage and recycling facilities.
- 6.42 In the interests of meeting practical requirements, the block plan provided demonstrates that a concrete pad will be provided to the front of the application site to house the bin storage and collection point.

### Access and Parking

- 6.43 Paragraph 110 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. TDLP Policy SPL3 Part B seeks to ensure that access to a new development site is practicable, and the highway network will be able to safely accommodate the additional traffic the proposal will generate, and provision is made for adequate vehicle and cycle parking.
- 6.44 The EPOA Parking Standards 2009 require that for dwellings with 2 or more bedrooms, a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages should have internal dimensions of 7 metres by 3 metres (if being replied upon as a parking space). One secure, covered parking space for bicycles is required per dwelling. The submitted plans show that there is sufficient space within the site to provide the necessary parking for the dwelling.
- 6.45 Essex County Council Highways Authority have been consulted on this application and have stated that it is not considered that the use of the building as a dwelling would give rise to a significant increase in vehicular movements to and from the site or result in a material change in the character of the traffic in the vicinity of the site. The Highways Authority have no objections subject to a condition relating to a residential travel information pack.
- 6.46 Following discussions between the planning agent, applicant and case officer, amended plans have been provided which demonstrate a change to the layout of the driveway and parking area. The access point remains the same as previously proposed however the drive itself has now been amended so that it creates a curved access to the dwelling enabling the existing trees to remain (apart from one which is to be removed) and to improve the visual appearance of the key area to the east of the proposed dwelling. The changes are considered to enhance the appearance of the development with the introduction of landscaping to help soften the driveway and parking area. Essex Highways Officers were reconsulted on the application and had no further comments to make. It is considered that the application site can accommodate two parking spaces and sufficient turning in line with Essex Parking Standards.

### Biodiversity Mitigation and Enhancement

- 6.47 Paragraph 180 of the NPPF states that, when making planning decisions local planning authorities need to assess whether significant harm to biodiversity could result from the development. The NPPF goes on to state the hierarchy that should be applied to mitigate any harm to ecology that is identified. Paragraph 174 of the NPPF requires that Local Planning Authorities contribute to and enhance sites of biodiversity or geological value whilst Paragraph 179 requires local planning authorities to safeguard components of local wildlife-rich habitats.
- 6.48 TDLP S2 Policy PPL4 states that proposals for new development should be supported by appropriate ecological assessments and, where relevant, provide appropriate mitigation and biodiversity enhancements to ensure a net gain.
- 6.49 Consultation has been undertaken with Essex County Council Place Services Ecology Team (ECC Ecology) who raised an initial holding objection due to the following;

- No ecological information has been submitted in support of this application and the demolition of the barn could impact upon Bats if suitable roosting species are present.
- The application site is also within an Amber Risk Zone for Great Crested Newts

6.50 ECC Ecology have therefore asked for a preliminary ecological appraisal to establish the presence and potential impacts on protected species.

6.51 The planning agent was notified and provided an Ecological Survey and Assessment. The survey concluded that there were no evidence of bats presence on the site however it is probable that bats from nearby roosts would forage across the application site. This behaviour would be expected to continue after the works are completed and it is considered that the proposal will not have a detrimental impact upon the local bat population. There were no latrines or digging by badgers found at the site or within 30m of its boundaries. In terms of Reptiles, there is no evidence of a suitable habitat on the application site this includes Great Crested Newts. The Essex Field Club also has no records of great crested newts in this 10km square during the last 15 years. There is a lack of suitable trees and buildings which would be an unsuitable site for Barn Owls with no evidence found on the site. Hedgehogs and Common Toad are not known to be present on the site. The survey recommended biodiversity enhancements in the form of existing gaps along the site boundaries are retained to allow hedgehogs and common toads to forage. The survey also recommends two bird nesting boxes, a hedgehog nesting box and two solitary bee hives to be erected.

6.52 Essex County Council Place Services Ecology Team were reconsulted on the survey and had no objections subject to securing the biodiversity mitigation and enhancement measures as mentioned above by way of conditions, which will be included in the event that planning permission is granted.

#### Drainage and Foul Sewage Disposal

6.53 Paragraph 170 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 180 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.

6.54 Adopted Policy PPL5 of Section 2 of the Adopted Local Plan states that all new development must make adequate provision for drainage and sewerage. Connection to the mains is the preferred option having regard to the drainage hierarchy and building regulations requirements. However, where this is not possible, an application will need to confirm how foul sewage disposal will be dealt with in compliance with the building regulations and Environment Agency drainage hierarchy.

6.55 Question 11 of the application form states that it is not intended to connect to a mains sewer. Instead, foul sewage will be disposed of by way of a package treatment plant; the declaration implies that a mains connection is not possible.

6.56 In considering the acceptability of the proposed non-mains drainage, the site is not close to any designated site of importance to biodiversity, nor is it located within close proximity to any watercourse. The site is not located within a Drinking Water Safeguard Zone or a Source Protection Zone, and the site is sufficiently large enough to accommodate a soakaway. Furthermore, flows from a treatment plant serving one dwelling served by three bedrooms would be very low. Taking all these factors into account, and the absence of a mains connection in close proximity to the site, the proposed foul drainage arrangements are considered to be acceptable.

#### Planning Obligation – Recreational Disturbance Financial Contribution

6.57 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or

otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation.

- 6.58 The site is not within or directly adjacent to one of the European designated sites but lies within the Zone of Influence being approximately 3500m away from Stour and Orwell Estuaries RAMSAR and SPA. In accordance with Natural England's advice there is no requirement to consult them due to the specified mitigation secured by Unilateral Undertaking.
- 6.59 The applicant has provided a completed Unilateral Undertaking to secure the required financial contribution in accordance with the adopted Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) and the application is therefore compliant with Local Plan Policies SP2 and PPL4 and Regulation 63 of the Conservation of Habitats and Species Regulations 2017.

#### Planning Obligation – Open Space and Play Space Financial Contribution

- 6.60 In line with the requirements of adopted Local Plan Section 2 Policy HP5, the Council's Public Realm have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space.
- 6.61 Whilst it has been established that there is currently a deficit of 1.61 hectares of equipped play in Ardleigh, no contribution is being requested on this occasion as the current facilities are adequate to cope with this development.

#### Sustainable Construction & Energy Efficiency

- 6.62 Paragraph 112 of the NPPF states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles (ULEV) in safe, accessible and convenient locations. Policies PPL10 and SPL3 require consideration be given to renewable energy generation and conservation measures. Proposals for new development of any type should consider the potential for a range of renewable energy generation solutions, appropriate to the building(s), site and its location, and be designed to facilitate the retro-fitting of renewable energy installations.
- 6.63 The application is accompanied by an electric vehicle charging specification and an energy statement. The energy statement details the sustainability approach of the development including the use of a water butt, a compost bin, scheme of waste reduction and heating in the form of air source heat pumps. The electric vehicle charging specification document states that 'an electric vehicle charging point will be provided to an external wall'. It is concluded that the applicant has set out measures that will be incorporated into the design, layout and construction aimed at maximising energy efficiency and the use of renewable energy. The proposed development is therefore in accordance with Policy PPL10 and SPL3 of the Local Plan 2013-2033 and a compliance condition will be imposed in the event that planning permission is granted.

## **7. Conclusion**

- 7.1 The proposed demolition of an existing agricultural building and its replacement with a three bedroom dwelling is acceptable in principle following the previous prior approval granted on the site under planning reference 22/00360/COUNOT.
- 7.2 Although the position of the dwelling is not the same, the proposed dwelling overlaps the footprint of the agricultural dwelling. The dwelling will result in an increase in height and footprint in comparison to the existing building, however Officers do not consider this is significantly harmful to the character and appearance of the area.

