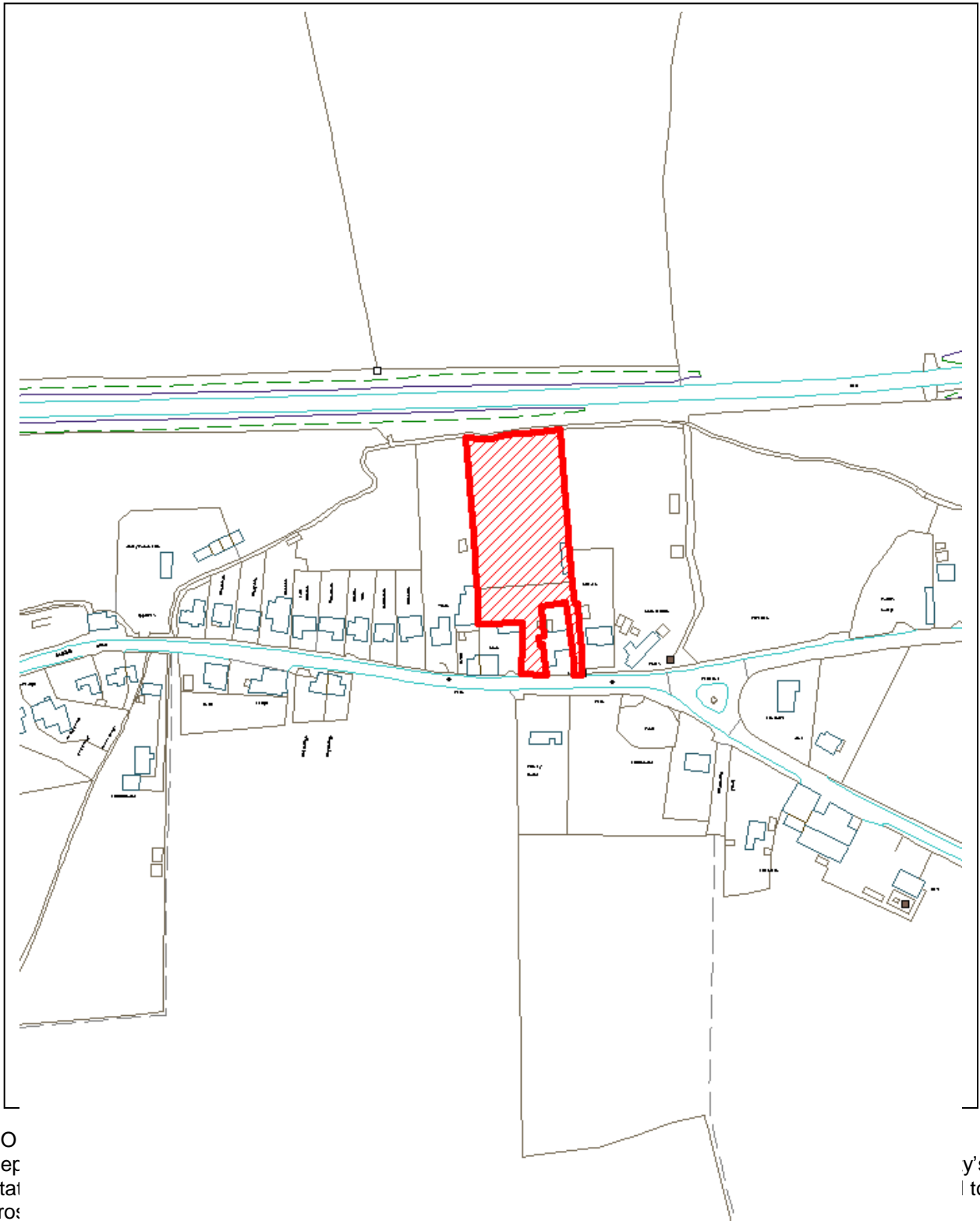


PLANNING COMMITTEE

23 APRIL 2013

REPORT OF THE HEAD OF PLANNING

**A.3 PLANNING APPLICATION - 12/01135/OUT - LAND TO REAR OF WHITE HART INN, HARWICH ROAD, WIX, MANNINGTREE, CO11 2SA**



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<b>Agenda Item No.</b>	A.3	
<b>Application:</b>	12/01135/OUT	<b>Town / Parish:</b> Wix Parish Council
<b>Applicant:</b>	G and K Groundworks Ltd	
<b>Address:</b>	Land to rear of White Hart Inn, Harwich Road, Wix, CO11 2SA	
<b>Development:</b>	Construction of 10 no. houses with associated access road and car parking in lieu of the erection of a 36 bed motel.	

