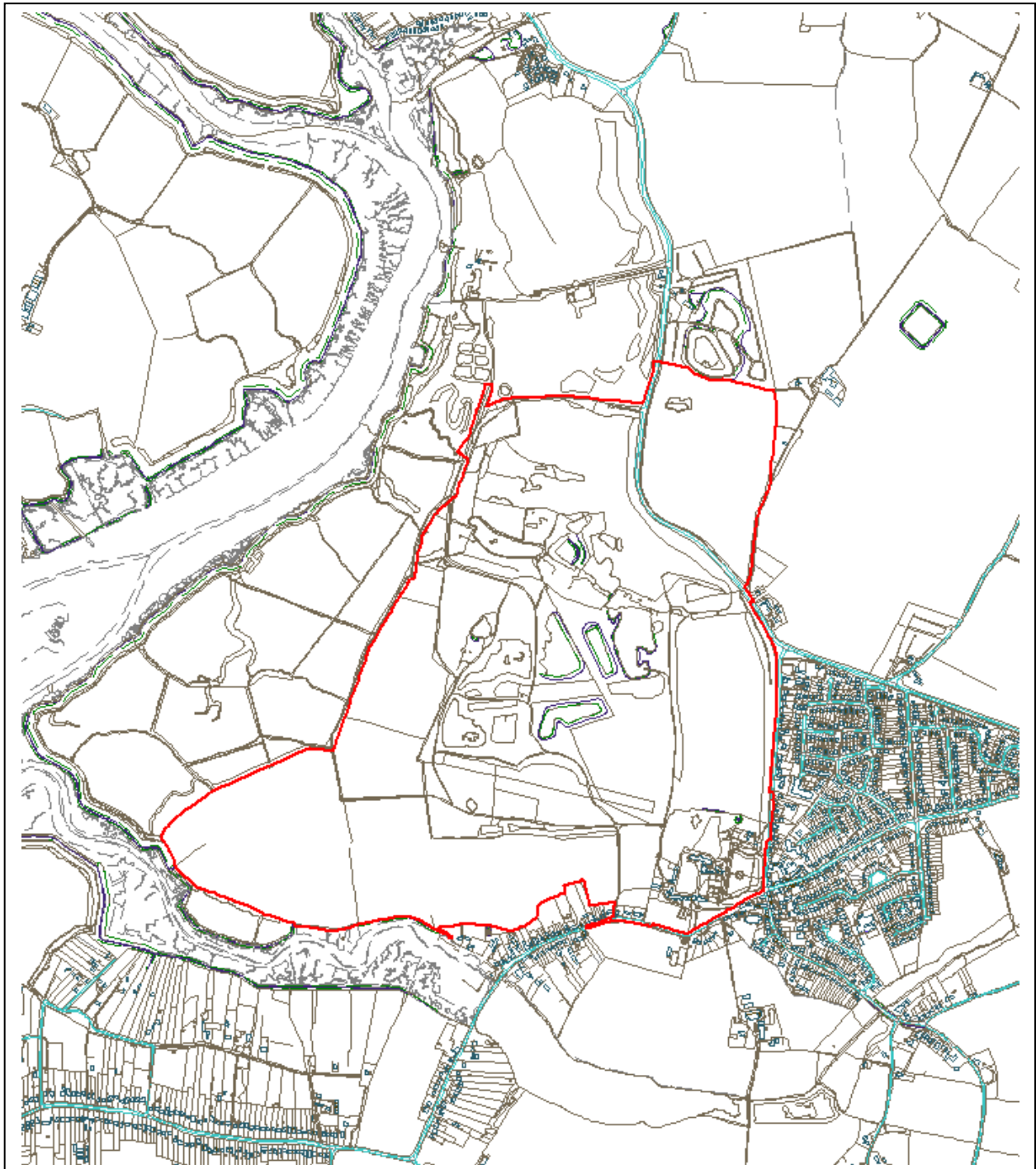


PLANNING COMMITTEE

21 January 2014

REPORT OF THE HEAD OF PLANNING

**A.2 PLANNING APPLICATION - 11/00332/FUL - THE PRIORY ESTATE ST OSYTH,
CLACTON ON SEA, ESSEX, CO16 8NY**



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Application:	11/00332/FUL	Town / Parish: St Osyth Parish Council
Applicant:	Mr R.A, T.R, D.R, A.I Sargeant	
Address:	The Priory Estate St Osyth Clacton On Sea CO16 8NY	
Development:	Erection of 19 dwellings for use as residential and holiday accommodation (C3 use); restoration of park landscape; bunding; re-grading of 9 hectares of land; construction and alterations to access driveway; landscaping and all ancillary works.	

1. Executive Summary

- 1.1 This application forms part of a suite of applications submitted to the Council in relation to a scheme of enabling development both within the St Osyth Parkland, on the West Field and also the Wellwick site situated outside of the Priory Estate. This particular application relates to the St Osyth Priory Park and seeks planning permission for the erection 19 dwellings with all associated works, the restoration of the park landscape, restoration of bunding and the re-grading of Lodge Piece, incorporating 9 hectares of land.
- 1.2 The proposals are being promoted as necessary for the generation of funds to undertake repairs and restoration of a national heritage asset, this being the St Osyth Priory complex. The financial consequences of granting planning permission are not only relevant, but fundamental to the decision-making process. The proposals have been subject to independent financial scrutiny but agreement has not been reached on some issues. Notwithstanding this the assessment has revealed that a substantial conservation deficit exists and that the proposals collectively would fail to generate sufficient funds to overcome this deficit in full.
- 1.3 Policy EN27 of the Tendring District Local Plan is of primary relevance in this case and assessment has been made against the provisions of this policy and against all other material considerations. According to the findings of CBRE, jointly instructed by TDC and English Heritage, the proposals result in a negative residual value and thereby failing to reduce the conservation deficit and assist in securing the repair of the Priory. Whilst a positive residual value range is advanced by BNP within their independent report, it is insignificant against the conservation deficit and far outweighed by the harm to the significance of the Priory and Parkland. Accordingly the application fails to meet the criteria of the policy EN27 and the NPPF.
- 1.4 Officers are mindful of the provisions of policy EN27a and its commitment of the Council to the conservation, preservation and restoration of St. Osyth Priory and to that end, its commitment to work in conjunction with the landowner and English Heritage. However the proposals have simply failed to demonstrate accordance with national or local planning guidance. Moreover, the scheme gives rise to no public benefit to set against the harm clearly caused.
- 1.5 Members are to note that the Secretary of State has received a request to intervene on this application from third parties (and the other related applications). If the Planning Committee is minded to approve the application it will be assessed against the Secretary of State's policy on call in.

Recommendation: Delegate the decision to REFUSE planning permission to the Head of Planning on the grounds that:

- The proposed development will harm the character, setting and significance of the St Osyth Priory (a designated heritage asset)
- The proposed development will result in material harm to the St Osyth Conservation Area
- The benefits of the enabling development, and public access improvements, do not outweigh the disbenefits of departing from policy EN27 and The National Planning Policy Framework

2. Planning Policy

National Policy:

National Planning Policy Framework (2012)

Local Plan Policy:

Tendring District Local Plan (2007)

Policy QL1	<i>Spatial Strategy</i>
Policy QL2	<i>Promoting Transport Choice</i>
Policy QL3	<i>Minimising and Managing Flood Risk</i>
Policy QL7	<i>Rural Regeneration</i>
Policy QL8	<i>Mixed-Uses</i>
Policy QL9	<i>Design of New Development</i>
Policy QL10	<i>Designing New Development to Meet Functional Needs</i>
Policy QL11	<i>Environmental Impacts and Compatibility of Uses</i>
Policy QL12	<i>Planning Obligations</i>
Policy ER7	<i>Business, Industrial and Warehouse Proposals</i>
Policy ER16	<i>Tourism and Leisure Uses</i>
Policy ER26	<i>Conversion of Premises</i>
Policy HG1	<i>Housing Provision</i>
Policy HG3	<i>Residential Development within Defined Settlements</i>
Policy HG3a	<i>Mixed Communities</i>
Policy HG4	<i>Affordable Housing</i>
Policy HG6	<i>Dwelling Size and Type</i>
Policy HG7	<i>Residential Densities</i>
Policy HG9	<i>Private Amenity Space</i>
Policy HG13	<i>Backland Residential Development</i>
Policy HG14	<i>Side Isolation</i>
Policy COM1	<i>Access for All</i>
Policy COM2	<i>Community Safety</i>
Policy COM6	<i>Provision of Recreational Open Space for New Residential Development</i>
Policy COM19	<i>Contaminated Land</i>
Policy COM21	<i>Light Pollution</i>
Policy COM23	<i>General Pollution</i>