7.3 There are no significant issues in respect to neighbouring amenities or harm to trees. Essex Highways Authority have raised no objections and there is sufficient space for parking. Accordingly, the application is considered to be policy compliant and is recommended for approval.

## 8. **Recommendation**

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a section106 legal agreement with the agreed Heads of Terms, as set out in the table below:

<b>CATEGORY</b>	<b>TERMS</b>
Financial contribution towards RAMS.	£156.76 x 1 dwelling (index linked)

## 8.2 **Conditions and Reasons**

### 1. COMPLIANCE: TIME LIMIT

CONDITION: The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

### 2. COMPLIANCE: APPROVED PLANS AND DOCUMENTS

CONDITION: The development hereby permitted shall be carried out in accordance with the drawings/documents listed below and/or such other drawings/documents as may be approved by the Local planning authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local planning authority as a non-material amendment following an application in that regard.

- Drawing no. HGB-01 – Revision C
- Site Location Plan – Scanned 17 May 2023
- Klargester BioDisc Domestic Sewage Treatment Plant – Scanned 17 May 2023
- Planning Statement – dated May 2023 – Scanned 17 May 2023
- Planning Statement – Appendix MRF1 – Scanned 17 May 2023

REASON: For the avoidance of doubt and in the interests of proper phased planning of the development.

### 3 FURTHER APPROVAL: RESIDENTIAL TRAVEL PACK PRIOR TO OCCUPATION

CONDITION: Prior to first occupation of the dwelling hereby approved, a Residential Travel Information Pack (travel pack) shall be provided to the dwelling for use of its first occupiers. The travel pack shall be agreed, in writing, by the local planning authority prior to provision and shall include a minimum of six one day travel vouchers for use with a local transport operator.

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

NOTE FOR CONDITION: Please contact the Travel Plan Team at ECC Highways via email to [Travel.PlanTeam@essex.gov.uk](mailto:Travel.PlanTeam@essex.gov.uk) to obtain a Residential Travel Information Pack template and the associated day travel vouchers required.

4 COMPLIANCE: IN ACCORDANCE WITH ECOLOGICAL APPRAISAL

CONDITION: All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Skilled Ecology, May 2023) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

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

5 FURTHER APPROVAL: BIODIVERSITY ENHANCEMENT STRATEGY

CONDITION: Prior to commencement of demolition works, a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs or product descriptions to achieve stated objectives;
- c) locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
- d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- e) persons responsible for implementing the enhancement measures;
- f) details of initial aftercare and long-term maintenance (where relevant).

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

REASON: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the NPPF 2021 and s40 of the NERC Act 2006 (Priority habitats & species).

6 FURTHER APPROVAL: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

CONDITION: No means of external lighting shall be installed until details of a lighting design scheme for biodiversity have been submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting plans, drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. Development shall only be carried out in accordance with the approved details.

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



7 COMPLIANCE: PERMEABLE SURFACING

CONDITION: All new parking areas and areas of hardstanding shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area within the site area.

REASON: In the interests of sustainable development and to minimise the risk of surface water flooding.

8 COMPLIANCE: CONSTRUCTION METHOD STATEMENT

CONDITION: The approved Construction Method Statement Document – Scanned 17 May 2023 shall be strictly adhered to at all times during construction.

REASON: To minimise detriment to nearby residential and general amenity by controlling the construction process to achieve the approved development. This condition is required to be agreed prior to the commencement of any development as any construction process, including site preparation, by reason of the location and scale of development may result adverse harm on amenity.

9 SPECIFIC RESTRICTION ON DEVELOPMENT: REMOVAL OF PD

CONDITION: Notwithstanding Section 55 (2)(a)(ii) of the Town and Country Planning Act 1990 as amended and the provisions of Schedule 2 Part 1 Classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no extensions, additions, outbuildings, porches or other alterations to the dwellings shall be carried out except in complete accordance with details which shall previously have been approved, in writing, by the Local Planning Authority following the submission of a planning application for such development.

REASON: To minimise and retain control over the amount of development in this rural location and to maintain sustainable development principles.

10 COMPLIANCE: BROADBAND

CONDITION: The hereby permitted development shall not be occupied until a fibre optic broadband connection installed on an open access basis and directly accessed from the nearest exchange, incorporating the use of resistant tubing, has been installed at the site, in accordance with details that shall be submitted and approved, in writing, by the Local Planning Authority. If the applicant is unable to achieve this standard of connection, and can evidence through consultation that this would not be possible, practical or economically viable an alternative superfast (i.e. will provide speeds greater than 24mbps) wireless service will be considered acceptable.

Reason - To ensure the development is able to be equipped with high speed broadband to enable opportunities for web-based communication and homeworking.

11 FURTHER APPROVAL: HARD AND SOFT LANDSCAPING SCHEME

CONDITION: Notwithstanding the landscaping details shown on approved Drawing No HGB-01 Revision C, prior to the commencement of any above ground works, a scheme of hard and soft landscaping shall be submitted to and approved, in writing, by the local planning authority. The scheme shall include any proposed changes in ground levels, accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and

indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction". The proposed new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay and retained free of obstruction above 600mm at all times. In addition to the new tree planting shown, additional planting in the form of new hedgerow planting on the garden side of Coggeshall Road should be shown.

REASON: In order to enhance the appearance of the development, in the interests of visual amenity and the quality of the development, and in the interests of highway safety.

## 12 COMPLIANCE WITH DETAILS AND TIMESCALE REQUIRED: LANDSCAPING SCHEME

CONDITION: All changes in ground levels, soft/hard landscaping shown on the approved landscaping details shall be carried out in full during the first planting and seeding season (October - March inclusive) following the commencement of the development, or in such other phased arrangement as may be approved, in writing, by the local planning authority up to the first use/first occupation of the development. Any trees, hedges, shrubs or turf identified within the approved landscaping details (both proposed planting and existing) which die, are removed, seriously damaged or seriously diseased, within a period of 10 years of being planted, or in the case of existing planting within a period of 5 years from the commencement of development, shall be replaced in the next planting season with others of similar size and same species unless otherwise agreed in writing by the local planning authority.

REASON: To ensure that the approved landscaping scheme is implemented in accordance with the approved scheme and has sufficient time to establish, in the interests of visual amenity and the character and appearance of the area.

## 13 COMPLIANCE: ENERGY EFFICIENCY MEASURES

CONDITION - The development shall be carried out in strict accordance with the Energy Statement – Scanned 17 May 2023 and EV Charging Specification – Scanned 17 May 2023.

REASON - To enhance the sustainability of the development through better use of water, energy and resources reduce harm to the environment and result in wider public benefit in accordance with the NPPF.

### 8.3 Informatives

#### *Positive and Proactive Statement:*

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

#### *Highways Informative*

1. On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully

functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

2. Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the highway. To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

3. All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org)

#### *Legal Agreement Informative - Recreational Impact Mitigation*

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017. Please note that any subsequent variation / removal of condition applications (s73 applications) will require a new legal agreement to secure this obligation unless the development has commenced (subject to all necessary condition discharges) and the contribution has already been paid.

#### *Environmental Protection*

- Foul Drainage

The submitted application form advises a Sewerage Treatment Plant will be utilised as a way of disposing of foul waste; we would request, should the application be approved, that the Applicant / Agent, ensure the installation is fully compliant with the Environment Agency's Binding Rules and any other relevant Government guidance and British standards, in respect of these systems. Information on this can be found at: Septic tanks and treatment plants: permits and general binding rules: The general binding rules - GOV.UK ([www.gov.uk](http://www.gov.uk)). It is strongly recommended these rules are complied with, as they will minimise any potential nuisance to nearby residential dwellings, assist in preventing a potential Public Health nuisance, and minimise the potential for adverse incidents, of which may result in formal enforcement action.