## 1. Executive Summary

- 1.1 In 2011 full planning permission was granted for a 36 bedroom motel following previous planning permissions for an 18 bedroom motel and a 36 bedroom motel on the site. The 2011 planning permission has been implemented thereby securing that planning permission in perpetuity. This is therefore a strong material planning consideration for any future proposals on this site. The site has been marketed over a seven year period and it is unlikely that the motel development will occur. Residential development is therefore being proposed as an alternative use for the land.
- 1.2 This application is for outline planning permission for ten two-storey dwellings with vehicular access either side of the former White Hart Inn which is currently being converted to a single dwelling. Appearance and landscaping are reserved for later consideration.
- 1.3 Members should note that this agenda also includes a report relating to another site in Wix (Chapelfields site Application Number 12/01023/FUL refers) and which also proposes a residential development. Officers have had regard to national planning policy; emerging local plan policy; and planning case law in relation to how applications should be considered where there are competing 'alternative sites' and are of the view that at this time (given the status of the emerging local plan in April 2013) each site must be determined on its merits and not as direct competitors to fulfil the housing need in Wix until 2021.
- 1.4 The site lies outside of the proposed settlement limits for the village of Wix as shown in the draft Local Plan. The boundary runs along the southern boundary for plots 1 and 10. However given the implemented motel permission the current proposal is considered to be a suitable alternative use for the site with no material harm to residential amenity, highway safety or the setting of the Grade II listed White Hart and approval is recommended subject to completion of a legal agreement securing affordable housing and financial contribution towards public open space.

**Recommendation:** That the Head of Planning (or equivalent authorised officer) be authorised to grant planning permission for the development subject to:-

- a) Within 3 months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters
  - Affordable housing
  - Public Open Space Provision

**Conditions:**

1. Standard time limit for commencement and submission of reserved matters condition (appearance and landscaping)
2. Development in accordance with submitted plans
3. Permeable surfacing/surface water drainage
4. Restriction on hours of construction work
5. Details of existing and proposed levels
6. Highway Authority technical requirements
7. Restriction of one way vehicular entrance and exit
8. Details of construction parking and wheel cleaning
9. Improvements to unmarked bus stop
10. Glazing and trickle vent specification as per noise survey

**Reason for approval:**

The site benefits from an implemented planning permission for a 36 bedroom motel. Through a long-term marketing campaign and in the current economic climate it appears unlikely that the motel development will be built. The proposed development would result in no material harm to residential amenity, highway safety or the setting of the Grade II listed White Hart subject to the conditions detailed above and completion of a legal agreement securing affordable housing and financial contribution towards public open space.

**2. Planning Policy**

**National Policy:**

- 2.1 The National Planning Policy Framework (NPPF) presumes in favour of sustainable development, and requires Local Planning Authorities to positively seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. Policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Applications for alternative uses should be treated on their merits having regard to market signals. It also encourages the reuse of previously developed brownfield sites – particularly those that are not of high environmental value.
- 2.2 The NPPF requires a mix of housing to be delivered that serves the needs of the community and reflects local demand in terms of size, type and tenure. In delivering such development high regard should be paid to good design that takes into account the views of the community.

**Local Plan Policy:**

*Tendring District Local Plan Proposed Submission Draft (2012)*

SD1 – Presumption in Favour of Sustainable Development

SD4 – Smaller Rural Settlements

SD5 – Managing Growth

SD7 – Securing Facilities and Infrastructure

SD8 – Transport and Accessibility  
SD9 – Design of New Development  
SD10 – Sustainable Construction  
PEO1 – Housing Supply  
PEO2 – Housing Trajectory  
PEO3 – Housing Density  
PEO4 – Standards for New Housing  
PEO6 – Backland Residential Development  
PEO7 – Housing Choice  
PEO8 – Aspirational Housing  
PEO9 – Family Housing  
PEO10 – Council Housing  
PEO22 – Green Infrastructure in New residential Development  
PLA1 – Development and Flood Risk  
PLA6 – The Historic Environment  
PLA8 – Listed Buildings

Other guidance:

Essex Design Guide (2005)

Essex County Council Parking Standards (2009)

Building for Life 12 (2012)

The written Ministerial Statement of Greg Clark 23 March 2011 ‘Planning for Growth’ – that sets out the Government’s commitment to promoting sustainable growth.