Policy COM26	<i>Contributions to Education Provision</i>
Policy COM29	<i>Utilities</i>
Policy COM31a	<i>Sewerage and Sewage Disposal</i>
Policy EN1	<i>Landscape Character</i>
Policy EN3	<i>Coastal Protection Belt</i>
Policy EN6	<i>Biodiversity</i>
Policy EN6a	<i>Protected Species</i>
Policy EN6b	<i>Habitat Creation</i>
Policy EN11a	<i>Protection of International Sites: European Sites and Ramsar Sites</i>
Policy EN11b	<i>Protection of National Sites: Sites of Special Scientific Interest, National Nature Reserves, Nature Conservation Review Sites, Geological Conservation Review Sites</i>
Policy EN11c	<i>Protection of Local Sites: Local Nature Reserves, County Wildlife Sites, Regionally Important Geological/Geomorphological Sites</i>
Policy EN12	<i>Design and Access Statements</i>
Policy EN13	<i>Sustainable Drainage Systems</i>
Policy EN17	<i>Conservation Areas</i>
Policy EN20	<i>Demolition within Conservation Areas</i>
Policy EN23	<i>Development within the Proximity of a Listed Building</i>
Policy EN27	<i>Enabling Development</i>
Policy EN27a	<i>St Osyth Priory</i>
Policy EN29	<i>Archaeology</i>
Policy EN30	<i>Historic Towns</i>
Policy TR1a	<i>Development Affecting Highways</i>
Policy TR1	<i>Transport Assessment</i>
Policy TR2	<i>Travel Plans</i>
Policy TR3a	<i>Provision for Walking</i>
Policy TR4	<i>Safeguarding and Improving Public Rights of Way</i>
Policy TR5	<i>Provision for Cycling</i>
Policy TR6	<i>Provision for Public Transport Use</i>
Policy TR7	<i>Vehicle Parking at New Development</i>

Tendring Local Plan Proposed Submission Draft (2012) as amended by the Tendring District Local Plan Pre-Submission Focussed Changes (2014)

Policy SD1	<i>Presumption in Favour of Sustainable Development</i>
Policy SD3	<i>Key Rural Service Centres</i>
Policy SD5	<i>Managing Growth</i>
Policy SD7	<i>Securing Facilities and Infrastructure</i>
Policy SD8	<i>Transport and Accessibility</i>
Policy SD9	<i>Design of New Development</i>
Policy SD10	<i>Sustainable Construction</i>
Policy PRO1	<i>Improving the Strategic Road Network</i>
Policy PRO1a	<i>Improving the Public Transport Network</i>
Policy PRO2	<i>Improving the Telecommunications Network</i>
Policy PRO3	<i>Improving Education and Skills</i>
Policy PRO5	<i>Town, District, Village and Neighbourhood Centres</i>
Policy PRO6	<i>Retail, Leisure and Office Development</i>
Policy PRO7	<i>Tourism</i>
Policy PRO15	<i>The Rural Economy</i>
Policy PEO1	<i>Housing Supply</i>
Policy PEO2	<i>Housing Trajectory</i>
Policy PEO3	<i>Housing Density</i>
Policy PEO4	<i>Standards for New Housing</i>

Policy PEO5	<i>Housing Layout in Tendring</i>
Policy PEO6	<i>Backland Residential Development</i>
Policy PEO7	<i>Housing Choice</i>
Policy PEO8	<i>Aspirational Housing</i>
Policy PEO9	<i>Family Housing</i>
Policy PEO10	<i>Council Housing</i>
Policy PEO12	<i>Flats, Apartments and Maisonettes</i>
Policy PEO14	<i>Single storey residential development (bungalows)</i>
Policy PEO19	<i>Green Infrastructure</i>
Policy PEO22	<i>Green Infrastructure in New Residential Development</i>
Policy PLA1	<i>Development and Flood Risk</i>
Policy PLA3	<i>Water Conservation, Drainage and Sewerage</i>
Policy PLA4	<i>Nature Conservation and Geo-Diversity</i>
Policy PLA5	<i>The Countryside Landscape</i>
Policy PLA6	<i>The Historic Environment</i>
Policy PLA7	<i>Conservation Areas</i>
Policy PLA8	<i>Listed Buildings</i>
Policy PLA9	<i>Enabling Development</i>

Other guidance:

English Heritage Document – Enabling Development And The Conservation Of Significant Places (2008)

The Essex Design Guide (2005)

Essex County Council Parking Standards Design and Good Practice (2009)

Natural Environment & Rural Communities Act 2006

3. Relevant Planning History

96/00442/FUL North Lodge Piece	Retention of earth bunding for additional overshoot protection	Approved	12.06.1996
97/00414/CMTR	(Land at St Osyth Quarry, Colchester Road, St Osyth) ESS/21/97/TEN(R) - Environment Act 1995 - Review of Mineral Planning Permissions - Application for Determination of Conditions	File not available at ECC, no record of decision either way so logged as Inactive	03.06.1997
99/00276/FUL North Lodge Piece	Take down club hut damaged by arson and install two metal containers	Approved	26.05.1999
00/00701/LBC	Re-ordering of interior and opening up of 3 No blocked up windows (East Gate House)	Withdrawn	04.05.2000
00/00702/LBC	Internal re-ordering and insertion of a short section of patent glazing in slope of existing roof (Darcy House)	Approved	21.08.2000

West Wing)

00/00880/FUL North Lodge Piece	Retention of 1 No metal container	Approved	28.07.2000
00/01337/LBC	Gate House - West Range. Re-ordering of interior, opening up of existing doorway, forming new doorway in existing window opening, forming new doorway in existing door and window opening, replacing window and forming new terrace	Approved	10.01.2001
00/01343/LBC	Gate House - East Range. Re-ordering of interior, opening up of 3 No. blocked up windows and forming new window in gable.	Approved	20.03.2001
00/01501/LBC	Demolition of part of the boundary wall to allow rebuilding in association with other structural repairs	Approved	01.03.2001
00/01623/LBC	Re-ordering of interior, lowering threshold of external doorway, raising ground floor, adding rooflight - Bailiffs Cottage	Approved	10.01.2001
00/01880/FUL	Alterations to former staff accommodation to form 4 No. self-contained flats - Darcy House East Wing	Approved	25.04.2001
00/01881/LBC	Darcy House East Wing - Re-ordering of interior, stripping out of external metal stairs, minor revisions to openings in external walls	Approved	25.04.2001
01/00116/FUL	New build garages and metal park rail fences	Approved	29.03.2001
01/00117/LBC	New build garages and metal park rail fences	Approved	29.03.2001
01/00763/FUL	Conversion of The Abbot's Tower into a dwelling	Approved	25.02.2002
01/00780/LBC	The Abbot's Tower - external/internal alterations	Permitted Development	25.05.2001
01/01084/FUL	Repair to existing building fabric extension to lean-to to accommodate office/administration	Approved	23.08.2001

	space. New staircase to first floor The Brewhouse.		
01/01710/FUL	Conversion of disused dairy into office accommodation with sanitary and rest facilities (The Dairy)	Approved	21.11.2001
01/01711/LBC	Conversion to office use with associated staff facilities. Internal and external works (The Dairy)	Approved	21.11.2001
01/01712/FUL	Re-location, repairs and minor alterations to existing barn (The Cart Shed)	Refused	21.11.2001
01/01713/LBC	Re-location, repairs and minor alterations (The Cart Shed)	Refused	21.11.2001
01/02078/FUL	Re-location, repairs and minor alterations to existing barn (The Cart Shed)	Refused	08.01.2002
01/02079/LBC	Re-location, repairs and minor alterations (The Cart Shed)	Refused	08.01.2002
01/02112/FUL	Change of use from vacant to office (The West Barn)	Approved	27.03.2002
06/00589/FUL	Enclosure by 1200mm high park rail fence and formalisation of casual parking.	Refused	24.08.2006
		Dismissed at Appeal	20.06.2007
06/01353/LBC	Gate House - West Range. Ground Floor - blocking of doorways, new and reused internal doors, re-ordering of interior with new partitions. First Floor - removal of existing walls to bedrooms 1 and 4 to form an ensuite and a bathroom.	Approved	06.11.2006
06/01355/LBC	Alterations including removal of existing soil vent pipes and rain water pipes and fitting of new soil vent pipe and boiler flue to inner roof slope. Fix external door shut to kitchen/utility. Renew floors to dining room and kitchen. New door to utility room. Remove original utility room cupboard from first floor bedroom and re-erect in utility room. Insert roof lights in lieu of existing hatches so as to improve roof access for maintenance. Relocate door in bedroom 2 east	Approved	10.07.2007

wall. Relocate curved first floor eastern stair and construct new floor over the stairs. New walls to form bedroom 4; repair of ceiling and redirection of internal rainwater via new internal rain water pipe. Fix shut door to adjacent range. New bathroom to first floor.