- In the event of unexpected ground conditions

The Local Planning Authority shall be contacted in the event of unexpected ground conditions being encountered during construction and the below minimum precautions shall be undertaken immediately.

Minimum requirements for dealing with unexpected ground conditions being encountered during construction.

1. All site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department will be notified as a matter of urgency.

2. A suitably trained geo-environmental engineer should assess the visual and olfactory observations of the ground and the extent of contamination and the Client and the Local Authority should be informed of the discovery.
3. The suspected contaminated material will be investigated and tested appropriately in accordance with assessed risks. The investigation works will be carried out in the presence of a suitably qualified geo-environmental engineer. The investigation works will involve the collection of solid samples for testing and, using visual and olfactory observations of the ground, delineate the area over which contaminated materials are present.
4. The unexpected contaminated material will either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.
5. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
6. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.
7. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.
8. Where the potentially contaminated material is to be temporarily stockpiled, it will be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.
9. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.
10. A photographic record will be made of relevant observations.
11. The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions.
12. After consultation with the Local Planning Authority, materials should either be: re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or treatment of material on site to meet compliance targets so it can be re-used; or removal from site to a suitably licensed landfill or permitted treatment facility.
13. A Verification Report shall be submitted to and approved in writing by the Local Planning Authority before development can proceed.

## **9. Additional Considerations**

### Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
  - 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
  - 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
  - 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.

- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

#### Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

#### Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

### **10. Background Papers**

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

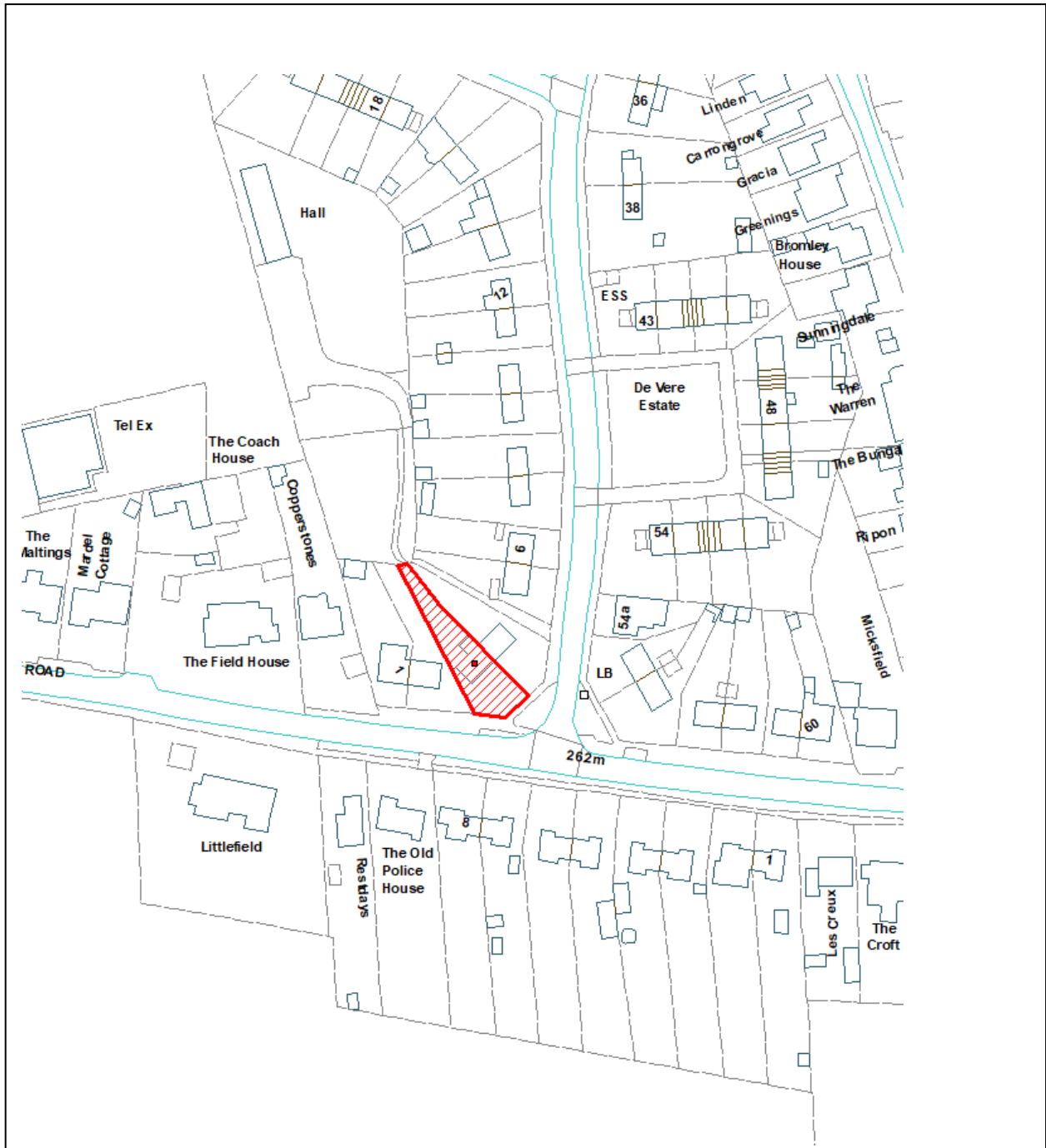
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## PLANNING COMMITTEE

21 NOVEMBER 2023

### REPORT OF THE DIRECTOR OF PLANNING

#### A.4 PLANNING APPLICATION – 21/00386/FUL – 121 - 123 HIGH STREET HARWICH CO12 3AP



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<b>Application:</b>	21/00386/FUL	<b>Expiry Date:</b>	19th April 2021
<b>Case Officer:</b>	Michael Pingram	<b>EOT Date:</b>	22nd December 2023
<b>Town/ Parish:</b>	Harwich Town Council		
<b>Applicant:</b>	Mr Marcus Clarke		
<b>Address:</b>	121 - 123 High Street, Harwich, CO12 3AP		
<b>Development:</b>	Proposed retention of existing frontage and ground floor commercial unit, demolition of rear outbuildings and construction of a part two/part three storey building, to form 7no. one-bedroom self-contained units and 1no. studio self-contained unit and first floor commercial unit with associated cycle storage and refuse stores to rear.		

**1. Executive Summary (updated sections highlighted in bold)**

- 1.1 The application is before the Planning Committee as it has been called in by Councillor Henderson.
- 1.2 The proposal is for the construction of a new part two/part three storey building to provide 8 units of residential accommodation and 1 additional commercial unit (ground floor commercial unit as well as the existing shopfront to be retained). The site is located within the settlement development boundary of Harwich and Dovercourt and the Dovercourt Conservation Area.
- 1.3 The proposed scheme has been amended in line with extensive consultation with ECC Place Services Heritage Officers and is considered to be of a size, scale and design in keeping with the Conservation Area. Subject to conditions and mitigation there are no concerns raised regarding the impact on the environment, neighbouring residential properties, the recently approved car park, area and the proposal is acceptable in regards to Highways and Parking impacts.
- 1.4 The application was previously before the Planning Committee in April 2022, for the same scheme. The Committee recommended the granting of planning permission subject to the completion of a legal agreement within six months relating to the following matters:**
- **Financial Contribution towards RAMS**
  - **Open Space**
  - **Highway Contribution towards residents parking**
- 1.5 While the legal agreement has now been completed, the time period has exceeded the six month deadline, and therefore is returned before Members to renew the authority to issue. In addition, while the previous recommendation secured a financial contribution towards Open Space this has since been reviewed and the Council's Open Space team do not require any contribution given need and available facilities.**

**Recommendation:** Approval

- 1) That the Head of Planning and Building Control be authorised to grant planning permission subject to the legal agreement now complete and conditions as stated at paragraph 8.2, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all



other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,

- 1) The informative notes as may be deemed necessary.

