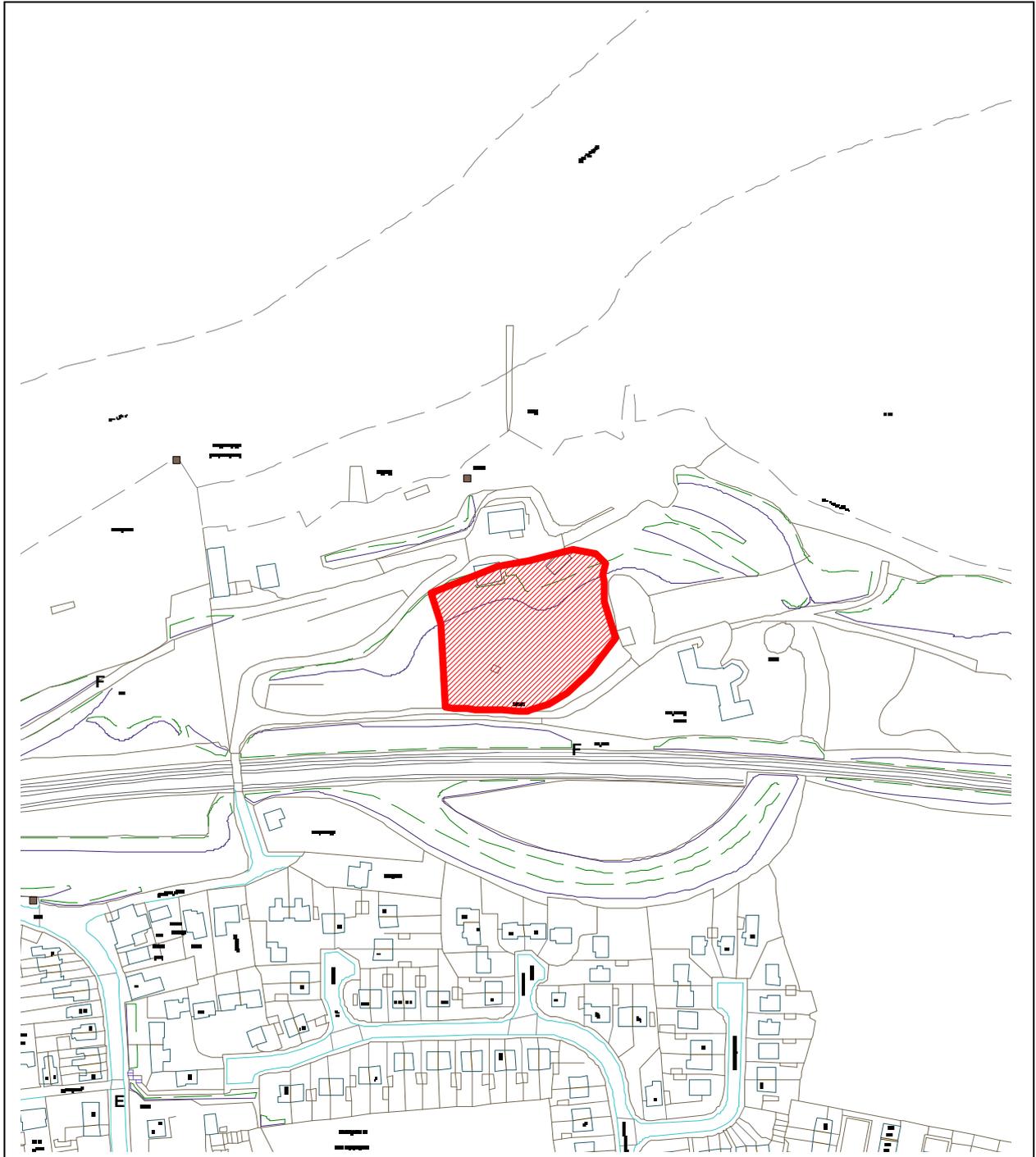


PLANNING COMMITTEE

10 JULY 2012

REPORT OF THE ACTING HEAD OF PLANNING

**A.2 PLANNING APPLICATION - 12/00111/FUL - LAND ADJACENT BALTIC WHARF,
ANCHOR LANE, MISTLEY, MANNINGTREE, CO11 1NG**



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Application:	12/00111/FUL	Town / Parish: Mistley Parish Council
Applicant:	Landfast Ltd	
Address:	Land adjacent Baltic Wharf, Anchor Lane, Mistley, CO11 1NG	
Development:	Redevelopment scheme comprising 2 no. detached dwellings.	