**3. Relevant Planning History**

96/01599/FUL - Erection of 18 bed Motel – Approved 07/05/1997

01/01581/FUL - Renewal of full planning permission for erection of 18 bed Motel – Approved 30/06/2003

03/02003/FUL and 03/02002/LBC - Change of use from Public House to dwelling and associated works – Refused 07/01/2004

03/02158/OUT – Erection of 8 dwellings - Refused 24/12/2003

07/00616/FUL - Erection of 36 bed Motel – Approved 30/10/2008

11/00042/FUL and 11/00043/LBC - Change of use of public house to single dwelling and associated works – Approved 25/10/2011

11/00777/FUL – Renewal of full planning permission for erection of 36 bed Motel – Approved 06/10/2011

#### **4. Consultations**

Essex County Council Highways - no objection subject to 12 conditions including the provision of bus stop improvements outside the White Hart.

TDC Public Experience – working hours should be restricted to protect local residential amenities. Provided levels are compliant with noise survey (due to ambient noise levels from A120) has no objection.

Wix Parish Council – Object on the following grounds:

- No comparable development in the vicinity
- Entrance and exit around listed building is unacceptable
- Site is designated for tourist uses not housing
- Detrimental to setting of listed building
- Part of the land is outside the village envelope
- Part of the land is locally known to be subject to flooding

#### **5. Representations**

5.1 Nine letters of support have been received and are summarised as follows:

- New housing is needed
- Uses a site which has had permission to build on for many years
- Better site than the other housing application in the village
- Motel is not viable in this location or economic climate
- Will tidy up site which is an eyesore

5.2 Two letters of observation have been received and are summarised as follows (with Officer response in brackets):

- Part of neighbouring garden floods and surface water drainage needs to be considered (a condition has been imposed regarding surface water drainage details and permeable surfacing).
- Construction of a roadway has already commenced (this relates to planning permission 11/00777/FUL for renewal of the motel and was carried out to secure implementation of that permission in perpetuity).
- How will sewerage work with significant land fall to north of site? Concerned regarding flooding or raising the land levels (a levels condition will be imposed enabling the Council to control this in the interests of preserving residential amenity. Sewerage details will be assessed at Building Regulations stage).
- Dispute over boundary fence location (this is a civil matter).
- No detail of boundary treatment on western boundary and concerned about existing Birch Tree (landscaping is a reserved matter and this would be addressed under a detailed planning permission. The Principle Tree and Landscape Officer has confirmed the Birch Tree is not worthy of protection and has no objection in relation to the impact upon this tree).
- Has a protected species survey been undertaken? (given the nature of the site which is completely cleared with boundary hedges and trees it is not considered likely that protected species are present on site).

- Access for emergency and service vehicles is limited (the Highway Authority are satisfied with the site layout which provides adequate access and turning areas).

5.3 Three letters have been submitted by the applicant in support of the application and are summarised as follows:

- It took nine years and considerable cost to gain permission to convert the listed building.
- The Parish Council's comments inaccurately state 6 voted against with 1 impartial. The minutes state 5 voted against with 1 vote withheld.
- The Parish Council are actively promoting the other site in Wix which is a greenfield site with no existing planning permission for development unlike this site.
- Vehicle movements will be greatly reduced in comparison to the motel use.
- The Council's hotel study proves the motel is not needed in this location.
- The land gets sodden but does not flood. The other site is within 5 metres of a watercourse which is known to flood.
- There is a need for at least 9 affordable units in Wix with over 300 people expressing a desire to be housed in Wix.

## 6. **Assessment**

The main planning considerations are:

- Policy
- Planning history
- Setting of the listed building
- Highway safety
- Residential amenity
- Affordable housing
- Public open space contribution

### **Proposal**

6.1 This is an application for outline planning permission with appearance and landscaping reserved for later consideration. The application proposes the erection of ten two-storey dwellings (four 2-bedroom, four 3-bedroom and 2 four bedroom) with vehicular access either side of the White Hart public house. Each house is provided with two off street parking spaces and a private rear garden of at least 100 square metres per dwelling.