06/02050/FUL	Change of use from office to residential.	Approved	30.03.2007
06/02058/FUL Bailiffs Cottage	Creation of self-contained one bed house from south end of existing house.	Approved	30.03.2007
07/00486/FUL	Rationalisation of and improvements to existing car parking, formation of a new highway access with safe sight lines and erection of a park rail fence with both vehicular and pedestrian gates.	Refused	31.05.2007
07/00858/FUL	Use as a venue for marriage in accordance with Marriage Act, 1949 and/or Civil Partnership Act 2004.	Approved	14.12.2007
07/00989/LBC Bailiffs Cottage	Re-instate dormer to west elevation.	Approved	15.08.2007
07/01205/FUL	Relocation of unsafe access.	Refused	29.10.2007
		Appeal Withdrawn	29.10.2008
08/00718/FUL	Alterations and extension; change of use to a house.	Approved	03.04.2009
09/00507/ADV	5m x 10m banner with image of Abbots Tower and Company information to be displayed temporarily.	Refused	25.06.2009
		Dismissed at Appeal	27.11.2009
09/01139/FUL	Proposed new archery ground and relocation of existing site accommodation including club hut and storage container plus one additional container.	Refused	10.02.2010
12/00184/FUL	Alterations and extension; change of use to a house. (Extension of time on previously approved 08/00718/FUL)	Approved	06.03.2013

12/01285/LBC	Re-ordering of interior with the opening up of windows and the forming of a new window in the gable.	Approved	08.10.2013
12/01312/FUL	New build garages, access and metal park rail fences.	Approved	26.07.2013
12/01316/FUL	Conversion of Abbots Tower into 1 no. 3 bedroom residential unit.	Approved	23.10.2013

4. **Consultations**

4.1 Please see below for a summary of consultation responses received.

Internal Consultee Responses

TDC Building Control

4.2 Further information required in relation to compliance with the requirements of Approved Document B - Access and Facilities for the Fire Service. No provision of a WC to the Pigeon House.

TDC Principal Landscape and Tree Officer

4.3 Objects in principle to development. The formalisation of the roads to serve dwellings within the listed garden would in itself have an adverse impact on the character of the land. The proposed dwellings would collectively diminish the quality of the landscape and its value to wildlife. The noise and light pollution combined with the human and vehicular traffic as well general use of the gardens and adjoining land would both degrade the landscape and disturb wildlife.

External Consultee Responses

English Heritage –

4.4 Recommend refusal of applications 1 – 5 and 7. Defer application 6.

- The proposed developments harm the significance of the Priory;
- Some of the applications would generate some funds;
- Proposals are flawed;
- Wellwick scheme could be justified were it to be combined with the formation of an Independent Trust so as to create the closest to a comprehensive approach to securing the future of the Priory;
- *Potentially* a case for limited enabling development;
- If all implemented, would result in substantial harm to the significance of the Priory and harm to the historic character of the village;
- Westfield developments result in severe harm;
- Wellwick development results in more limited harm;
- Park and Westfield developments result in harm to the significance of the St Osyth Conservation Area;
- Not demonstrated that other public sources of funds could not contribute;
- Our knowledge of the Heritage Lottery Fund leads us to conclude that there is great potential for a properly constituted and independent charitable trust to raise substantial sums towards the repair of the Priory;

- It would be inappropriate to consider enabling development unless it were combined with measures to realise the potential for public funding;
- Justification of the enabling development fails to conform to the principles set out in our guidance;
- Application 7 revisions are an improvement but the construction of a visitor centre would still detract from the character of the Priory and no clear justification has been provided;
- Applications 1-6 are inconsistent with the NPPF, and would not give rise to any public benefits that would outweigh this harm;

Essex County Council Highways

4.5 The proposal includes a direct access off the B1027 and is therefore contrary to policy DM2 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011. If the local planning authority were minded to grant permission conditions relating to the following matters are required:

1. Provision of a wheel cleaning facility;
2. No occupation of the development shall take place until the following have been provided or completed:
 - The highway works as shown in principle on planning application drawing number 208104/21 Rev. C dated 19 January 2012 prepared by Waterman Boreham. Works include:
 - The removal of the existing access and lay-by
 - A priority junction off the B1027 to provide access to the proposal site. Junction to include 2no. 2 metre wide footways and a 160 x 2.4 x 160 metre visibility splay maintained clear to the ground at all times
 - A right turn lane at the priority junction mentioned above to include 2no. pedestrian central islands
 - A bell mouth access off Colchester Road to provide access to the proposal site. Bell mouth to include kerbed radii and a 70 x 2.4 x 70 metre visibility splay maintained clear to the ground at all times (as shown in principle on planning application drawing number 208104/07 Rev. F dated 19 January 2012 prepared by Waterman Boreham)
 - Two new bus stops (to current ECC specification) on the B1027 adjacent to the proposal site (subject to agreement with the local bus service operators) AND/OR upgrade to current ECC specification the two nearest bus stops in Colchester Road
 - Residential Travel Information Packs
3. Prior to commencement of the development planning application drawing number 208104/21 Rev. C dated 19 January 2012 prepared by Waterman Boreham shall be amended and submitted to and approved in writing by the local planning authority to show provision of the following:
 - Retention of the lay-by located on the western side of the B1027 south of the proposal site access
 - A 2 metre wide footway between the proposal site access and the lay-by mentioned above
 - A 2 metre wide footway between the proposal site access and the pedestrian central island at the northern end of the proposed right turn lane

The approved details shall be implemented prior to occupation of the development

4. Prior to commencement of the development details of the gates at the proposed bell mouth access off Colchester Road shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to occupation of the development.

Essex County Council Archaeology

- 4.6 Recommend that no development or preliminary ground works of any kind shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority.

Essex County Council Minerals and Waste – (initial response)

- 4.7 Provide the following comments:

- Additional information is required before a decision can be made on the application.
- Having reviewed the landscaping drawing's and site plans it appears that a relatively large volume of 'material' is to be imported to the site.
- The application details do not state what the 'material' would be.
- Likely that the material would constitute waste, albeit inert waste, as the source of such material is likely to arise from development/demolition/construction projects where the intention is to discard of this material.
- WPA would normally seek to regularise and control the deposition of such materials and 'landscaping works/bund formation' could be classified as a 'landraising' activity for which permission would be required by Essex County Council.
- The extant Waste Local Plan, particularly policy W9B, is especially relevant in the case.
- In applications of this type, is to ensure that full scale plans relating to OS datum, including existing topography and proposed contours are submitted to not only understand the extent and scale of works, but to ensure sufficient planning control should permission be granted.
- In this case I note that these plans have been submitted showing both existing and proposed levels, with sections drawings also submitted illustrating the proposed mounding/bund heights. Furthermore, at first glance it appears that no cut and fill figures have been provided to demonstrate the full scale of works. A volumetric analysis drawing, showing exactly where the proposed cut and fill elements of the proposal would be located, would help demonstrate that the figures included in the supporting statement marry those reflected on the ground.
- The submission of additional information would help clarify the applicant's intentions and would demonstrate the scale of earthworks as well as identify the nature of materials to be used. As previously mentioned, the current application does not state the type of materials that would be used for re-profiling or the location(s) from which the material would be sourced.
- Waste disposal activity normally raises issues of concern, most notably traffic impacts (from lorry movements), working methodologies (i.e. soil protection, planting programmes, phasing of works etc), noise issues, potential pollution prevention, impacts on water courses etc. Landscape impact and any ecological impact would also be important considerations, as would the potential diversion of inert waste material from existing mineral sites, thereby affecting restoration programmes.
- I would advise that additional details are submitted to your authority or that the applicants clarify were this information can be obtained within the current submission as currently I am of the view that nature and scale of the 'landraise works, cannot be accurately gauged.