1. Executive Summary

- 1.1 The application site lies on the eastern edge of Mistley between the Manningtree - Harwich Railway and the River Stour. It forms part of a much larger site known as Northumberland Wharf, which is safeguarded and allocated in the Local Plan for the expansion of the Mistley Port operations. The river frontage is currently used for boat building and repairs. The site of the proposed dwellings is on the upper wooded slopes to the south of these operations.
- 1.2 The site lies outside of the defined settlement boundary where new residential development would normally be unacceptable. However, the site lies within the Mistley Waterfront and Village Urban Regeneration Area where new housing may be acceptable as long as the landscape character is protected. The site also lies within the Manningtree and Mistley Conservation Area where development that would harm the appearance or character of the area will be refused. The trees within and adjacent to the site have protection both from the Conservation Area designation and by virtue of a Tree Preservation Order confirmed in 2010. The protection of the trees is particularly important as the wooded slopes of the site are prominent in the landscape of this part of the Stour Valley and the proposed extension to the Suffolk Coasts and Heaths Area of Outstanding Natural Beauty (AONB) south of the river.
- 1.3 In March 2008 the committee resolved to refuse an outline application for 13 dwellings on the larger site, which also included new boat yard facilities and moorings. Following the committee's decision the application was withdrawn so a decision notice could not be issued. The application was resubmitted in 2009, but a decision was delayed pending the completion and adoption of the Mistley Waterfront and Village Urban Regeneration Area Supplementary Planning Document (SPD). However, the SPD is no longer being progressed so the application remains undetermined. The applicant has requested that the two dwelling application is considered first and after the decision the 2009 application may well be withdrawn.
- 1.4 In deciding this application members will need to exercise careful judgement in respect of a range of issues. Of particular importance are the impacts on the character and appearance of the area and the impact on any expansion of Mistley Port. Government policy supports the principle of safeguarding port facilities and enabling expansion. Members will also have to have regard to the new National Planning Policy Framework (The Framework) with its emphasis on quality of design and presumption in favour of sustainable development.
- 1.5 Having considered all these issues officers consider that, on balance the development would be detrimental to the character and appearance of the area to an extent that would not be outweighed by any sustainable public or other benefits.
- 1.6 The application has been referred to the Committee by Councillor G V Guglielmi.

Recommendation: Refuse

The proposed development is considered to be contrary to the policies and guidance in the National Planning Policy Framework and policies QL1, QL9, QL11, EN1, EN5, EN5a, EN17, LMM1, QL6, HG1 and HG3 of the Tendring District Local Plan (2007).

Policies QL1, HG1 and HG3 seek to ensure that new housing development is directed to sustainable locations within defined built up areas. The application site is located outside of the settlement limits defined for Mistley and would not meet the three roles for sustainable development identified in the Framework. It fails to adequately protect and enhance the natural, built and historic environment and would, therefore, be unsustainable.

The proposed development would have any unacceptable adverse impact on the character and appearance of the Manningtree and Mistley Conservation Area contrary to the Framework and policies LMM1, QL6, EN17, QL9 and QL11. The proposals would fail to make a positive contribution to local character and distinctiveness and no public benefit of any weight has been identified such as to outweigh the harm that would be caused.

The proposed development would have a serious detrimental impact on the landscape character of the area, including the Suffolk Coasts and Heaths AONB and its proposed extension, and would not make a positive contribution to local character and distinctiveness contrary to the guidance in the Framework and to policies QL6, LMM1, EN1, EN5 and EN5a. There would be a serious adverse impact on the character and appearance of the AONB when viewed from the northern bank of the River Stour and from within the proposed extension to the AONB south of the river. The design of the proposed dwellings does not respond adequately to this sensitive setting. The form of the buildings is bulky and their massing and three storey height will make them unduly visible from the river and AONB, including the proposed extension.

2. Planning Policy

National Policy:

National Planning Policy Framework (2012)

Transport guidance

National Planning Statement for Ports (2012)

Ports Policy Review Interim Report (2007)

Regional Planning Policy:

East of England Plan (2008)

- | | |
|------|--|
| ENV7 | Quality in the Built Environment |
| SS1 | Achieving sustainable development |
| SS4 | Towns other than Key Centres and Rural Areas |
| SS9 | The Coast |

E1	Job Growth
E2	Provision of Land for Employment
T10	Freight Movement
T11	Access to Ports
ENV2	Landscape Conservation
ENV3	Biodiversity and Earth Heritage
ENV6	The historic environment
HG2	Employment Generating Development

Local Plan Policy:

Tendring District Local Plan (2007)

QL1	Spatial Strategy
QL2	Promoting Transport Choice
QL4	Supply of Land for Employment Development
QL6	Urban Regeneration Areas
QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
QL12	Planning Obligations
ER3	Protection of Employment Land
HG1	Housing Provision
HG3	Residential Development within Defined Settlements
HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
COM6	Provision of Recreational Open Space for New Residential Development
COM19	Contaminated Land
COM20	Air Pollution/ Air Quality
COM21	Light Pollution