### **Site location**

6.2 The site is located to the rear of the White Hart Inn, a Grade II Listed Building (currently undergoing conversion to a single dwelling) on the northern side of Harwich Road, Wix. The site extends northwards to adjoin the A120 carriageway with vehicular access being achieved either side of the White Hart Inn. The north of the site lies within flood zones 2 and 3 but only contains part of the rear gardens serving plots 4, 5 and 6.

6.3 The site is well screened to the north by mature planting, with additional sporadic mature planting to both side boundaries. The most northern part of the site is grassed with the remainder being hard-surfaced for use as car parking. Residential properties are situated to the east and west of the site fronting onto Harwich Road. The site lies outside of the proposed settlement limits for the village of Wix as shown in the draft Local Plan. The boundary runs along the southern boundary for plots 1 and 10.

## Policy

- 6.4 From 28<sup>th</sup> March 2013 the old adopted Local Plan (2007) cannot be relied on in the decision making process. Paragraphs 2.14, 2.15 and 2.16 of the NPPF explain the relative weight that can be given to policies and proposals in fully adopted Local Plans compared to emerging draft Local Plans when dealing with planning applications under the government's new planning system and its 'presumption in favour of sustainable development'.
- 6.5 Paragraph 214 of the Framework states that *"for 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework"*. Accordingly, over the last 12 months (since the publication of the NPPF on 27<sup>th</sup> March 2012), the Council has applied full weight to the policies in the 2007 Adopted Local Plan, despite the fact that it does not reflect all aspects of the new national policies.
- 6.6 Paragraph 215 of the Framework states that *"in other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)"*. Given the fact that the 2007 Adopted Local Plan was only designed to cover the period up to 2011, is based on what is now outdated evidence, outdated housing targets from the now obsolete 2001 Essex and Southend-on-Sea Replacement Structure Plan and reflects the old set of Planning Policy Statements (PPS) and Planning Policy Guidance (PPG) from the previous government, there is a strong argument for not giving weight to any of its policies from 28<sup>th</sup> March 2013.
- 6.7 However the government does allow the use of emerging draft Local Plans in determining planning applications. Paragraph 216 of the Framework states that *"from the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:*
- *the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
  - *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
  - *the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)"*.
- 6.8 The Council's emerging plan is the Tendring District Local Plan: Proposed Submission Draft that was approved by Full Council in September 2012 and published for consultation in November 2012. The consultation period ended in January 2013 and the plan attracted approximately 800 representations. This is a reasonably advanced stage of preparation and whilst the Draft Local Plan still needs to go through the process of consultation on any focused changes, examination and finally adoption, the number and nature of comments made during the consultation period was relatively modest and many of the policies received little or no objection. Most of the policies likely to be used for day-to-day Development Management purposes remain relatively unchallenged with the majority of objections relating to strategic or site-specific issues. Because of the relatively advanced stage of preparation, the relatively few objections to most policies and the fact that the Draft Local Plan has been drawn up in accordance with the new NPPF as opposed to the previous PPS and PPG guidance, there is a strong argument for attaching considerable weight to this emerging plan in the determination of planning applications from 28<sup>th</sup> March 2013.

- 6.9 In conclusion, the Committee is advised that from 28<sup>th</sup> March 2013, the 2007 Adopted Local Plan can no longer be used in the determination of planning applications. Applications will be determined in accordance with policies in the Tendring District Local Plan: Proposed Submission Draft 2012 alongside the guidance provided by the NPPF. In accordance with paragraph 216 of the NPPF, recommendations will have regard to the extent to which there are unresolved objections to relevant policies – the less significant the unresolved objections, the greater weight that may be given.
- 6.10 The National Planning Policy Framework states that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.