Essex County Council Minerals and Waste – (further response)

- 4.8 Provide the following comments:

- Evident that the proposal involves the importation of some 281,770m³ of inert material based on an anticipated 27-35 loads per day (54-70 two way trips per day) and 253 working days per year allowing for 3.5-5 years for completion.
- Of the opinion that this is a hybrid application
- Landraising element alone is of a scale that would normally be consider a county matter;
- Proposal unlikely to constitute a waster recovery operation, but rather a waste disposal operation;
- Agree that TDC should determine application if satisfied that the development as a whole, inclusive of residential elements, is primarily that of a building development and engineering operations to create the landscaping;
- You should satisfy yourself that the proposal has been sufficiently appraised against policies contained within the Essex and Southend Waste Local Plan (2001);
- Policy W9B seeks to ensure that there would be a restoration need for such development;
- Proposal would need to demonstrate that amount of material imported and deposited would be minimum necessary and not at a scale beyond that necessary for restoration;
- Policy W10E sets out the criteria for the control of waste management developments;
- Agree that enabling development is a material consideration;
- If proposals are looked upon favourably the implementation of appropriate financial bond arrangements should be negotiated to ensure that not only the landraising element is completed appropriately, on time and in accordance with the plans;
- Also advise that an appropriate mechanism is put in place to ensure that any profit taken from the development is re-invested into restoration of the heritage asset, and
- Future planning and enforcement responsibility would rest with TDC.

Essex County Council Urban Design

4.9 Comment on design of buildings as follows:

- The North Lodges – No objection.
- Lodge Piece House – Object.
- Nuns Hall, The Pigeon House and the Deer House – No objection if on sites of historic precedent.
- The North Lake House – Revisions and further information required.
- The South Lake House – Object.
- The Shell House & Kitchen – No objection if justified.
- The West Lodge – Object.
- The South Lodge – No objection.
- The Slip Cottages – No objection.

4.10 The construction of all these buildings will require extended access roads and servicing and the impact of this on the historic parkland should be considered.

Essex County Council Schools

4.11 Request a s106 Agreement to provide additional primary school and early years and childcare places. On the basis of the unit mix indicated the contribution would amount to £861,250 (index linked). I understand that this is an enabling development and that usual developer contributions many not be achieved but based on the current capacity of St Osyth CE Primary and forecast demand, 150new houses could be accommodated. Anymore than this would place significant strain on the school unless funds can be found to expand it. If the Council is minded to refuse the application the lack of education provision in the area can be noted as an additional reason for refusal.

Essex Police

- 4.12 No objection and support the applicants intention to follow the principles of Secured by Design. Request that Secured by Design Certification must be a condition on any approval. Essex Police Senior Architectural Liaison (SALOs) Officers will ensure compliance of the scheme. Also recommend that TDC seek S106 contributions for CCTV coverage or additional CCTV coverage within the town centre due to the increase in population.

Natural England

- 4.13 Question whether the proposals have appropriately considered opportunities to avoid impacts as a result of proposed new buildings and the re-grading of 9 hectares at Lodge Piece. Advise TDC that there may be impacts upon the natural environment and recommend the proposals will need careful consideration against your duties under section 40(1) of the Natural Environment & Rural Communities Act 2006.

- 4.14 Detailed reasoning a follows:

- Higher Level Stewardship (HLS) agreement offered to enable the restoration of the historic landscape;
- HLS agreement will significantly address the condition of the Registered Historic Parkland by appropriately restoring the remaining historic features such as the wood pasture, woodlands, the traditional orchard, the historic belts and ancient trees. Any planned development needs to complement the restoration of the historic landscape as far as possible;
- Wildlife conservation value of equal importance within the HLS agreement;
- HLS agreement will also deliver significant areas of new wildlife habitat;
- Supportive of the intention to restore these important cultural assets;
- Whilst Natural England accepts the conclusion that the small numbers of houses proposed are unlikely to represent a significant risk alone, they will increase the cumulative risk to a degree and, inevitably if more than one of the seven (enabling development) applications are approved, the cumulative risk will increase further;
- Recommend that TDC secure developer contributions to ensure the continuation of the monitoring programme, and, should monitoring show impacts, help fund the implementation of appropriate mitigation measures;
- Works correctly identified as having the potential to affect the SPA through run-off via the northern reed bed and Wet 12, however we are satisfied that the mitigation measures proposed will be sufficient to ensure no adverse impacts;
- Satisfied that appropriate impact pathways have been considered for St Osyth Pit and Riddles Wood (SSSIs). Also satisfied that there are unlikely to be significant effects as a result of this application;
- Protected species unlikely to be a restraint at this location. The avoidance, mitigation and enhancement measures as detailed within the EIA should be secured through planning condition;

Badgers

- Site supports a number of badger setts and a growing population. Several of the dwellings have the potential to disturb badgers and/or interfere with their setts and mitigation will be essential;
- Overall agree with the conclusions of the badger report and do not anticipate that adverse impacts to badgers will be significant;
- Pre-works update badger survey considered essential and this should be secured by planning condition;

Bats

- Priory Estate provides an excellent all-round bat habitat;
- Proposals not anticipated to have a significant adverse impacts to bats, and are likely to be positive in places;
- Require pre-works survey as a condition of any planning consent;
- Essential that any external lighting schemes are sensitively designed, minimising light spillage and avoiding illuminating commuting and foraging routes. Lighting scheme therefore should be required via a planning condition;
- Also support the integration of bat roosting facilities in new buildings;

Reptiles

- Note the presence of slow worm and grass snakes in low numbers. These widespread species are not anticipated to be under threat from the development, however opportunities exist to enhance the site for reptiles and the recommendations in the report should be fully explored to maximise potential for this group.

Great Crested Newts (GCN)

- Great Crested Newts have been found on the site in varying numbers;
- Site does not represent ideal conditions for GCN;
- Proposal may impact upon GCN in several ways, including to terrestrial and aquatic habitat;
- Soil regarding and tree/scrub clearance works may adversely affect GCN if undertaken insensitively;
- Support approach suggested in the Herpetofauna Assessment but this may prove to be impractical and therefore consideration should be given to a licence application;
- The highly invasive non-native aquatic plant 'New Zealand pygmyweed' should be carefully and thoroughly removed following an Environment Agency assisted Method Statement. However this plant generally assists GCN by restricting fish movements and providing an excellent egg laying substrate. Removal is therefore detrimental to GCN and should be mitigated by replacement aquatic and emergent vegetation;
- Further thought should also be given to enhancing the conditions of other water bodies for breeding GCN;
- 'Wet 17' will be lost under current proposals for the regarding of Lodge Piece and this provides an excellent submerged plant community for egg laying;
- Suggest its use for egg laying may indicate a shortage of this habitat elsewhere on the site; and it may be suggestive that none of the survey visits found adult GCN;
- Also telling that other surveys describe Wet 17 as a 'shallow scrape' or 'intermittent seepage area';
- Confirmed record of GCN in Wet 17 does present legal ramifications and its loss (if pursued) will require compensation, the nature of which may be subject to future discussion as the normal provision of replacement ponds (at a ratio of 2:1) may not sit well within the historic landscape;

Invertebrates

- Site supports a diverse invertebrate community;
- Sufficient interest to warrant careful conservation attention;
- In Lodge Piece the banks provide drought-stressed conditions favouring a more diverse plant (and consequently invertebrate community);
- On south-facing aspect their value is increased and thermophilic and fossorial species are found;
- Presence of the 5-banded digger wasp is notable as a UK BAP species;
- Remnant grassland supports the picture-winged fly *Dorycera graminim* UK BAP;

- Concerned that works to re-profile this area will largely remove the favoured slopes, and unless carefully controlled, the importation of soils is likely to mean the conservation potential of this area will not be realised;
- Cultivated central area supports a naturally regenerated and reasonably diverse pioneer plant community. Significant works proposed in this area is likely to undermine the emerging interest;
- The LPA need to carefully weigh the suggested value of re-grading to the historic landscape, against the invertebrate conservation interest. If re-grading is seen as essential, the Invertebrate report has highlighted several key principles by which interest may be mitigated;
- Invertebrate report makes many recommendations for enhancement which are endorsed by Natural England;
- Works to Nun's Wood will provide multiple ecological benefits;
- Re-grading of the Cemex lakes to produce more south-facing areas of sandy soils will be further beneficial;
- Advise that the recommendations made in the report are integrated within an Ecological Management Plan, which should be secured by planning condition, and
- Support the suggestion that replanting of widely spaced standard trees is undertaken in a phased manner.