COM22	Noise Pollution
COM23	General Pollution
COM31A	Sewerage and Sewage Disposal
EN1	Landscape Character
EN5A	Area Proposed as an Extension to the Suffolk Coasts and Heaths AONB
EN6	Biodiversity
EN6A	Protected Species
EN6B	Habitat Creation
EN11A	Protection of International Sites European Sites and RAMSAR Sites
EN11B	Protection of National Sites SSSI's, National Nature Reserves, Nature Conservation Review Sites, Geological Conservation Review Sites
EN13	Sustainable Drainage Systems
EN17	Conservation Areas
EN29	Archaeology
TR1A	Development Affecting Highways
TR7	Vehicle Parking at New Development
LMM1A	Port Expansion
LMM1	Mistley Urban Regeneration Area

Other guidance:

Manningtree and Mistley Conservation Area Management Plan (2012)

Essex Parking Standards (2009)

3. Relevant Planning History

06/00688/OUT - Redevelopment of shipyard for mixed use scheme comprising 13 no. detached dwellings, boat repair shed with boat-park, and reconstructed wharf with new recreational moorings. Withdrawn following Committee resolution to refuse.

09/01033/FUL - Redevelopment of shipyard for mixed use scheme comprising 13 no. detached dwellings, boat repair shed with boat park, and reconstructed wharf with new recreational moorings – pending decision

TPO/10/00001 Land adjacent to Baltic Wharf, Anchor Lane, Mistley – Confirmed 22.06.2010

4. Consultations

Essex County Council (Highways):

No objections to proposed access from Anchor Lane subject to condition regarding parking of vehicles during construction period.

Natural England:

Considers that the proposal does not appear to affect statutorily protected sites or landscapes and offers advice on the impact on protected species. Standing advice should be used to assess impact on badgers, barn owls and breeding birds, and reptiles. Further survey work is required in accordance with the submitted ecological report in respect of bats and great crested newts. It recommends that if this work is not undertaken then planning permission should be refused.

Environment Agency:

No objection to the development subject to conditions covering a) contamination assessment, remediation and verification.

Anglian Water:

No objections, sewer capacity is available;

Mistley Parish Council:

Objects for the following reasons:

- Site designated for port expansion ;
- Site outside development limits;
- Possible extension of AONB;
- Access road unsuitable and outside applicant's control;
- Precedent for further development;
- Design unsuitable for the area;
- Exposed views from the river and Suffolk bank which is ANOB;
- Does not meet parish housing needs.

Public Experience (Environmental Protection):

No objections on grounds of noise impact from existing port operations.

Essex County Council (Archaeology):

No comments

Suffolk Coast and Heaths AONB:

The scale of the development is not within keeping with the local character and the developer should seek to achieve a design that is of less height and reflects local buildings.

5. Representations

5.1 The application has been referred to the Committee by Councillor G V Guglielmi on the grounds that it would fit into emerging policies to provide a range of housing types, including 'aspirational' housing and that it would improve the amenities of the neighbouring property by upgrading the access road.

Representations have been received from 2 local residents raising the following issues:

- Outside of development boundary;
- Within a Conservation Area;
- Could be developed as part of port expansion;
- Might jeopardise extension of AONB;

- Design too modern and out of character. Would not preserve or enhance the character of the Conservation Area;
- Impact on wildlife from removal of trees;
- Trees protected;
- Increase in traffic on Anchor Lane – vehicular access to existing properties should not be impeded.

5.2 The port operator **Trent Wharfage Ltd (TWL)** objects to the redevelopment of land that is allocated for port expansion and refers to the reasons given in its 2009 submission on the larger application. The main relevant points are:

- Local Plan provides for an expansion of the port onto land at Northumberland Wharf and the protection of existing port operations through policies LMM1 and LMM1a;
- The port seeks additional land for open storage of cargo using the existing berths. There is no intention to develop new warehousing or berths at Northumberland Wharf;
- Site can be directly accessed from Baltic Wharf so no access is needed from Anchor Lane;
- National policy guidance seeks to ensure that sensitive uses such as housing are not permitted in close proximity to existing industrial sites where operations could give rise to environmental health considerations;
- The protection of the port is supported by a number of national and regional policy objectives;
- The Local Plan seeks to protect employment sites generally – policy ER3. The site has not been marketed for alternative employment uses nor has the redevelopment for other employment uses been explored;
- Site outside settlement boundary;
- Only parts of the site are previously developed as defined in government guidance.

6. Assessment

The main issues for consideration are:

- Context and background, including planning history;
- Proposal details;
- Policy issues in particular:
Principle of development in relation to:
 - Port expansion;
 - Employment Land;
 - Development outside settlement boundary
- Ecological impact, including protected species and impact on the Stour Estuary SPA;
- Sustainability issues;
- Landscape and visual impact, including AONB and protected trees;
- Character and appearance of Conservation Area.