## **2. Planning Policy**

2.1 The following Local and National Planning Policies are relevant to this planning application.

National Planning Policy Framework July 2021 (The Framework)  
National Planning Practice Guidance

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)

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

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

SPL1 Managing Growth  
SPL2 Settlement Development Boundaries  
SPL3 Sustainable Design  
HP5 Open Space, Sports & Recreation Facilities  
LP1 Housing Supply  
LP2 Housing Choice  
LP3 Housing Density and Standards  
LP4 Housing Layout  
PPL4 Biodiversity and Geodiversity  
PPL5 Water Conservation, Drainage and Sewerage  
PPL8 Conservation Areas  
PPL9 Listed Buildings  
PPL10 Renewable Energy Generation  
CP1 Sustainable Transport and Accessibility  
PP5 Town Centre Uses  
PP14 Priority Areas for Regeneration

Supplementary Planning Guidance:

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)  
Essex County Council Development Management Policies 2011  
Essex County Council Parking Standards Design and Good Practice Guide 2009  
Tendring Provision of Open Recreational Open Space for New Development SPD 2008 (Open Space and Play SPD)

### **Status of the Local Plan**

2.2 Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the

Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any neighbourhood plans that have been brought into force.

In relation to housing supply:

- 2.3 The Framework requires Councils boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, Paragraph 11 d) of the Framework requires granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole (what is often termed the ‘tilted balance’).
- 2.4 The Local Plan fixes the Council’s housing requirement at 550 dwellings per annum. On 19 October 2021 the Council’s Strategic Housing Land Availability Assessment (SHLAA) updated the housing land supply position. The SHLAA demonstrates in excess of a six-and-a-half-year supply of deliverable housing land. On 14 January 2022 the Government published the Housing Delivery Test (HDT) 2021 measurement. Against a requirement for 1420 homes for 2018-2021, the total number of homes delivered was 2345. The Council’s HDT 2021 measurement was therefore 165%. As a result, the ‘tilted balance’ at paragraph 11 d) of the Framework does not apply to applications for housing.

**Neighbourhood Plans**

- 2.5 A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

**3. Relevant Planning History**

08/01258/FUL	Proposed demolition of 121/123 High Street, Dovercourt. Construction of new retail/office unit and 10 residential units.	Withdrawn	26.11.2008
09/00084/FUL	Proposed demolition of 121/123 High Street, Dovercourt. Construction of new retail/office unit and 10 residential units.	Approved	23.04.2009
09/00141/CON	Proposed demolition of 121/123 High Street, Dovercourt.	Approved	23.04.2009

**4. Consultations**

- 4.1 Below is a summary of the comments received from consultees relevant to this application proposal. Where amendments have been made to the application, or additional information has been submitted to address previous issues, only the latest comments are included below.

4.2 All consultation responses are available to view, in full (including all recommended conditions and informatives), on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

**UU Open Spaces**

**08.04.2021**

Response from Public Realm  
Open Space & Play

Application Details

Application No: 21/00386/FUL

Site Address: 121-123 High Street Harwich Essex

Description of Development: Proposed retention of existing frontage, demolition of rear outbuildings formation of 1no. two bedroom disabled unit, cycle storage and associated refuse stores to rear, and in addition 6no. one-bedroom self contained unit at second floor level

Current Position

There is currently a deficit of 12.59 hectares of equipped play in Harwich and Dovercourt.

Recommendation

No contribution is being requested on this occasion.

**ECC Highways Dept**

**18.02.2022**

The information that was submitted in association with the application has been fully considered by the Highway Authority. A previous site visit was undertaken in conjunction with this planning application. The revised information submitted with the application has been assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image dated September 2021. The site is in a town centre location where there is good transport links and is in walking distance of Dovercourt Railway Station; the Highway Authority would not deem the application of current Parking Standards necessary in this instance. It is noted that the majority of the units will be one-bedroom dwellings and parking is not available within the development and will not be specifically supplied by the North Essex Parking Partnership either as the side roads in the vicinity of the site are largely unrestricted. The town centre location means that many services are within walking distance of the proposed flats, considering these factors:

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. As indicated on drawing no. P-001 d Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

2. Prior to occupation of the proposed dwellings, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for

sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator free of charge.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

3. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:

- i. the parking of vehicles of site operatives and visitors,
- ii. loading and unloading of plant and materials,
- iii. storage of plant and materials used in constructing the development,
- iv. wheel and underbody washing facilities.

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM 1

4. A financial contribution of £5,000 (index linked) towards the introduction of any future waiting restriction/ resident parking scheme in the vicinity of the building and/or side roads subject to any scheme being put forward by the North Essex Parking Partnership or considered a requirement should an inconsiderate parking arise as a result of the development. The contribution (£5,000) will be returned to the applicant if a scheme is not forthcoming at the end of the 5-year period, from the date of last occupation.

Reason: To control and manage the location of on street parking for the area to minimize inconsiderate parking/ congestion in the interests of highway safety and Policy DM1.

Note: the financial contribution will form part of a Section 106 contribution which will be for the North Essex Parking Partnership.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

1: In main urban areas with frequent and extensive public transport, cycling and walking links, the EPOA Parking Standards recommend that a reduced parking standard provision may be applied to residential developments. A reduced parking standard provision level can be applied to this proposal as it is located very close to regular public transport services and public car parking facilities.

2: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org)

3: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

4: The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act

1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

### **Environmental Protection**

**06.01.2022**

Thank you for your consultation regarding the proposed development above. The Environmental Protection Team's comments are given below:

Please find comments below as submitted by Katie Wesley-Smith on 6th April 2021

Contaminated Land:

We have no objection to the proposed development, however we would like to request that the LPA are contacted in the event of unexpected ground conditions being encountered during construction and that the below minimum precautions are undertaken, until such time as the LPA responds to the notification. I would also advise that the developer is made aware that the responsibility for the safe development of the site lies with them.

Minimum requirements for dealing with unexpected ground conditions being encountered during construction -

1. All site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department will be notified as a matter of urgency.
2. A suitably trained geo-environmental engineer should assess the visual and olfactory observations of the ground and the extent of contamination and the Client and the Local Authority should be informed of the discovery.
3. The suspected contaminated material will be investigated and tested appropriately in accordance with assessed risks. The investigation works will be carried out in the presence of a suitably qualified geo-environmental engineer. The investigation works will involve the collection of solid samples for testing and, using visual and olfactory observations of the ground, delineate the area over which contaminated materials are present.
4. The unexpected contaminated material will either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.
5. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
6. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.
7. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.
8. Where the potentially contaminated material is to be temporarily stockpiled, it will be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.
9. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.
10. A photographic record will be made of relevant observations.
11. The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions. After consultation with the Local Authority, materials should either be: o re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or o treatment of material on site to meet compliance targets so it can be re-used; or o removal from site to a suitably licensed landfill or permitted treatment facility.
12. A Verification Report will be produced for the work.

Reason - to protect the health of site workers and end users

Asbestos:

An asbestos survey should be carried out prior to the construction works. Any asbestos containing materials must be safely removed by a qualified contractor.

REASON: to protect the health of site workers and end users

**Demolition & Construction Method Statement:**

In order to minimise potential nuisance to nearby existing residents caused by construction and any demolition works, Environmental Protection ask that the following is submitted:

Prior to the commencement of any construction, demolition or ground works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, Environmental Protection. This should at minimum include the following where applicable.