### **Site Specific Policies**

- 6.11 This site lies outside the settlement boundary of the emerging local plan Policies Inset Map 40: Wix). The boundary runs along the southern boundary for plots 1 and 10. The emerging local plan consultation resulted in an objection to the inclusion of the Chapelfields site within the settlement boundary and those comments refer to the White Hart site. The objection can be summarised as follows:
- The emerging local plan does not meet the test of soundness when applied to the Policies Map Inset 40: Wix because it fails to deal effectively with land at the former White Hart public house. This land has formerly been allocated for a potential motel site since 1982. This site has an extant planning permission that has been implemented by way of an authorised technical start on site. The draft local plan makes no reference to the former longstanding motel allocation or the extant planning permission.
  - Whilst it may be that support for a motel allocation can no longer be justified the emerging local plan fails to consider the alternative development of the White Hart site for residential development.
  - The absence of the White Hart site from the Council's assessment means that the document has not been positively prepared.
  - The White Hart site and the Chapelfields site are the subject of applications for planning permission for residential development and are competitors.
  - The White Hart site should be included within the Wix Inset map because there is an under supply of social housing; a shortage of housing throughout the District; a need to deal with the requirements of an ageing population; and that there is a limited supply of brownfield sites within the District.
  - The White Hart site should be preferred because it provides for affordable housing; provides a variety of house size and style; and is on land that has been anticipated for development for at least thirty years. The site at Chapelfields is almost exclusively on Greenfield land; it exceeds the 10 dwelling threshold referred to in Policy SD4 and exceeds the maximum 6% increase in housing stock in Wix until 2021 and would not provide local benefits that would justify setting this policy aside. The Chapelfields site is not considered to be genuinely deliverable and would not provide the mix of housing to meet the aspirations of the District (Policy PEO7).
  - The amendment that the objector is seeking is to include the White Hart site within the settlement boundary and to exclude extraneous Greenfield sites that may include the Chapelfields site.
- 6.12 A complete version of the representation form can be viewed by members on prior arrangement with the case officer, however, the above is considered to represent a fair summary of the objection.



- 6.13 The following section of this report considers the proposal in relation to the main emerging local plan policies that relate to the principal of residential development of this site. It then gives an indication of the level of weight that officers consider can be attached to that policy and that should be taken into account when determining the application.
- 6.14 **Policy SD1** presumes in favour of sustainable development and states that the Council will take a positive and proactive approach in determining applications that reflects the NPPF requirements. Planning applications that accord with the policies of the local plan will be approved without delay unless material considerations indicate otherwise. The Planning Inspectorate has asked for this policy to be included within local plans to clarify and emphasise the presumption in favour of sustainable development at national level. This policy can be applied with confidence as it reflects the NPPF requirement. Full weight can be attached to it in the decision making process.
- 6.15 **Policy SD4** relates to smaller rural settlements and identifies Wix as one such settlement. The policy is aimed at those settlements that do not have as many job opportunities; local services; facilities and other infrastructure but which are still under pressure to grow. In these locations, small scale developments that are in keeping with their surroundings may help younger people to continue to live in the area and to support local services and facilities.
- 6.16 In order to apply a fair distribution of growth throughout the whole District the emerging local plan proposes a 6% increase in housing stock in the urban, key rural settlements and smaller rural settlements between 1<sup>st</sup> April 2011 and 31 March 2021 on sites with outstanding planning permission for new housing and through new sites within the settlement development boundary. Any proposal for housing development that would lead to the 6% increase being exceeded will only be permitted if it is supported by the local Parish Council. This application does not exceed the 6% limit however it does lie outside the draft settlement development boundary.
- 6.17 This policy, however, must be applied with some caution as there is objection to the soundness to the introduction of a maximum 6% increase of housing stock across the District. Greater weight should be given to the overall presumption in favour of sustainable development.
- 6.18 **Policy SD5** intends to manage growth across the District in smaller rural settlements such as Wix by defining settlement limits beyond those of the old local plan to include a range of possible development sites that could accommodate the maximum number of new homes proposed for that settlement either individually or cumulatively. Within these settlement limits there should be a general presumption in favour of development. This site lies outside the draft settlement development boundary.
- 6.19 This policy needs to be applied with some caution both due to the objections raised as part of the local plan consultation in general. Members are advised that officers consider that the general presumption in favour of sustainable development should take precedence in this instance bearing in mind that the site benefits from planning permission for a 36 bedroom motel and would not have any other adverse impacts that would outweigh the benefits of the development when assessed against other relevant policies.
- 6.20 Members will note that this agenda also includes a report that relates to the residential development of the site at Chapelfields for 14 dwellings. There is a plethora of planning case law that relates to the need to assess the merits of alternative sites, however, your officers do not consider that at this stage the two sites are in competition for the same development whilst there is uncertainty over the implementation of the maximum 6% housing growth referred to in the emerging local plan. **Each application needs to be determined on its individual merits and not as alternatives for the same development and each must take**