Context and background

6.1 In March 2008 the Committee resolved to refuse outline application 06/00688/OUT for a mixed-use scheme which included new boat yard facilities and 13 dwellings on a larger site for the following reasons:

- Outside defined settlement limits so unsustainable;
- Land allocated for port related development;
- Sensitive coastal location;

- Insufficient information to enable proper assessment of ecological, archaeological and noise impacts;
 - Insufficient land under applicant's control to provide appropriate access;
 - No S106 agreement entered into that would provide contributions for public open space and education.
- 6.2 The applicant decided to withdraw the application before the decision notice could be issued. That decision whilst material to the current application was for a larger scheme, which included the riverside areas and which would have had a much greater impact. However, some of the principle issues are the same as set out in this report.
- 6.3 In 2009 an application for the mixed-use scheme was re-submitted with little modification and remains undetermined. Following receipt of the application officers agreed not to determine the application until the Mistley Waterfront and Village Urban Regeneration Area SPD had been prepared and adopted under policy LMM1a. However, in November 2011 the SPD was formally withdrawn and is no longer material to the redevelopment of the site. Following this withdrawal, the applicant expressed the wish to revise the proposals, which resulted in the current application. If this application is approved it appears likely that the application for the larger scheme would be withdrawn.
- 6.4 In June 2010 the Committee confirmed TPO/10/00001 that covers two areas of woodland and a number of trees on site, predominantly oaks. It considered that redevelopment proposals for the site put some of the trees at risk of being felled or otherwise harmed. Therefore, a Tree Preservation Order (TPO) was made in order to secure the retention of those trees on the land that had current or future amenity value.
- 6.5 The Manningtree and Mistley Conservation Area Management Plan adopted in July 2010 recommended the extension of the conservation area to cover the area of the 2009 application. The extension includes the historic railway loop that served Mistley Quay and the former coal-importing and barge building area of Northumberland Wharf. Initially developed for the delivery of coal from Sunderland, hence the name, it is believed that some of the masonry of the historic quay edge still survives. This area demonstrates the significance of the river to the development of Mistley and its port. The remains of 19th century brickworks also exist within the extended area from which clay to feed the works was also extracted.
- 6.6 The application site forms part of a larger area currently occupied by Mistley Marine and Leisure Limited, which maintains and constructs marine vessels. The current commercial activities take place on a 20-25 metre wide strip of land adjacent to the River Stour. Behind this area is a steep wooded slope, which rises to a relatively level area adjacent to the Manningtree – Harwich railway line. This is where the two new dwellings are proposed.
- 6.7 The commercial activities generally involve storage, maintenance and breaking of marine vessels and equipment related to dredging and marine engineering and the mooring of small leisure boats during maintenance. These operations would not be affected by this application.
- 6.8 The slope is terraced and heavily vegetated with stands of mature trees including several large oak trees protected by the Tree Preservation Order. The application site itself is generally open and includes area of trees, open grassland and scrub. The Manningtree - Harwich railway runs in a cutting adjoining the site to the south. The area south of the railway is also well vegetated with mature trees.
- 6.9 Access to the site is via Anchor Lane, which is an unadopted and unmade access track (for the most part single lane), and a further track off Anchor Lane that runs parallel to the

railway line. Anchor Lane serves a number of residential properties in addition to Mistley Marine. The secondary track provides access to New Mistley House only.

- 6.10 The Stour estuary adjacent to the site comprises part of the Stour and Orwell Estuaries Special Protection Area (SPA), a site designated as part of the Natura 2000 network due to its importance for birds and habitats that support them. The estuary is also designated as a Ramsar site and a Site of Special Scientific Interest (SSSI).

Proposal Details

- 6.11 This application seeks planning permission for the construction of two 5-bed dwellings on 0.49 hectares of land between the River Stour and the Manningtree-Harwich railway line.
- 6.12 The design of the development is a contemporary approach given the lack of design references in the immediate locality and the site's topography. The principle design aims have been determined by the site's opportunities and constraints provided by the location and topography. The proposals seek to exploit views across the estuary balancing this against the visual impact of the buildings in the landscape.
- 6.13 The proposals seek to achieve these design aims by:
- Utilising the natural landform
 - Fragmenting the building mass
 - Using natural materials
 - Sensitive building placement and orientation
- 6.14 To achieve these objectives two dwellings have been set back as far as possible away from the slope so that works to it are minimised. This also retains as many trees as possible on or close to the slope so as to maintain the landscape character. However, as a consequence some trees on the southern edge of the site would need to be removed. Notwithstanding the proposals to remove some trees to accommodate the development, the Tree Survey and Arboricultural Impact Assessment (TS&AIA) submitted with the application does advise that some of the trees to the north of the site would need to be removed in the relatively near future because of their condition. This would make the new housing much more visible. In order to address landscape issues additional landscaping is proposed.
- 6.15 The buildings have been designed in relation to the significant change in levels across the site so the parking for plots 1-5 on the higher ground would be on the upper level. The houses would be 5 bedrooms and 3 stories in height. They would vary in design across the site but there would be a consistent approach with the houses being characterised by mono-pitched roofs and large glazed areas. In addition to the glass the houses would have similar materials namely cedar panels, render and slate tiles.
- 6.16 The new dwellings would be designed to meet current low energy standards – level 4 of the Code for Sustainable Homes. Sustainable design features of the development would include: cut and fill to minimise spoil disposal offsite; rainwater recycling; renewable construction materials, ground source heat pumps; biomass heating; solar heating, passive ventilation and triple glazing.