**o Noise Control**

- 1) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.
- 2) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00(except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.
- 3) The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228.
- 4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- 5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.
- 6) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.

**o Emission Control**

- 1) All waste arising from the demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
- 2) No materials produced as a result of the site development or clearance shall be burned on site.
- 3) All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.
- 4) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

**External Lighting:**

With specific reference to the proposed commercial premises and car parking area within the site, the EP Team are requesting details of all external lighting for the site, including any security or other intermittent lighting are submitted. Such details shall include specifications for the lighting proposed, its location and position within the site, height and levels of illumination proposed. The details shall also specify that any external lighting includes cowling, or other similar device, to ensure that the lighting only illuminates the site directly. Any lighting of the

development shall be located, designed and directed [or screened] so that it does not cause avoidable intrusion to adjacent residential properties/ constitute a traffic hazard/cause unnecessary light pollution outside the site boundary. "Avoidable intrusion" means contrary to the Code of Practice for the Reduction of Light Pollution issued by the Institute of Lighting Engineers.

REASON: to protect the amenity of nearby residential dwellings.

**Essex County Council Heritage**

**06.01.2022**

The development site is located within Dovercourt Conservation Area and is in close proximity to the grade II listed 101 and 103 Main Road (List UID: 1187917), and Orwell Terrace, Grade II listed as The Convent (List UID: 1298462).

This scheme has gone through extensive consultation with our department, and I commend the applicant on their approach to collaborative working with regard to getting an appropriate design for this site in the Conservation Area.

Subject to the provision of one additional drawing, I have no objection to this application. A street elevation of the High Street should be provided showing both the proposed building and the building on the opposite corner of Bay Road to ensure the proposed building height is contextually appropriate.

Whilst the proposed elevations are considered acceptable, the success of this scheme will be realised through the use of quality materials and fixtures. As such any permission should be accompanied by conditions which cover:

- Requirement for samples of all external materials. Brick (and pointing) and render (including colour) should be presented on 1mx1m boards also.
- Details/drawings of all external fixtures including doors, windows and rainwater goods.
- Detailed drawings of eaves detail and the shopfront.
- I recommend a scheme of archaeological building recording at least commensurate with a 'Level 2 Record' as outlined in Historic England guidance Understanding Historic Buildings.

**5. Representations**

- 5.1 One representation and an objection from the Harwich Society have been received following a public consultation which included a site notice posted at the site, press advert and neighbour consultation letters sent out to the adjacent properties.

Summary of Matters Raised:

- Loss of light and overshadowing to neighbouring properties and new seating/parking area adjacent;
- Loss of privacy due to balconies/windows overlooking neighbouring properties and rear gardens;
- Lack of private amenity space;
- Ample vacant commercial floorspace already exists in Dovercourt town centre ;
- Sufficient housing can be provided in the District;
- Overdevelopment of the site;
- Would have been better if the site could have been acquired by TDC for inclusion in the town square development;
- Lack of on street parking in the area;
- Lack of parking for loading and unloading building materials etc. during construction;
- Health and Safety implications of loss of footpath during construction;

- Additional traffic is to be diverted along Milton Road and Bay Road, when car park development commences could impact highway safety;
- Car Park opposite the site is also due to be redeveloped resulting in additional disruption in the area;
- Building out of character with two storey residential properties in Bay Road;
- Increase in noise and disturbance from construction work and future residents; and
- Increase demand on local resources such as doctors/schools/dentists etc. which are already at full capacity.

5.2 The relevant material considerations raised have been fully assessed within the main appraisal section of the report. The construction health and safety concerns and parking for delivery vehicles raised can be dealt with by the submission of a Construction Management Plan, which can be secured by condition.

## 6. **Assessment (updated sections highlighted in bold)**

### Site Context

- 6.1 The application site is located on the south-eastern side of High Street, Harwich, at the junction with Bay Road, which slopes uphill towards the seafront. The site is located within the Settlement Development Boundary of Harwich and Dovercourt with Dovercourt Town Centre identified by the Council, as a priority area for regeneration. The site comprises of a commercial unit with shop front facing High Street, offices behind and a beauty salon in a wooden structure to the rear, with two parking spaces in between the two buildings. Along High Street and the adjacent part of Bay Road there are parking restrictions preventing parking between 8am-6pm Mon-Sat, however to the rear of the site and further along Bay Road there are no parking restrictions in place.
- 6.2 The surrounding area is made up of two and three storey buildings with commercial premises at ground floor and flats above fronting High Street. To the east and rear (south) of the site is an area of Council owned land on which planning permission has been granted for a surface-level public car park, public toilet facilities, landscaped public open space and associated works (application ref: 21/01145/FUL). **Since the resolution approved for this application by the Planning Committee in April 2022, this permission for a public car park has been implemented and the car park is now operational.**
- 6.3 The site is located within the Dovercourt Conservation Area, however the building the subject of this application is not statutorily listed. The special character and appearance of the Dovercourt Conservation Area derives from parts of the town centre most closely associated with its early development as a seaside resort. These include Orwell Terrace (opposite the site), as erected by John Bagshaw, and the adjacent Cliff Park Gardens created from his former private garden after his bankruptcy. The High Street and the station approaches retain an interesting blend of 19th and early 20th century architecture. High Street forms the core of the area, shoppers and traffic contributing to its character. Cliff Park Gardens leads on to Beacon Hill, where an important coastal defence site is now a Scheduled Ancient Monument and a wildlife habitat. The site is also located Flood Zone 1 which has a low risk of flooding.

### Description of Proposal

- 6.4 The application seeks planning permission to construct a part two storey/part three storey building to form 7 one bedroom self-contained residential units, 1 studio unit and a commercial unit (Class E/Beauty Salon use) at first floor. The front shop part of the existing building is to be retained, including the commercial (Class E use), with an additional door to the eastern side to facilitate access to the third floor. Enclosed cycle storage and refuse stores are located to the rear at ground floor.



6.5 The building measures approximately 9.4m wide and 30.4m deep, with an eaves height of some 9m and a maximum height of 12m.

6.6 The proposal would provide:

Ground Floor

83.6sqm Class E space

1 no 1 bed 2 person unit – 69sqm

Covered area with 8 lockers and 21 cycle spaces

Two bin stores, residential and commercial

First floor

42.3sqm of Class E/beauty salon space

1 no. 1 bed 2 person flat – 51sqm

1 no. 1 bed 2 person flat – 56sqm

1 no. 1 bed 2 person flat – 65sqm

Second Floor

1 no. 1 bed 2 person flat – 51sqm

1 no. 1 bed 2 person flat – 56sqm

1 no. 1 bed 2 person flat – 65sqm

Studio unit 1 bed 1 person - 42.1sqm

6.7 The proposed materials are facing brickwork to match local vernacular and white render, slate roof tiles, timber sash windows, Voussoir Brick lintels and black powder coated aluminium rainwater goods.

Principle of Development

6.8 Policy SPL2 seeks to encourage sustainable patterns of growth and carefully control urban sprawl, each settlement listed in Policy SPL1 (with the exception of the Tendring Colchester Borders Garden Community) is defined within a 'Settlement Development Boundary' as shown on the relevant Policies Map and Local Map. The application site is located within the settlement development boundary of Harwich and Dovercourt, which is classified as a Strategic Urban settlement having a larger populations and a wide range of existing infrastructure and facilities, making it the most sustainable location for growth.

6.9 Heritage matters aside (considered later in the report), Policy SPL2 states that within the Settlement Development Boundaries, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies (including heritage matters) and any approved Neighbourhood Plans.

6.10 Policy PP5 states that within Town Centre boundaries proposals for development or change of use for 'main town centre uses' as well as residential development will be permitted where they comply with other relevant policies in this Local Plan and support the vitality and viability of the town centre.