Development Proposals

- High ecological interest is in many ways a result of historic neglect;
- The number of new houses proposed within the park will inevitably increase disturbance levels;
- Whilst we understand the desire to provide long-term revenue income from the 12 holiday lets, it is unclear how the remaining 7 new build residences will contribute positively to the objectives of the restoration of the priory and parkland;
- Not clear how, or indeed whether, the houses are going to be provided with electricity;
- Assume that no cabling exists across the parkland and the installation of this would be likely to cause significant impacts. Above ground pylons/cabling would be likely to be incompatible with the presence of wildfowl. Conversely underground cables may cause additional disturbance during construction unless appropriately mitigated;
- Design and Access Statement does not make it clear whether there are defined garden areas with each property;
- Given the context of the historic setting, standard garden features are not appropriate and gardens should be excluded or be minimal in size; This is particularly the case for Lodge Piece House and Nun's Hall, both of which are in archaeology rich designed landscapes;
- Natural England expects to be consulted regarding any garden boundaries to ensure they are consistent with the historic landscape objectives of the HLS agreement;
- Landscaping and proposed screening associated with each house will need to be compatible with the historic landscape objectives of the HLS agreement;
- Recommend that a detailed planting plan, including species is required as a planning condition for agreement with Natural England and English Heritage, and
- Concerned that Lodge Piece House, North Lodges and West Lodge are out of proportion to their setting. Their scale is likely to detract from the historic landscape restoration, as being funded through the HLS agreement, rather than enrich it as intended.

Landscape proposals

- Concern over re-grading of 9 hectares at Lodge Piece. Not convinced that the gains will outweigh the adverse impacts, even in the context of the historic landscape objective of the HLS agreement. This area currently supports a range of important habitats and species including BAP invertebrates and has supported breeding great crested newts;

- EIA surveys show a surprising diversity of species are present in this area. Since the harvest of the most recent flax crop an interesting self-seeded assemblage of acid grassland species have colonised and it is anticipated that if re-grading does not occur this will continue to develop into a valuable mosaic habitat;
- Importation of soil may change the chemical and physical composition of the soil restricting the resultant habitat it is possible to create, as well as risking introducing invasive or inappropriate species. Consequently we do not agree with the conclusion that the overall impact of the re-grading is positive, and
- The 'deer bank' proposed for the eastern boundary along Colchester Road is actually an enlargement of an existing historic feature. Whilst broadly supportive of the restoration of this feature, the method by which it is done will need to be carefully researched and considered in collaboration with ECC Archaeology and English Heritage. Furthermore funding for this work has already been agreed through the HLS agreement and it is unclear what this application is proposing to deliver in addition to the works associated with the HLS.

Construction Phase Effects

- Satisfied that the correct impact pathways during construction have been identified within the EIA;
- Agree with the conclusions that impacts associated with works at Lodge Piece and Nun's Wood have potential to adversely impact upon water rail and little egret during construction. Recommend that works at these locations are timed to avoid breeding season, and
- Note the potential for the spread of Australian stonecrop as a result of the works at the Lake Houses. Agree that that appropriate best practice should reduce this risk however would recommend a post construction monitoring and control programme to ensure the wetlands are not affected.

Operational Phase Effects

- Satisfied that the correct impact pathways post construction have been identified within the EIA;
- Agree with the conclusion that the key operational risk is increased disturbance within the Park, including to species associated with the SPA/Ramsar site;
- Whilst we recognise that numbers of visitors as a result of the proposals are low, against a background level of no disturbance this could be significant, and
- Unclear why the SSSI wetland and wood pasture areas are not considered sensitive. Not clear how disturbance to those areas will be minimised.

Mitigation Measures

- Broadly agree with the mitigation measures proposed;
- Supportive of proposed covenant on pet ownership at the Lake Houses to prevent the risk of disturbance to nesting pochard (duck) by cats or dogs. Due to roaming nature of cats and dogs recommend that this covenant is extended to cover all properties within the Park, reducing the risk to ground nesting birds and to reptiles and amphibians;
- Concern regarding re-grading of Lodge Piece. Whilst we agree with the mitigation measures, mitigation should only be acceptable where impacts cannot be avoided;
- Recommend proposed re-grading is reconsidered, meaning the retention of existing high value habitats and species, costs associated with providing mitigation being reduced and an increase in funding for the restoration of the heritage buildings, and
- Pleased to see the commitment to restoration of the Nun's Wood ponds. Restoration will improve both the landscape and biodiversity value.

General comments

- Agree with conclusion that a Construction and Environmental Management Plan will be needed to avoid impacts during construction phases. In addition recommend that should permission be granted for any of the seven applications, a condition is imposed requiring the production of a broader Management Plan, which sets out mitigation measures during construction and enhancement measures proposed within the EIA and their ongoing management post construction, and
- Plan should be explicit about where measures are associated with the HLS agreement and where they are mitigation or enhancement through the planning process. It is important that the Plan considers in-depth the long term sustainability of the proposals both within and beyond the life of the HLS agreement in terms of resourcing (time and money) the future maintenance of the important habitats identified for retention, enhancement and creation within the ES.

4.15 In relation to the Advisory Appropriate Assessment, Natural England were contacted to discuss possible amendments to the application in the form of additional information, avoidance measures or mitigation measures, which would alleviate concerns raised in our letters dated 30th June 2011 and the AA report. This approach is consistent with the Habitats Regulation Assessment process which is designed to be an iterative one, with several 'feedback loops' enabling additional avoidance or mitigation measures to be incorporated into a developing plan or project.

Re-grading of Lodge Piece (11/00332/FUL)

- Natural England now understands that the 'driver' for the re-profiling of Lodge Piece is to restore a more historically appropriate landscape following significant mineral extractions at this location. We understand and appreciate that the original plans were to re-grade the entire area, and these have been significantly scaled back to minimise impacts to the existing ecology. Whilst from a purely ecological point-of-view this re-grading is likely to have some impacts during construction stages, we understand the conflicts between different agendas at this site. We are therefore satisfied that, with the mitigation proposed, including the incorporation of south facing banks (for invertebrates) in the design of the Deer Bank and along the northern boundary of the site (detailed design to be agreed with Natural England) that the resultant habitat provision will be as good, or better, than the existing situation. Consideration will need to be given to the long-term management of this area following re-grading to ensure the continued diversity of habitats is maximised, i.e. maintaining short sward areas, some bare ground etc. We have been reassured that the re-grading will be done using clean soils from a local source to ensure that no contaminants, including invasive plant seeds etc are brought onto site. The applicant agreed in the meeting that the current layer of top soil will be stripped and re-laid on top the imported soils, to enable the regeneration of the current seed bed and we support this approach. We recommend that Tendring DC consider the inclusion of a planning condition to this effect, should permission be granted.
- One of our main concerns with regards the re-grading was the potential impacts to Great Crested Newts (GCN's) at Wet 17. We do recognise that this area is, at best, occasionally wet, and is unlikely to consistently represent optimal GCN habitat, however this is the only location within the Park where these conditions are found. There are significant opportunities for improving existing water bodies on site, for example through the removal of overhanging vegetation, ensuring no fish introductions to some water bodies etc. We would also recommend that a deliberate effort is made to recreate the habitat found in Wet 17, for example by regarding the edges of existing water bodies to create damp boggy areas, of the type Wet 17 provided but is otherwise relatively unrepresented in the Park. This was discussed with the applicant and they have agreed that additional shallow scrapes could be created elsewhere, potentially adjacent to the existing water bodies to the north of Lodge Piece House. Appropriate mitigation will have to be agreed with Natural England's

Wildlife Licensing Department, should planning permission be granted, however we are satisfied that it should be possible to achieve a licensable solution.