Policy Issues

- 6.17 The report considers the main policy issues in turn with reference to national, regional and local planning policies. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications to be determined in accordance with the development plan, currently the Tendring District Local Plan and the East of England Plan, unless material considerations indicate otherwise. The recent National Planning Policy Framework (Framework) is a material consideration that carries significant weight, which in some instances may outweigh the development plan. It is also appropriate to give weight to the Government's intention to abolish regional strategies under the Localism Act. The proposed development is a departure from the development plan allocation.

Port Expansion

- 6.18 Policy LMM1a of the Local Plan allocates and safeguards three hectares of land for port expansion, which includes the application site. Consideration needs to be given to the factors that would control the extent of the expansion of the port; including the port operator TWL's stated requirements. Regard must also be had to the guidance in the Framework relating to the long term allocation of sites for employment use where there is no reasonable prospect of the site being used for that purpose. Where there is no reasonable prospect of a site, or in this case part of a site, being used for the allocated employment use applications for alternative uses should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities. Policy LMM1 seeks to achieve a balanced community that includes amongst other things, new housing, although the location for this is not specified.
- 6.19 Policy LMM1 also seeks to protect the port operations. This has been interpreted as including land allocated for port expansion in addition to land and buildings covered by existing port operations. However, in a recent High Court decision, the judge decided that the requirement to *protect* could only be applicable to existing port operations. Therefore, officers consider that as far as this application is concerned there are no port operations to protect. The policy also seeks to protect the employment base of Mistley, however, whilst part of the Mistley Marine site the application area is not in employment use.
- 6.20 Policy QL6 also applies to the urban regeneration area and seeks to ensure that new development reinforces and/or enhances the function, character and appearance of the area and contributes towards regeneration. Planning permission will not be granted for development that would have an adverse impact on the revitalisation of the area. The expansion of the port would assist with the revitalisation of the regeneration area.
- 6.21 Both the East of England Plan and the new National Planning Statement for Ports (NPS) recognise the importance of future port expansion to economic growth and prosperity. Policies recognise that sustainable port development can play an important role in contributing to local employment and in regeneration. New development should provide high standards for the protection of the natural environment and maintain the condition of heritage assets. The NPS relates significantly to major port developments, but its principles can apply to all port development. It is an up to date statement of government policy and is, therefore, a material consideration.
- 6.22 In addition to the NPS an interim report on the future of ports was issued by the Department of Transport in 2007. This relates to all port development and recognises that the availability of sufficient port capacity is a potentially significant constraint on future economic growth. But in pursuing increases in port capacity, it will be essential to ensure that new developments are provided in a way that is sustainable, minimising the impact on the environment both locally and more widely. The interim report also addresses the

means of safeguarding existing port operations through the planning system. However, no existing port operations would be affected by this application.

- 6.23 Some of the principles of the NPS are relevant to the issues of smaller port expansion. The Government's policy is to:
- Encourage sustainable port development that meets the needs of the port industry cost effectively and in a timely manner, thus contributing to long-term economic growth and prosperity;
 - Allowing judgement on when and where new port development should take place to the port industry, and
 - Ensure all proposed developments satisfy the relevant legal, environmental and social constraints and objectives.
- 6.24 Whilst the draft SPD has now been withdrawn, an assessment was carried out into the future of the port as part of its preparation. The report (Adams Hendry Report) concludes that Mistle is a commercially viable port whose current operation and intended growth conforms to government policy for ports generally and for the sustainable movement of goods. The loss of land for potential expansion could affect the viability of the port. However, the port operator TWL has provided details of its intentions in terms of expansion. TWL has stated that it has no intention of developing new berths or developing new warehousing; it would only use the land for open storage. The only land that could be used for open storage is that currently used by Mistle Marine for its boat building and repair operations and not the upper levels where the application site is located.
- 6.25 Any development of the upper levels of the site, including the application area, would potentially have a serious adverse effect on the landscape of the area and the character and appearance of the conservation area. Therefore, in view of this and the port's stated intentions there would appear to be no reasonable prospect of the land being used for the allocated employment use. In such circumstances the alternative use for housing should be treated on its merits in accordance with the Framework.
- 6.26 The guidance in the Framework on port expansion is very limited stating that plans should take account of their growth and role in serving (amongst other things) business and leisure. Officers consider, therefore, that the development of some of the upper levels for housing would not have a material impact on port expansion proposals in terms of land take.