6.11 Additionally Policy PP14 identifies Dovercourt Town Centre as a priority area for regeneration and seeks to focus investment in social, economic and physical infrastructure and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety, accessibility and green infrastructure along with preserving and/or enhancing the heritage assets of these areas, including the at risk conservation area of Dovercourt, in which the site is located.

6.12 Therefore it is considered that there is strong policy support for the principle of the proposed development in this location, within the defined settlement development boundary and would

support the Council's regeneration objective for Dovercourt Town Centre and the Conservation Area, subject to the detailed considerations relevant to this proposal as set out below.

#### Layout, Scale and Appearance including impacts on the Conservation Area and nearby Listed Buildings

- 6.13 The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. (Para 126 NPPF).
- 6.14 Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness.
- 6.15 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act imposes a statutory duty on the Local Planning Authority to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act states that special attention should be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
- 6.16 Policy PPL8 seeks to preserve or enhance the character or appearance of the Conservation Area. Policy PPL9 states that proposals for new development affecting a listed building or its setting will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric.
- 6.17 Within the Dovercourt Conservation Area review document, the application building, located on the corner of Bay Road referred to as the old Harwich Printing Company offices, is described as a single storey building with a stuccoed side elevation to Bay Road and a period shop front to the High Street.
- 6.18 The design of the new building has been carefully considered, with the applicant working closely in conjunction with ECC Place Services, Heritage Officers to achieve a high quality well designed building, with many distinct and harmonising features including extensive detailing which befits a building of this size within this sensitive Conservation Area location and is considered to significantly enhance the character and appearance of the Conservation Area. The original ground floor front and side elevation is to be retained and restored. The traditional design has drawn reference from the buildings across the High Street in terms of height, fenestration detailing, materials and the original shop front, including the mouldings have been retained.
- 6.19 The application site is adjacent to the recently approved car park, public toilet facilities, landscaped public open space and associated works under application ref: 21/01145/FUL, which would much improve this derelict and vacant site after the demolition of the Queens Hotel and associated buildings following extensive fire damage in 2011. However, this results in a very open area to the east of the site, along the High Street to the junction with Orwell Road and views of the Grade II Listed Buildings, 101 and 103 Main Road and Orwell Terrace are highly visible from the site and vice versa.
- 6.20 Proposals for new development affecting a listed building or its setting will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric (Policy PPL9). Submitted drawing No. SK-001 Rev A shows the setting of the new building in relation to the Listed Building Orwell Terrace which is a five storey building, across the approved open space/car park. Nos. 101 and 103 Main Road is a three storey building. The proposed building of a similar three storey nature and traditional design is considered to make

significant improvements to the character of the Conservation Area and the overall regeneration of this area. Therefore, it is not considered that the proposed building would lead to substantial harm to the setting of these nearby Listed Buildings and would positively contribute to the renewed vitality of this area of the High Street.

- 6.21 Due to the prominence of the building within the Conservation Area the Heritage Officer concludes that the overall success of the scheme will be realised through the use of high quality materials and fixtures and as such has recommended conditions to be added to any grant of planning permission to require samples of all external materials, details and drawings of all external doors, windows, rainwater goods, balconies and the eaves and shopfront detailing to be submitted and agreed by the Local Planning Authority and to also undertake and submit a scheme of archaeological building recording at least commensurate with a 'Level 2 Record' as outlined in Historic England guidance Understanding Historic Buildings.
- 6.22 The internal layout of the proposed units are in excess of the requirements in the Governments' Technical housing standards – nationally described space standards (2015), in terms of their overall gross internal area (GIA) and bedroom sizes in terms of width and floor space. From the details submitted all habitable rooms have external windows maximising the natural light to the main habitable living areas.
- 6.23 The applicant has stated that the current businesses (offices, estate agents and beauty salon) on site would be accommodated within the new building, which is in line with the objectives of Policy PP5 which would see main town centre uses remain on the site and provide an active frontage to the High Street elevation.
- 6.24 Therefore the proposal is considered to be acceptable and policy compliant in these regards.

#### Parking and Highway Safety

- 6.25 Paragraph 110 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SP7 seeks new development to include parking facilities that are well integrated as part of the overall design. Policy SPL3 seeks the provision for adequate vehicle and cycle parking and Policy CP1 seeks to encourage more sustainable modes of transport, such as walking, cycling and public transport. The Essex County Council Parking Standards 2009 set out the parking requirements for new development.
- 6.26 The Council's adopted Parking Standards states that one-bedroom properties should be provided with one off street car parking space. Each space should measure 5.5m x 2.9m.
- 6.27 There is no provision made within the proposed scheme to provide any off street parking for the units – there is therefore conflict with the above mentioned Parking Standards. However, the site is considered to be within a sustainable location with extremely good transport links by bus and train along with a wide range of amenities within walking and/or cycling distance of the site. A reduction in car parking provision in a location such as this is not considered to be of a concern, particularly as the units are only one-bedroom, max 2 person occupancy. A large indoor secure area is allocated for cycle parking (21 spaces with 2 electric cycle charging points) and 1 locker per unit is also provided.
- 6.28 Furthermore the Highway Authority has been consulted on this application and subject to conditions and mitigation regarding provision of cycle parking, Residential Travel Information Pack provision, the submission of a Construction Management Plan and a financial contribution for residential parking/waiting schemes the proposal is considered to be acceptable by the Highway Authority.
- 6.29 With regard to the financial contribution of £5,000 which has been requested, paragraph 57 of the NPPF states that:

Planning obligations must only be sought where they meet all of the following tests:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development

- 6.30 The proposal is considered to be acceptable in planning terms given that the site is in close proximity to a wide range of facilities within walking distance and a number of public transport opportunities. It is considered that the financial contribution would be directly related to the development as it will go towards the introduction of any future waiting restriction/resident parking scheme in the vicinity of the building and/or side roads subject to any scheme being put forward by the North Essex Parking Partnership or considered a requirement should inconsiderate parking arise as a result of the development.
- 6.31 As the proposal is for a new building of 8 residential units, it is considered that the contribution is fair and reasonable in relation to the scale and size of development in this central town centre area, where provision of off street parking is minimal. Therefore, it is considered by officers that this request for a contribution would meet these three tests. **The Unilateral Undertaking has now been finalised to secure a financial contribution for this.**

#### Residential Amenity

- 6.32 The NPPF, Paragraph 130 maintains that policies and decisions should result in new development that creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 6.33 Policy SPL3 seeks new development that is designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents, provision is made for adequate private amenity space, waste storage and recycling facilities and the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.34 The nearest neighbours to the proposed building are located across Bay Road, opposite the building and across the new seating area and Milton Road to the rear. Windows to the rear elevation have been kept to a minimum and would serve the main living area of just two of the proposed units. Furthermore, the proposed balconies to the Bay Road elevation have been removed and replaced with sash windows, thus reducing any perceived or actual overlooking to the residents opposite. Balconies are retained to the eastern elevation which would overlook the new car parking area and is some distance away from the residential dwellings in Orwell Road.
- 6.35 Therefore the proposal is not considered to impact on the residential amenity of these neighbouring properties and would provide a good level of amenity for the future occupiers, in that all habitable rooms are served by adequate daylight and outlook.
- 6.36 There is a small access way to the rear to facilitate access to the cycle parking, with a refuse compound accessed from Bay Road. There is no communal amenity space provided within the site, however given the central location of the building and the close proximity to the coast and open green space, including the new public space area adjacent to the building, the lack of amenity space provision is not considered to be a robust reason for refusal in this town centre location.