Other issues associated with the Park proposals (11/00332/FUL)

- We discussed the potential impacts of cats and dogs within the park, and potential impacts upon protected species, in particular ground nesting birds. We were pleased to see commitment within the application to ensure a covenant on the occupancy of the two properties at Cemex Lakes preventing cat and dog ownership. This should minimise impacts to breeding Pochard (a species associated with the Colne Estuary SPA) and therefore satisfied our concerns under the Habitat Regulations. With regards to impacts on wider biodiversity within the Park, we recognise it might be considered impracticable to restrict the ownership of pets in all 19 properties. We recognise that of the 19 properties proposed in this application 12 will be for holiday rental and so the presence of pets in these properties will not be continual. The applicant has committed to requiring dogs to be kept under control and we are satisfied that this should be sufficient to minimise disturbance at the other locations within the park. This requirement should be made clear within the information provided in the holiday-let accommodation and if disturbance, of wildlife, or indeed livestock, is proving an issue we would recommend that this entitlement to holiday tenants be rescinded.
 - We understand that the detail of servicing provision to these properties has been considered and the intention is for underground cabling to be laid within the access tracks. This will minimise the short term land-take during cable-laying and will ensure both wildlife interests and the historic landscape is protected from the impacts of pylons.
- 4.16 Following these discussions Natural England maintains 'no objection' and we have a greater confidence that the concerns we raised in our initial letters can be addressed, for example through the use of appropriately worded planning conditions. We hope that the above provides clarity on our position as Tendring District Council considers this application.

Anglian Water

4.17 Site is in the catchment of St Osyth STW, which does not have the capacity available. Request condition relating to the following:

- *Waste water treatment* - drainage strategy covering the issues to be agreed.

Development will lead to an unacceptable risk of flooding downstream. Request a condition relating to the following:

- *Foul Sewerage Network* - drainage strategy covering the issues to be agreed.

Development may lead to adverse impact on water quality. Consultation with Anglian Water and the Environment Agency to determine the need for improvement works will be required as part of the drainage strategy for the site.

The preferred method of surface water disposal is to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Request a condition relating to the following:

- *Surface Water Development* - drainage strategy covering the issues to be agreed.

Trade Effluent is not applicable.

Environment Agency

- 4.18 This part of the development lies within Flood Zone 1 and is over 1 hectare in size. The FRA should therefore demonstrate the effective management of surface water at the site. It is intended to discharge surface water to the lakes adjacent to the buildings which will maintain the levels of the lakes and enhance the ecology of the lakes. The lakes will be capable of providing sufficient capacity for surface water generated on site and we remove our objection to the development subject to condition being appended to any planning permission granted in relation to the submission of calculations confirming sufficient capacity within the lakes to accommodate the 1 in 100 year storm, inclusive of climate change, without causing flooding elsewhere.

Essex Wildlife Trust

- 4.19 Object on the grounds that the mitigation and compensation is inadequate and inappropriate. Particularly objects to the direct and indirect loss of features of biodiversity interest.

Essex Wildlife Trust (Tendring Local Group)

- 4.20 Object to the applications in total.
- Concern over loss of mature trees, with disruption to bats, the only heronry in Tendring, Rooks and other nesting birds.
 - 19 buildings dispersed in the parkland will 'animate' the park, with associated traffic, roads and infrastructure.
 - Drainage concerns regarding the infill at Lodge Piece.
 - Construction of roads and infrastructure will detract from the beauty of the park.
 - The ancient parkland is adjacent to a SSSI, nature reserve and dominates the neighbouring creeks which form part of a SPA and candidate SAC.

Campaign to Protect Rural Essex (CPRE)

- 4.21 Object on the following grounds: Marketing not completed; Conservation Deficit not determined; issues of site stabilization (which will increase the conservation deficit); inadequate highway infrastructure; inadequate public consultation and inadequate public access.
- 4.22 In addition, not convinced that houses planned within the historic park are appropriate. Believe they are not planned on the sites of any previous residential buildings and most represent new-builds on sites where there were no structures at all. Any claim to be replacing them with equivalent buildings is frivolous. Construction of new access roads, sewage treatment facilities, power supply lines etc and support services will drive up the conservation deficit.
- 4.23 Understand that the landfill will generate substantial revenue which needs to be taken into account.
- 4.24 A few residential buildings of quality would not be inappropriate within the park but these should be carefully sited and on a limited basis requiring no new major access roads. The suitability of some of the proposed designs seems very questionable and suggestive of an 'Historic Theme Park', which bears no relation to the true history of the Priory and its park.

Royal Society for the Protection of Birds (RSPB)

- 4.25 Objects to the proposed development in the absence of suitable mitigating or compensatory measures due to the likely impact of the proposed development on pochard, which is a qualifying species of the Colne Estuary SPA. Development at the North and South Lake Houses could have an adverse effect on the Colne Estuary Special Protection Area (SPA) with significant risk to breeding pochard from resident's owning cats. RSPB believes that a pet covenant cannot be used as mitigation as a number of legal judgments suggest pet covenants are neither legally enforceable nor appropriate to this type of residential development.

The Garden History Society

- 4.26 Object to the proposals.
- 4.27 St Osyth's Priory has been identified by English Heritage as a designed landscape of special historic interest in the national context, and has been included on the Register of Parks and Gardens of Special Historic Interest at Grade II. The Register is a highly selective designation comprising some 1,600 sites.
- 4.28 The Garden History Society was consulted on these proposals in 2009 and its conservation team invested considerable effort in feeding into the process, including bringing the case to the attention of its Conservation Committee, and duly passing back its recommendations. It is disappointing to see that that the reservations we reported then seem to have had little impact (they are attached here for your reference).
- 4.29 The Committee had serious concerns about the underlying philosophy of these proposals and questioned the justification for enabling development at this important historic designed landscape. It recorded a strong preference for the development to be limited to that outside the Registered boundary and had serious ethical concerns about development, within this Registered Park.
- 4.30 The Garden History Society therefore objects to the erection of 19 dwellings for use as residential and holiday accommodation (C3 use) as described in 11/00332/FUL.
- 4.31 However, we do acknowledge the controversial argument that the buildings reanimate the historic park and recognise that you may be minded to grant consent to this proposal. In this instance, we ask you note our concerns that the historic style of these new buildings, in many cases based on flimsy historic evidence or precedent, will create a pastiche or Disneyfication and lead detrimentally to a confused reading of the historic landscape, a difficulty in understanding the significance of the heritage asset, and a disintegration of its integrity. We would therefore urge the applicant to adopt a more bold approach in their design and consider something more obviously modern.
- 4.32 The Garden History Society's Conservation Committee also had grave concerns over the increased risk of future site division and split ownership as a result of the new buildings of application 11/00332/FUL. (As you will know, split ownership in a historic landscape can be hugely detrimental to its integrity and successful management.) We would ask that if permission be granted for these homes, the council secure a permanent legal agreement that ownership of these properties be kept with the rest of the Priory.
- 4.33 The Society welcomes the proposed increased public access to St Osyth's Priory and so does not object to the visitor centre development, although again we do have concerns about the pseudo-historic ornate design of the new buildings.

Essex Gardens Trust

- 4.34 Object. The core of the application site encompasses an area, which is included on the English Heritage Register of Parks and Gardens of Special Historic Interest. The Register covers over 1500 landscape sites that are regarded as being of special historic interest in England. St. Osyth Priory is graded as grade II which identifies the site as being of sufficiently high level of interest to merit a national designation (English Heritage). In addition the application site has or is adjacent to other designated protected areas; the Trusts comments however relate to the impact upon the registered landscape. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional.
- 4.35 The proposed scheme consists of a series of building projects under enabling development to fund the restoration of the Priory buildings but the registered landscape is the Trusts prime interest. Application no.5 (11/00332/FUL) concerns 19 buildings to be added to the park with the aim of providing a mixture of residential and visitor accommodation and facilities to contribute to the long-term maintenance of the estate. Although some of these buildings are technically just outside the boundary of the registered landscape, their positioning is such that they should be considered within the context of the registered landscape.
- 4.36 The Trust would not object to buildings within the landscape where their individual positioning and architectural style is based upon sound historical research for example replacing a building that once stood in the landscape (such as the Pigeon House or Deer House) or restoring existing structures in the landscape (such as Nuns Hall or the Shell House). Such buildings should be set within an appropriate landscape setting. The Trust appreciates that the use of these buildings as short term or holiday lets would provide funds for future works.
- 4.37 The proposals also include new properties within the parkland and it is unclear as to how these would contribute to the enabling development. The Trust would not be against adding a new layer to the landscape providing the impact of such development is sufficiently mitigated. However three properties in particular (Lodge Piece House, North Lake House and South Lake House) are substantial developments with associated private space and appear to be intended for residential use only, not rental so not generating an income. The Trust has concerns as to the long term impact of these properties and whether parts of the registered landscape would later be annexed from the overall landscape. Policy HE11 on enabling development in Planning Policy Statement 5 Planning for the Historic Environment (2010) states those local planning authorities should consider if the development will avoid detrimental fragmentation of management of the heritage asset. The Trust would like to know what measures have been taken to keep the estate intact in the future and to ensure the long term management of the landscape.
- 4.38 West Lodge, also a new build, is just outside the boundary of the registered landscape but will have an impact not only on the setting of the park but also on the rural landscape character of the estuary and surrounding countryside. It is unclear as to the intended long term use of this proposed building.
- 4.39 It is unclear from the documentation as to whether the landscape restoration works and restoration of the Priory Gardens would be funded via enabling development. Paragraph 3.1.4.3 of the Design and Access Statement would seem to indicate that monies from enabling development would not be used for any landscape restoration works, and elsewhere that a separate application for Higher Level Stewardship funding would be made once the planning applications have been determined. The Trust is pleased to note the landscape strategy contained within the Conservation Management Plan but such landscape work would need funding to ensure its long term maintenance and management and it is unclear as to whether or not any monies would be put aside for this purpose.