**into account the relevant national and local plan policies in the first instance and then all other material considerations.**

### **Planning history**

- 6.21 The land was designated under Policy RA3 of the 2007 Tendring District Local Plan for development as a motel. Following a hotel study produced as part of the evidence for the draft Local Plan (2012) this site was no longer considered appropriate for this use and the site is not allocated for any specific use within the draft Local Plan.
- 6.22 The site received planning permission for the erection of an 18 bedroom motel in 1997 and this was renewed in 2003. Planning permission was then granted for a 36 bedroom motel in 2008 and renewed in 2011. The approved motel is part single-storey and part two-storey with a maximum height of 7.9 metres. The Council has accepted that the 2011 approval (11/00777/FUL) has been implemented through the discharge of all pre-commencement planning conditions and a material start has been made on site thereby securing that planning permission in perpetuity. This is therefore a strong material planning consideration for any future proposals on this site.
- 6.23 The former public house and motel site have been marketed for over seven years and the marketing campaign was accepted as being robust by the Council in allowing the change of use of the public house to a dwelling in October 2011. It is therefore unlikely that the site will be built as a motel and the applicant has drawn up the proposed residential development as an alternative use for the site.

### **Setting of the listed building**

- 6.24 The White Hart Inn is a Grade II Listed Building which is currently undergoing conversion to a single dwelling. The access to the proposed dwellings is as approved for the motel development with entrance on the west and exit on the east side of the listed building. Plots one and ten are located on the car park for the approved motel so bring built development approximately 14 metres closer to the listed building (26.5 metres between buildings). It is considered that the provision of ten dwellings in place of a 36 bedroom motel would not result in any additional harm to the setting of the listed building by virtue of the separation distance between the buildings, greatly reduced bulk of development and the backland nature of the new development ensuring that the key views of the White Hart Inn from Harwich Road are preserved.

### **Highway safety**

- 6.25 The Highway Authority has no objection subject to 12 conditions including the provision of improvements to the unmarked bus stop outside the White Hart. Each dwelling is provided with two off street parking spaces. The proposal is therefore acceptable in terms of highway safety.

### **Residential amenity**

- 6.26 Residential properties are situated to the east and west of the application site fronting onto Harwich Road. The application site is set behind existing dwellings and adjacent to their long rear gardens backing on to the A120.
- 6.27 The access arrangement has been accepted in relation to the motel permission. The proposed dwellings are sited approximately twice as far from the boundaries as the approved motel and with a greatly reduced mass with two storey detached and semi detached dwellings with single storey garage blocks and linked carports. It is considered that the

impact upon residential amenity would be acceptable and the scale and nature of development proposed would result in a lesser impact than that approved for the motel.

### **Affordable housing**

- 6.28 Policy PEO10 of the draft Local Plan states proposals involving ten or more dwellings are expected to make 25% of new dwellings available to the Council at a discounted value for use as council housing. This policy received 13 representations (support and objection) with no real challenge to the soundness of the policy however further guidance is required.
- 6.29 The applicant is willing to provide 25% (three dwellings) and a legal agreement is currently being produced to secure this. An update will be provided at the meeting.

### **Public open space contribution**

- 6.30 Policy PEO22 of the draft Local Plan states for residential development on sites below 1.5 hectares in size, where existing public open space facilities are inadequate, a financial contribution will be made towards the provision of new or improved off-site facilities to meet these needs. This policy received 6 representations and was generally supported however further guidance is required.
- 6.31 There is an identified deficit in equipped play facilities in Wix, however there is adequate formal open space to serve the proposed development. A contribution towards additional equipped play facilities is therefore justified in this case. The applicant is willing to provide a public open space financial contribution of £21,404 plus £300 monitoring fee (four 2 beds at £1690 each, four 3 beds at £2253 each, and two 4 beds at £2816 each) and a legal agreement is currently being produced to secure this. An update will be provided at the meeting.

### **Conclusion**

- 6.32 The site benefits from an implemented planning permission for a 36 bedroom motel. Through a long-term marketing campaign and in the current economic climate it appears unlikely that the motel development will be built. The proposed development would result in no material harm to residential amenity, highway safety or the setting of the Grade II listed White Hart and approval is recommended subject to completion of a legal agreement securing affordable housing and financial contribution towards public open space.

### **Background Papers**

None.