#### Class E uses in a residential area

- 6.37 The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 introduced a new use class:-

Class E. Commercial, Business and Service which encompasses the use, or part use, for all or any of the following purposes:-

- (a) for the display or retail sale of goods, other than hot food, principally to visiting members of the public,
- (b) for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises,
- (c) for the provision of the following kinds of services principally to visiting members of the public—
  - (i) financial services,
  - (ii) professional services (other than health or medical services), or
  - (iii) any other services which it is appropriate to provide in a commercial, business or service locality,
- (d) for indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public,
- (e) for the provision of medical or health services, principally to visiting members of the public, except the use of premises attached to the residence of the consultant or practitioner,
- (f) for a crèche, day nursery or day centre, not including a residential use, principally to visiting members of the public,
- (g) for—
  - (i) an office to carry out any operational or administrative functions,
  - (ii) the research and development of products or processes, or
  - (iii) any industrial process,  
being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

6.38 Whilst it is acknowledged that the proposed building is sited in a Town Centre location comprising of a mix of uses in the immediate vicinity, a Class E use proposed within the building at ground and first floor encompasses a wide range of uses which would be in close proximity to the residential units, therefore it is considered necessary to assess the Class E uses with regard to their impact on residential amenity. Overall, the majority of the uses as outlined above are deemed to be acceptable in this location. However, as Class E includes such a wide range of uses some of which could have the potential to adversely impact on the residential amenities of the future occupiers of the residential units, due to the possibility of early morning, late night and weekend operations. Therefore, it is considered reasonable in the circumstances of this case to limit the opening hours of the commercial units (to between 07:00 and 22:00 Monday to Friday, 08:00 and 22:00 on Saturdays and 9:00 and 18:00 on Sundays and Bank Holidays) in order to prevent any adverse impacts on the amenity of the future occupiers. This can be secured by way of a condition to any grant of planning permission.

6.39 The existing use to the rear of the building is a beauty salon and it is proposed that this use is moved to the new first floor unit of the proposed building, to maintain the operation of the existing building. A beauty salon use is classed as a Sui Generis use and therefore would not be included under the general Class E use. However, in its operation it is considered to be of a very similar nature to a shop, hairdressers or medical/health service, being a unassuming operation with low noise levels and generally compatible in close proximity to residential properties.

6.40 Therefore for clarity purposes and in the interests of residential amenity as well as maintaining the viability of this town centre location, it is considered reasonable to add a condition to any grant of planning permission outlining the permitted uses and opening hours for both the first and ground floor commercial units.

#### Financial Contribution - Recreational Disturbance (RAMS)

- 6.41 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.
- 6.42 This new residential development lies within the Zone of Influence. The site is not within or directly adjacent to one of the European designated sites, but is approximately 273 metres from the Stour and Orwell Estuaries RAMSAR and SPA. The Council's Habitats Regulation Assessment has concluded that, with the proposed mitigation, the project would not have an Adverse Effect on the Integrity of the sites included within the Essex Coast RAMS and therefore the proposal is in accordance with the Essex Coast RAMS SPD.
- 6.43 The contribution is to be secured by the unilateral undertaking to be completed in relation to this application. Therefore, there is certainty that the development would not adversely affect the integrity of European Designated Sites in accordance with PPL4 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

#### Financial Contribution – Open Space

- 6.44 **Open Space Paragraph 55 of the Framework states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.**
- 6.45 **Policy HP5 of the Section 2 of the adopted Tendring District Local Plan 2013-2033 and Beyond states that, the Council will work with partners and sports providers across the district to maintain, expand and improve the quality and accessibility of public open space, sports and recreational facilities of different types and will aim to achieve and exceed standards set out in the Council's 2017 Open Spaces Strategy or any future update.**
- 6.46 **Policy DI1 states that all new development should be supported by, and have good access to, all necessary infrastructure. Where a development proposal requires additional infrastructure capacity to be deemed acceptable, mitigation measures must be agreed with the Local Planning Authority. Such measures may include financial contributions towards new or expanded facilities and the maintenance thereof. Contributions should be used towards the delivery of improvements, expansion, or new open spaces and/or sports facilities.**
- 6.47 **When the application was initially determined at the Planning Committee in April 2022, the recommendation was subject to a legal agreement being secured for a financial contribution towards Open Space (as well as a Highways and RAMS contribution). However, the Council's Open Space department have confirmed that a financial contribution is not requested on this occasion, and therefore the inclusion of this on the previous recommendation has now been updated.**
- 6.48 **Since the determination made by the Planning Committee, a Unilateral Undertaking has been agreed, but a financial contribution towards Open Space is not included as set out above.**

#### Ecology and Biodiversity Implications

- 6.49 Policy PPL4 seeks to protect and enhance the local biodiversity and geodiversity. The site is not of any specific designation, it is in a built-up area and has very low to no biodiversity value. The

building is currently occupied and there is a high level of human activity and movement in and around the building. Whilst the proposed development would intensify the built form within the site, given the town centre location it is not considered that the proposal will result in a loss in biodiversity and mitigation is secured to ensure the development would not adversely affect the integrity of European Designated Sites in accordance with PPL4 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017 (as outlined above).

### **Renewable and Energy Conservation Measures**

- 6.50 Paragraph 112 of the Framework states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles (ULEV) in safe, accessible and convenient locations. However, recent UK Government announcements that ULEV charging points will become mandatory for new development have yet to be published.**
- 6.51 Policies PPL10 and SPL3, together, require consideration be given to renewable energy generation and conservation measures. Proposals for new development of any type should consider the potential for a range of renewable energy generation solutions, appropriate to the building(s), site and its location, and be designed to facilitate the retrofitting of renewable energy installations.**
- 6.52 The proposal includes for a development that has the potential to incorporate renewable energy features. There are no details that accompany the planning application that demonstrate the water, energy and resource efficiency measures that the scheme will incorporate, and therefore Officers consider that it is reasonable and necessary to include a condition requesting these details.**

### **Foul Drainage**

- 6.53 Paragraph 174 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 185 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.**
- 6.54 Policy PPL5 of Section 2 of the adopted Local Plan states that all new development must make adequate provision for drainage and sewerage. Private sewage treatment facilities will not be permitted if there is an accessible public foul sewer. Where private sewage treatment facilities are the only practical option for sewage disposal, they will only be permitted where there would be no harm to the environment, having regard to preventing pollution of groundwater and any watercourses and odour.**
- 6.55 The agent for the application has confirmed on the application form that the development would be connected to the existing public foul sewer. This is in accordance with the above policy requirements and is therefore considered to be acceptable in the event of an approval.**

## **7. Conclusion**

- 7.1 It is considered that the proposed development is consistent with the National and Local Plan Policies identified above. In the absence of material harm resulting from the proposal the application is recommended for approval subject to the recommended conditions.**

## 8. Recommendation

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a section106 legal agreement with the agreed Heads of Terms, as set out in the table below:

### 8.2 Conditions and Reasons

#### 1 COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

CONDITION: The development hereby permitted shall be begun not later the expiration of three years from the date of this permission.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

NOTE/S FOR CONDITION:

The development needs to commence within the timeframe provided. Failure to comply with this condition will result in the permission becoming lapsed and unable to be carried out. If commencement takes place after the time lapses this may result in unlawful works at risk Enforcement Action proceedings. You should only commence works when all other conditions requiring agreement prior to commencement have been complied with.

#### 2 APPROVED PLANS & DOCUMENTS

CONDITION: The development hereby permitted shall be carried out in accordance with the drawings/documents listed below and/or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard (except for Listed Building Consents). Such development hereby permitted shall be carried out in accordance with any Phasing Plan approved, or as necessary in accordance with any successive Phasing Plan as may subsequently be approved in writing by the Local Planning Authority prior to the commencement of development pursuant to this condition.