4.40 In examining this complex set of proposals, the Trusts key objective has been to determine the extent of restoration and long-term management of the registered landscape and the extent to which the implementation of these proposals would be to the detriment of that registered landscape. The Trust therefore feels that in their current form, the proposals are not acceptable for the reasons outlined above.

Save Our St Osyth

4.41 Object.

- The overwhelming comments of our membership are a desire to re-establish access to the Priory buildings and grounds, which have remained, closed during the term of ownership by the Sargeant family.
- We do not consider this limited level of access matches the very large public subsidy being sought.
- The applications are premature since not all the principles of Enabling Development have been satisfied.
- It has not been established and not agreed by English Heritage and the Local Planning Authority that the amount of enabling development is the minimum necessary.
- The Market Testing strategy is not transparent or completed.
- The application for Wellwick has been submitted in outline only.
- There appears to be no alternative revenue provision.

4.42 For these reasons alone, we consider that the applications DO NOT comply with the requirements in that the Enabling Development need is not proven.

4.43 Further detailed objections relate to:

- Access concerns
- Prematurity
- Scale of proposals
- Historical context
- Deterioration
- Creating a national precedent
- Design
- Highways
- Environment
- The choice of site

4.44 In relation the parkland proposals, comment as follows:

5.1 19 Dwellings in Historic Park (Elements 1 and 2).

5.2 Re-grading Land.

5.3 Construction of Driveway.

5.1 Element 1

SITE A	LODGE PIECE HOUSE
SITE G23	LAKE HOUSE NORTH
SITE G32	LAKE HOUSE SOUTH
SITE K12	SOUTH LODGE
SITE J	SLIP COTTAGES x 8
SITE F	PIGEON HOUSE

4.45 OBJECTION TO 5.1 ELEMENT 1 - There is absolutely no evidence of any structure being on these sites. They are therefore new build.

- Sites G23 and G32 are of modern inappropriate design.
- Sites A and K12 are of poor design bordering on the ludicrous.
- Site J these cottages, resembling almshouses, are inappropriate, crowded in appearance and out of keeping with a Conservation Area.
- Site F no evidence this ever existed spurious claim by applicants.

5.1 Element 2

SITE B LODGES x 2 (Formerly Residential Gamekeeper)
SITE G1 GROTTO AND KITCHEN (Former Summer House)
SITE H DEER HOUSE (Formerly Observation Turret and Butchery)
SITE C NUNS WOOD HALL (Formerly Summer House)
SITE I WEST LODGE (Shepherds Complex)

OBJECTION TO 5.1 ELEMENT 2 - Only SITE B was residential. All these former structures are now non-existent.

Site B Demolished 1965/7. Undermined by sand and gravel extraction.

Site G1 Undermined 1960 by sand and gravel extraction derelict 1980.

Site H Demolished by the Victorian period. Sand and gravel extraction 1896.

Site C Folly/Summer House 1920s. Derelict 1940s

Site I Sheep pens, birthing barns, mobile Shepherds Hut, stock and shepherds winter quarters above the flood line. Demolished by 1920. Hut last seen 1948. It is crystal clear therefore that the demolition of all these former structures was completed by 1980. Ergo no one-for-one building rights. Those structures proposed within the Parkland therefore have to be regarded as new build not replacement dwellings. The designs are totally unacceptable; the scale is vastly above that of the former structures. The locations within the Historic Park would be serviced by Sewage Treatment Works and would introduce roads across the Park with street lighting etc. driving up costs. Whilst by no means suggesting overcrowding, the introduction of these structures would be very ostentatious and intrusive. It is stressed that hitherto all the Estate housing was on the periphery of the precincts. There was no intrusion by staff of a social nature. The introduction of families, vehicles, pets and all the 21st C accoutrements, with all the resultant human activity will destroy the Priory pastoral setting forever. This would be the same outcome whether the units are holiday lets or residential. If the two lakeside houses are to accommodate members of the Sargeant family, we do not see how this will contribute to funding the conservation deficit.

4.46 The Priory parkland is an Historic Park, one of three in the Tendring District. The Local Plan and the emerging Local Development Framework state, it is the duty of the District Council to protect areas of historic interest from harmful development and this cannot be set aside by Enabling Development.

4.47 This application constitutes fragmentation of the heritage asset and we therefore object in the strongest possible terms to any dwellings whatsoever in the Historic Park and gardens of St Osyth Priory.

5.2 REGRADING LAND

5.3 ALTERATION/CONSTRUCTION OF DRIVEWAY

4.48 OBJECTION to 5.2 and 5.3 - We have been unable to find any details within the supporting documents concerning these items other than reference to regrading 9 Ha of Lodge Piece, the creation of a Deer Bund and the Restoration of the Northern Approach.

4.49 There has been no public consultation or discussion regarding this proposal although it appears to have been discussed with TDC and ECC planners. However, we would state categorically that we would object to the importation of non-indigenous materials, transport

by road to the site, intensification of the existing access onto the B1027 adjacent to Footpath 19 and the loss of the lay-by.

- 4.50 The construction of the Deer Bund and the removal of mature indigenous trees would impact negatively on wildlife and the 14 nationally significant species found in lodge piece. We are not confident that restitution would take place or whether this would compensate. In any case it would take many decades to become effective.
- 4.51 We reserve the right to comment further should details be submitted. We refute the claim that in any way represents work permitted under the Enabling Development Policy.
- 4.52 Document 9 drawing 730A2 4OF purports to show the site boundary NORTH of Footpath 19. This is incorrect, the boundary is SOUTH of Footpath 19. We refute entirely the applicants claim that this was ever an estate vehicular access historically.

Parish Council Responses

St Osyth Parish Council

- 4.53 The Parish Council has been advised by the Planning Department of Tendring District Council that it should submit its preliminary comments on all of these applications before the expiration of the statutory period for determination of the applications and reserves to itself the right to make further comments in time for their consideration by the Planning Committee of the local planning authority in due course. The St Osyth Parish Council therefore now submits its OBJECTIONS at this time to the applications for the following reasons:
- Not all of the items listed in Appendix 1 of the guidance issued by English Heritage in its publication Enabling Development and the Conservation of Significant Places have been submitted by the applicants/made available to the Parish Council, particularly the final and full conservation deficit assessment and the report of the marketing of The Priory Estate. In the absence of these documents the Parish Council is unable to conclude, amongst other things, that the public benefit of securing the future of the Priory Estate through the enabling development applications outweighs the disbenefits of breaching other public policies;
 - The Parish Council is concerned, amongst other things, about the overall impact of the proposed enabling developments (whether carried out in whole or in part) on the character of the village. The introduction of new residential dwellings on the scale proposed (when there is no proven need for large scale additional housing in the village) will change the nature and composition of the local population in a way that could adversely affect community life and impose unacceptable burdens on local services and the highway network;
 - The proposed developments do not secure meaningful and regular access by the public, not least residents of the village, to The Priory buildings and the Priory Estate;
 - The Parish Council is informed that in respect of the Parkland there is no conclusive evidence that residential structures, with the exception of Lodge houses on the northern boundary, were situated throughout the Park;
 - The Parish Council is concerned that the proposed developments will have a deleterious impact on ecological aspects of the Priory Park and its surrounding habitats, many of which are protected under national and international conservation designations. Further the Parish Council believes that the potential ecological impact of the proposed developments has not been fully investigated.