Employment Land

- 6.27 None of the land subject to the current application is in employment use. However, the land is allocated and safeguarded for port expansion, so can be considered an allocated employment site in terms of policy ER3. Given the location of the existing boat yard uses close to the river and the Port's stated future land use requirements for open storage on essentially the same area, the future use of the wooded slopes above for port activities or any other employment use must be questioned. The land now forms part of the extended Manningtree and Mistle Conservation Area and remains part of an area proposed as an extension to the Suffolk Coasts and Heaths AONB. Policy LMM1 comes with the caveat that any port expansion should not *damage the character of the estuarine landscape*. The TPO made in 2010 recognises the public amenity value of the trees on the site to the estuarine landscape. Anchor Lane would be unsuitable for access to an expanded port and TWL has stated that such access would not be used. Whilst it will be a matter for Members to judge, officers consider that any expansion of port operations onto the upper slopes is likely to be contrary to policy LMM1a and other local plan policies. This would also apply to any other employment uses on the land for which the site is neither allocated nor

safeguarded. In these circumstances the land can be considered inherently unsuitable for any employment use.

- 6.28 The land is only allocated for port use and not employment generally. It is not listed under ER1 as an allocated employment site. As it is not suitable for port related use and has not been identified as being required for port use by the current operator, officers consider that there would be no conflict with policy ER3. In these circumstances officers also consider that requiring a financial contribution for the loss of the land would not be appropriate or reasonable.

Development outside settlement boundary

- 6.29 Policies HG1 and HG3 deal with the location of housing provision in the district. In addition to allocated sites, new housing is acceptable in principle elsewhere within defined settlement boundaries. Being outside the defined boundary this proposal is therefore contrary to these policies. The spatial strategy for Tendring set out in policy QL1 seeks to concentrate development within the main towns and villages and only development that is consistent with countryside policies will be permitted outside of the defined boundaries. Policy HG3 allows residential development within defined settlements subject to meeting certain criteria. However, outside settlements only where there is an essential need for a rural worker to live permanently at or near their place of work, such as dwellings for agricultural or forestry workers, would new dwellings normally be acceptable (policy HG18).
- 6.30 The guidance in the Framework is that local authorities should avoid isolated new dwellings in the countryside, which would be unsustainable, except in certain circumstances. However, in this case whilst outside of the defined settlement, the site is reasonably close to services in Mistley and there are other dwellings in the vicinity. In these circumstances members may judge they should not be considered as being *isolated*. Notwithstanding this distinction officers still consider it relevant to consider the proposals against the criteria in the Framework. New dwellings should be of exceptional quality in terms of design, significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area. Officers do not consider that the proposed dwellings would meet these criteria given the adverse impact on the character of the area, including the Conservation Area and the quality of design.
- 6.31 Policy LMM1 identifies the provision of new housing as part of the promotion of a balanced community for the Mistley Urban Regeneration Area. However, housing in itself does not deliver regeneration or protect or enhance the historic environment or landscape quality. In this case officers consider that the new dwellings would not comply with the requirements of policy LMM1.

Ecological impact

- 6.32 The application site lies some 75 metres south of the Stour Estuary. The Stour Estuary is an area of ecological significance which supports rich and diverse wildlife of international importance. The hinterland grazing and salt marshes provide habitat for over-wintering geese, ducks, wading birds and fish attracted by vast numbers of invertebrates living in the mudflats. The estuary is designated as a Special Protected Area (SPA) under the European Birds Directive (79/409/EEC1979), a Site of Special Scientific Interest (SSSI) and a Ramsar site (for wetland habitats). The estuary is included in the schedule of Natura 2000 European Marine Sites, a Europe-wide network of Special Areas of Conservation (SACs) and SPAs; the most important sites for nature conservation.