Drawing No: P-001 Rev F – Proposed Floor Plans

Drawing No: P-002 Rev D – Roof Plan

Drawing No: P-003 Rev E – Proposed Elevations

Drawing No: P-004 Rev E – Proposed site relationship Bay Road

Drawing No: P-005 Rev A – Proposed Site Plan

Drawing No: SK-001 Rev A – Proposed perspective

REASON: For the avoidance of doubt and in the interests of proper phased planning of the development.

NOTE/S FOR CONDITION:

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is not approved, unless otherwise separately referenced in other conditions that also form this decision. The second role of this condition is to allow the potential process of Non Material Amendment if found necessary and such future applications shall be considered on their merits. Lastly, this condition also allows for a phasing plan to be submitted for consideration as a discharge of condition application should phasing be needed by the developer/s if not otherwise already



approved as part of this permission. A phasing plan submission via this condition is optional and not a requirement.

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

Any indication found on the approved plans and documents to describe the plans as approximate and/or not to be scaled and/or measurements to be checked on site or similar, will not be considered applicable and the scale and measurements shown shall be the approved details and used as necessary for compliance purposes and/or enforcement action.

**3 CONDITION: No development shall commence above slab level until a scheme for the provision and implementation of water, energy and resource efficiency measures for the lifetime of the development shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme should include as a minimum the following:-**

- A Water-butt per dwelling;
- Compost bin per dwelling;
- Agreement of heating of each dwelling/building; and
- Agreement of scheme for waste reduction

**The scheme shall be fully implemented prior to the first occupancy of the development unless otherwise agreed in writing by the Local Planning Authority. The scheme shall be constructed and the measures provided and made available for use as may be agreed and thereafter shall be maintained.**

**REASON: To enhance the sustainability of the development through better use of water, energy and resources reduce harm to the environment and result in wider public benefit in accordance with the NPPF.**

**NOTE/S FOR CONDITION:**

**Slab level is normally refers to the concrete slab supported on foundations or directly on the subsoil and is used to construct the ground floor of the development. In any other case, please assume slab level to be the point before any walls and/or development can be visually above ground level or seek confirmation from the Local Planning Authority for your development.**

**4 CONDITION: Prior to the commencement of development details of the construction methodology and timetable shall be submitted to and approved, in writing, by the Local Planning Authority. This shall incorporate the following information:-**

- a) Details of the hours of work/construction of the development within which such operations shall take place and the hours within which delivery/collection of materials for the said construction shall take place at the site.
- b) Details of the loading/unloading/storage of construction materials on site, including details of their siting and maximum storage height.
- c) Details of how construction and worker traffic and parking shall be managed. This shall include routing of all traffic and any directional signs to be installed and where.
- d) Details of any protection measures for footpaths and trees surrounding the site.
- e) Details of any means of access to the site during construction.

- f) Details of the scheduled timing/phasing of development for the overall construction period.
- g) Details of measures to control the emission of dust and dirt during construction, and including details of any wheel washing to be undertaken, management and location it is intended to take place.
- h) Details of the siting of any on site compounds and portals.
- i) Details of the method of any demolition to take place, including the recycling and disposal of said materials resulting from demolition.
- j) Site waste management plan (that shall include reuse and recycling of materials)
- k) Scheme for sustainable construction management to ensure effective water and energy use.
- l) Scheme of review of complaints from neighbours.
- m) Registration and details of a Considerate Constructors Scheme
- n) Details on the provision, location and management of any show home/s or reception, including opening times, parking and advertisements (including flags and directional signs).

The said methodology as may be approved shall be implemented in its entirety and shall operate as may be approved at all times during construction.

REASON: To minimise detriment to nearby residential and general amenity by controlling the construction process to achieve the approved development. This condition is required to be agreed prior to the commencement of any development as any construction process, including site preparation, by reason of the location and scale of development may result adverse harm on amenity.

NOTE/S FOR CONDITION:

You are strongly advised to discuss this condition with the Local Planning Authority and if possible/available local residents likely to be affected by this development prior to submission of details.

- 5 CONDITION: Prior to the commencement of development a scheme of archaeological building recording at least commensurate with a 'Level 2 Record' as outlined in Historic England guidance understanding Historic Buildings - A Guide to Good Recording Practice must be undertaken, submitted to, and agreed in writing by, the Local Planning Authority.

REASON: To maintain a record of this historic building within the Conservation Area.

- 6 CONDITION: No development/works shall be commenced above slab level until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development and fully applied prior to the first use/occupation.

REASON: To secure an orderly and well designed finish sympathetic to the character of the existing building(s) and in the interests of visual amenity and the character and appearance of the area.

NOTE/S FOR CONDITION:

Slab level is normally refers to the concrete slab supported on foundations or directly on the subsoil and is used to construct the ground floor of the development. In any other case, please assume slab level to be the point before any walls and/or development can be visually above ground level or seek confirmation from the Local Planning Authority for your development.

While this condition does not detail in what form the materials sought shall be detailed to the Local Planning Authority, it is suggested that a plan is submitted with the details to show where the materials will be located and the extent of coverage.

- 7 CONDITION: Prior to the commencement of any above ground works, detailed drawings showing the finish of the front and side eaves detail and the shopfront alterations must be submitted to and approved by the Local Planning Authority. All works must be carried out as per the approved details.

REASON: To maintain the integrity of the original building within the Conservation Area.

- 8 CONDITION: Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

REASON: In the interests of residential amenity.

- 9 CONDITION: Prior to the occupation of the commercial units hereby approved, no extraction, air conditioning or refrigeration equipment shall be installed without express planning permission having first been obtained. Any equipment approved shall be satisfactorily installed and maintained in the approved form and operational manner thereafter.

REASON - In the interest of neighbouring residential amenity.

- 10 CONDITION: The commercial uses hereby permitted shall be limited to Class E use (ground floor only) and Class E and Beauty Salon use (Sui Generis use - first floor only) as defined in The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (or any Order revoking and re-enacting that Order with or without modification), and the commercial units shall operate between the hours of 07:00 and 22:00 Monday to Friday, 08:00 and 22:00 on Saturdays and 9:00 and 18:00 on Sundays and Bank Holidays.

REASON: To ensure that the use is appropriate within this mixed commercial and residential location, in the interests of residential amenity.

- 11 CONDITION: Prior to first occupation of each dwelling, a Residential Travel Information Pack (travel pack) shall be provided to each dwelling for use of its first occupiers. The travel pack shall be agreed, in writing, by the Local planning authority prior to provision and shall include a minimum of six one day travel vouchers for use with a local transport operator.

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

- 12 CONDITION: If during construction/demolition works evidence of potential contamination is encountered, works shall cease, and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed.

Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of;

a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.

b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

c) If no contamination has been discovered during the build, then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

REASON - To ensure that any risks from land contamination to the future users of the land and neighbouring land are minimised.

- 13 CONDITION: Prior to the erection/installation of any floodlighting or other means of external lighting at the site, details to include position, height, aiming points, lighting levels and a polar luminance diagram shall be submitted to and approved, in writing, by the Local Planning Authority. The lighting shall be carried out and retained as may be approved. There shall be no other means of external lighting installed and/or operated on/at the site except that approved.

REASON: In the interests of amenity to reduce the impact of night time illumination on the character of the area and in the interests of biodiversity.

### 8.3 Informatives

Positive and Proactive Statement:

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

Highways Informatives:

1: In main urban areas with frequent and extensive public transport, cycling and walking links, the EPOA Parking Standards recommend that a reduced parking standard provision may be applied to residential developments. A reduced parking standard provision level can be applied to this proposal as it is located very close to regular public transport services and public car parking facilities.

2: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org)

3: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

4: The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

## **9. Additional Considerations**

### Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

### Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

### Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB

is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

## **10. Background Papers**

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.