- 6.33 Whilst the application site is set back from the designated areas there is the potential for an adverse impact which needs to be considered. An assessment submitted with the application concludes that the proposal for two dwellings is unlikely to have an adverse effect upon the SPA and the over-wintering bird assemblages for which it is designated. This is subject to the following mitigation measures being undertaken: i) clearance of small trees and shrubs outside of the over-wintering period subject to checks for nesting birds; ii) pollution controls and iii) location of site compound on higher ground. The proposals would not result in any significant increase in access to the wharf frontage which is adjacent to the SPA. Natural England supports this view. In these circumstances officers consider that Appropriate Assessment under the Habitat Regulations is not required as the development is unlikely to have a significant effect on the SPA.
- 6.34 The assessment has also considered the ecology of the site itself including the possibility of protected species being present. No notable plant species or habitats were identified, but it is recommended that further survey work is carried out in relation to slow worms, great crested newts, bat roosting and badgers. This is considered to be precautionary and should be undertaken before any development is undertaken. Natural England has advised that without the results of the survey work planning permission should be refused. However, officers consider that the results would not be crucial to the decision on whether to grant planning permission or not and could reasonably be undertaken before development commences. The timing of the survey work will be important and could affect when development, if permitted could commence.
- 6.35 Slow worms are known to be present on the site, but the survey work is out of date. Should the development be permitted then individuals would need to be relocated. A small pond is shown on maps within 150m of the site which was recorded in a previous survey as having 'average' potential for great crested newts. The pond may no longer exist but the survey work needs updating as the application site does provide suitable terrestrial habitat for newts. Bats have been recorded foraging on the site and one tree has the potential for roosting. However, this tree is not now proposed to be removed as part of the development. No evidence of badgers was found in the most recent survey but a further survey just prior to any development is considered expedient.
- 6.36 The Framework guidance advises that the planning system should minimise the impacts on biodiversity. Whilst this development would have some impact on biodiversity, this will be limited, subject to appropriate steps being taken following the surveys recommended by the ecological consultant. The wider ecological interest of the surrounding area would not be affected. None of the application site is covered by any specific designation. There would be some overall loss of natural habitats, none of these are significant and there would be some scope for enhancement around the edges of the development. Whilst this will be a matter of judgement for members, officers consider that the impact on biodiversity would be acceptable judged against Local Plan policies, regional policies and the guidance in the Framework.

Sustainability issues:

- 6.37 The main thrust of the new Framework is the presumption in favour of sustainable development. This means that where policies are out of date permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole or where specific policies indicate that the development should be restricted.

- 6.38 The Framework identifies three dimensions to sustainable development – economic, social and environmental. In this case it is the social and environmental roles of planning that are particularly relevant. The social role is to support strong, vibrant and healthy communities, by providing a supply of housing to meet present and future need and to create a high quality built environment accessible to local services. The environmental role is to contribute to protecting and enhancing the natural, built and historic environment, including helping to improve biodiversity.
- 6.39 The site lies outside of the development boundary, however, is relatively accessible to local services. Whether the location can be considered sustainable will be a matter for members to judge. The proposal is for large ‘aspirational’ dwellings that could be considered necessary to meet a local need for dwellings of this type, although no detailed evidence has been submitted to substantiate such a need. The quality of the built environment that would be created is another matter where members will need to exercise careful judgement. The buildings have been designed with a number of sustainability features with the aim of achieving Level 4 of the Code for Sustainable Homes. However, whilst the contemporary approach of proposed development is generally supported, it does not respond particularly well to the landscape and Conservation Area setting. Officers are concerned that the development could have a serious adverse impact on this setting.
- 6.40 The development could not be considered sustainable if it would not adequately protect and enhance the natural, built and historic environment. Officers consider that the development would have an adverse impact on the landscape character of the area and would not make a positive contribution to local character and distinctiveness. For these reasons officers consider that the application should be refused.

Character and appearance of Conservation Area

- 6.41 The site lies within the extended Manningtree and Mistley Conservation Area because of the significance of the historic railway loop to the north of the site, the historic activity at Northumberland wharf and how the area demonstrates the significance of the river to the development of Mistley and its port. The wooded site makes a significant contribution to the setting of the port and denotes the peripheral character of the area. The wooded slopes set back from the river frontage provide the backdrop to the port and other development in this part of Mistley. The overall Northumberland Wharf site is considered to be of importance in terms of its industrial archaeology which reflects the past development of the site over the past three centuries. The application site is an integral part of this.
- 6.42 Local Plan policy EN17 requires that new development preserves or enhances the character or appearance of the Conservation Area and where there would be harm, applications should be refused. The Framework states that great weight should be given to the conservation of heritage assets; the more important the asset the greater the weight should be. Where there would be substantial harm to the asset local planning authorities are advised to refuse permission, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, unless a range of factors apply. It will be a matter for members to judge the degree of impact on the Conservation Area which needs to be considered alongside the landscape impact as the two are linked. In making this judgement members will need to take account of the significance of the heritage asset. The site forms part of the wider Conservation Area and its main significance is the contribution it makes to the wider setting of the port and Northumberland Wharf. Members may consider that the proposal would lead to less than substantial harm which should be weighed against the public benefits of the proposal.

- 6.43 Officers consider that the development would result in substantial harm to the Conservation Area, which would not make a positive contribution to local character and distinctiveness. No public benefit of the proposals of any weight has been identified such as to outweigh the identified harm.

Landscape and visual impact, including AONB and protected trees:

- 6.44 The development proposal has the potential to harm the setting of the Suffolk Coast and Heaths Area of Outstanding Natural Beauty and proposals to extend the area south of the river, contrary to Local Plan policies EN1, EN5 and EN5a. These policies seek to protect the natural beauty of the landscape and views towards it. The Framework states that local planning authorities should give great weight to conserving designated and valued landscapes. The development proposal would have a significantly detrimental impact on the character and appearance of the AONB when viewed from the northern bank of the Stour and also when viewed from within the proposed extension to the AONB on the southern bank of the Stour.
- 6.45 The Landscape Character Assessment carried out for the Council stresses the need to carefully control any development that may have an adverse impact on the special character and appearance of this area. It identifies the importance of the historic port and Maltings and the need to conserve the open views across the Stour. The positions of the dwellings in the proposed location would compromise the existing juxtaposition of the port development and the countryside and dilute the strong characteristics of the area.
- 6.46 Many of the trees within the site are covered by a Tree Preservation Order confirmed in 2010. The trees can be clearly seen from the waterfront to the north of the Swan Basin and have a softening effect on the appearance of the area. When viewed from the northern shore of the Stour the trees form an integral part of the tree cover that makes a positive contribution to the estuarine landscape. The land on which the trees are growing is within the area identified for the proposed extensions to both the Suffolk Coast and Heaths Area of Outstanding Natural Beauty and the Mistley and Manningtree Conservation Area making their retention highly desirable.
- 6.47 Some of these trees are proposed to be removed to accommodate the development; these are mainly at the rear (southern end) of the site. When originally submitted it was proposed to remove trees on the northern part of the site and regrade the slope. However, the proposal has been revised by locating the dwellings further to the south so that the slope and the trees on it would not be affected. However, further trees would be removed on the southern boundary to compensate. Officers consider that this would have a lesser impact on the landscape. The arboricultural assessment submitted with the application advises that some trees on the northern slope may need to be removed at a later date because of their condition. However, any work to the trees would be separate from the development proposals. Additional landscaping proposed as part of the development would help to mitigate the impact on the landscape as a result of any future loss.
- 6.48 Notwithstanding the changes to the proposed development layout officers consider that the proposals would have a serious detrimental impact on the landscape character of the area and proposals to extend the AONB contrary to Local Plan policies and the Framework.

Other matters:

- 6.49 The design of the dwellings takes a contemporary approach which was chosen due to the absence of any specific design references in the locality. From the public domain the commercial buildings of the port and boat yard, and the converted Maltings provide the main built context for the development. Whilst the general design approach is acceptable, officers are concerned that the design does not respond adequately to the sensitive setting. The form of the buildings is bulky and their massing and three storey height will make them unduly visible from the river and ANOB. For these reasons officers consider that the proposed dwellings would have an unacceptable impact on the locality, contrary to Local Plan policy QL9.
- 6.50 The proposed layout provides for adequate amenity space for each dwelling in accordance with Local Plan policy HG9 and makes parking provision in accordance with the adopted standards. A unilateral undertaking has been made to provide a financial contribution towards open space in accordance with Local Plan policy COM6.
- 6.51 The port operator TWL has raised the concern that should new dwellings be permitted in this location it could affect the operations of the port should it extend onto the Northumberland wharf site. The intention is to use the land for open storage of bulk materials and environmental legislation could restrict operations following complaints about matters such as noise and dust. New dwellings in the locality could also result in planning conditions being imposed on the expansion site that could restrict operations in a way unacceptable to the port operator. The expansion of the port would bring operations closer to the proposed dwellings, however, no closer than those proposed in the 2006 and 2009 applications. The impacts were assessed by environmental officers at the time and no objections were raised. The new dwellings would be no closer to extended port operations than the converted Maltings is to current port operations. Officers are satisfied that any potential impacts could be addressed through the planning process should proposals for expansion come forward.
- 6.52 There are no proposals to modify the existing access onto the High Street from Anchor Lane, which had been the case with the 2006 and 2009 applications to deal with the increased vehicular traffic arising from the proposed 13 new dwellings. Anchor Lane itself is unadopted, but the Highway Authority has no objection to the existing access for the smaller number of additional dwellings now proposed.
- 6.53 Copies of all written observations on the application before you for determination are available for inspection up to and including the date of the meeting during normal office hours at the Council Offices, Weeley. Please advise Planning Reception if you wish to see them to ensure the file is available. The file containing the observations will be available in the Council Chamber half an hour before the commencement of the meeting.

Background Papers.

None.