- In the absence of the evidence that demonstrates the proposed enabling developments meet the criteria set out in The Policy, page 5 of the said guidance referred to in 1 above, the Parish Council considers that there is no justification to grant planning permission for the applications seeking Conservation Area Consent and Listed Building Consent (11/00336/CON & 11/00335/LBC respectively) and in respect of 11/00334/FUL, since these could be linked to the enabling development proposals and could result in an unacceptable increase in traffic in the village, based on its understanding of the traffic generated by other similar uses. The Parish Council believes that the proposed design of the visitor centre/function room suite is unsuitable for this historic location. Additionally, the Parish Council understands that the 3 applications involve development that is contrary to the planning policies of Tendring District Council and the Parish Council objects to these applications for this reason.

4.54 The Parish Council wishes these OBJECTIONS to be taken into account by the local planning authority in the event of the applications being determined now. The Parish Council will submit its final comments on the applications when it has received notification of the outstanding documentation from the local planning authority and of the date by which such final comments are to be submitted, or at such earlier time as the Parish Council may itself decide.

Great Bentley Parish Council

- 4.55 These applications were discussed at our recent Planning Committee Meeting and the Parish Council comment as follows. Throughout the Local Development Framework process the proposals for development that were put before TDC were that further development would be centered around the growth areas of Clacton-on-Sea and Harwich and these specific areas should be targeted in order that employment was encouraged in these areas. If development is to be encouraged outside of these areas it will merely create St Osyth as a dormitory settlement to Clacton which will encourage car use and traffic generation. Furthermore the numbers that have been identified in the annual monitoring document do not suggest that growth in this area is required, needed or wanted. The pressure on the existing health and education provisions will be beyond their capabilities which will create problems for the existing services and force further development or expansion of additional services or the re-location of families from the area.
- 4.56 The huge increase in traffic will impact on Great Bentley severely and the already heavily congested commuter route will be pressurised further which with the level crossing will cause serious delays and upheaval in the village. We are working with other agencies to reduce this problem now and do not wish for it to be increased further.
- 4.57 The environmental impact on this development is considerable and the Parish Council feels that sites marked as being of special scientific interest should be protected at all costs along with the need for Areas of Outstanding Natural Beauty to be preserved for future generations. It is urged that the District Council consider the European Habitat Regulations in their full provision and use them to protect this site from development. It has been suggested by members of the public that Great Crested Newts have been spotted on the site.
- 4.58 Therefore the Parish Council strongly objects to all the applications for the reasons mentioned above and because St Osyth Priory has a valued historical place in our community as it stands now which should be protected

Brightlingsea Town Council

- 4.59 Thanks TDC for allowing us to comment, but our concern is the traffic. There will be problems with access roads and junctions.

5 Representations

5.1 A total of 634 representations, including two petitions with a combined 1060 signatures, have been received spread across the suite of applications.

5.2 This application was the subject of the two petitions (as detailed above) and also received 257 representations in opposition to the proposals, which are summarised as follows:

- Informed land was conservation land and would never be built on.
- Infrastructure of village already at bursting point.
- Additional housing would have detrimental impact on residents.
- Village will lose its tranquil status.
- Already waiting lists for primary school places.
- Medical facilities and utilities are already stretched.
- Extra burden placed on waste collection.
- Restricted public transport services in the area.
- Increased volume of traffic on roads (especially at crossroads).
- Construction of car park will decrease the area used by deer.
- Noise pollution from function evenings, i.e. slamming car doors.
- Overlooking.
- Surrounding properties likely to decrease in value.
- Will compromise quality of life of residents.
- Applicants constantly purchasing property within village to make a profit.
- Ecology could not withstand this disruption.
- Increase in traffic and population would cause rapid decay of ancient monuments.
- Serious negative effects on wildlife and habitat.
- Increase crime rate, late night activity and litter.
- Lack of employment available in the area.
- No need for another holiday outlet in the area.
- Construction process will cause chaos to village.
- Additional visitors will cause parking problems – not enough parking provision.
- Minimal job opportunities as applicants already have workforce.
- Only the applicants will reap the benefits at expense of the village.
- If the Priory was left to self destruct it would still remain habitat for wildlife and form a land mark of historic interest for centuries.
- The Priory is up for sale with 20 acres – what about the remaining 340 acres?
- Development would be in a conservation area
- Conservation deficit not agreed, marketing strategy not completed and documentation is incomplete (costs of repairs not supplied) so does not fall under enabling development.
- Disproportionate scale and impact of enabling development – wholly detrimental to existing St Osyth Settlement.
- Fundamentally inappropriate location for significant new growth.
- Increased traffic congestion on roads, particularly in holiday season.
- Tighter control over developer profit should be secured by Section 106 Agreement.
- Will set a precedent for enabling development – locally and nationally.
- Benefits of restoration of the Priory do not outweigh extensive disadvantages.
- A number of healthy trees will need to be felled.
- No defined need within this key rural service centre for the type of housing proposed.
- Proposed bus stops would interrupt traffic flow along main access route.
- Demolition of No. 7 Mill Street would detract from the established character of the street scene.

- Resident's outlook would be ruined.
- Out of character with rest of village.
- Impact on the business centre of St Osyth
- Benefits of proposals work entirely and exclusively in favour of the family proposing them.
- St Osyth has recently received more development than most villages.
- Tendring is a high unemployment area so people will be commuting to distant work places.
- No roads should go through the Historic Parkland
- No evidence that alternative sites/options have been explored.
- If applicants are not liable for provision of extra facilities costs will land at tax payer's door.
- If approved projects could be sold on to other developers such as Wimpey or Barratts.
- Large number of the properties would be outside the village envelope and will change rural aspect.
- Tourism could suffer from change in character of village.
- Only one road in and one road out of the village.
- Speed limit on Colchester Road too high.
- Light pollution from visitor/function centre.
- Likely to lead to substantial degradation of landscape and loss of agricultural land.
- Effects to Howlands March by extra foot fall could affect this nature reserve badly.
- Once building work starts the Priory can never be restored back to its natural state.
- Access from Colchester Road will cause problems in peak hours.
- The Wellwick site could create a ghetto area separated from St Osyth.
- The ditch and bund along Colchester Road, and the proposed restoration/landfill to northern part of Priory grounds require further explanation.
- Concerns over the applicant's entitlement to moor at the creek during construction.
- The preservation should be a long term commitment and other ways to raise money should be looked at.
- Building and its setting is historically important and should not be allowed to build on heritage.
- Actions from profiteering scheme will impact on countryside, wildlife and village inhabitants.
- Will directly violate conservation area.
- Resources, character and future prosperity of village will be compromised.
- Will compromise quality of life of residents.
- SSSI and AONB should be preserved for generations.
- Local Plan – Emerging LDF Project 34 states no further (large scale) development in St Osyth.
- Unsustainable sites for development.
- Poor design
- Applicants must have been fully aware of work needed to refurbish the Priory when buying the property.
- Loss of privacy.
- Would lose a valuable, well used layby.
- No attention has been paid to public perception of development and community 'ownership'.
- Boundary line of Westfield site is incorrect – goes through resident's gardens
- No evidence of any structures being on these sites – they are new builds.
- Priory has been left to deteriorate for 10 years.
- Not historical restoration - New builds unsympathetic and bear no resemblance to former structures.

- St Osyth is designated as a key rural service centre, intended to indicate small level of expansion only.
- The development would turn the village into a town.
- Colchester Road floods in heavy rain.
- Development will create months of road works.
- Overdevelopment.
- Existing properties on the market are not selling – no need for more.
- Development would cause fragmentation of historic asset.
- Would not generate necessary funds to restore the Priory.
- Deliberate neglect.

6 Assessment

6.1 The main planning considerations are:

- Principle of development
- Enabling Development Guidance
- The Public Benefit
- Enabling Development Policy Criteria Assessment
- Landscape Impact
- Highway Issues
- Biodiversity and nature conservation
- Local Amenity
- Other issues

Site Context

6.2 This application relates to The Priory Park, which is a Grade II Listed Historic Registered Park and Garden. The Park is made up of a number of character areas including Nuns Wood in the centre of the Park and various lakes and ponds.

Proposal

6.3 This application relates to the erection of 19 dwellings. The supporting information provides that the residential development will be partially occupied by the applicant's family who currently live in existing precinct buildings with remaining buildings used as holiday let and rentals providing a long term income into the estate. In addition this application proposes the restoration of the park landscape; bunding; re-grading of 9 hectares of land; construction and alterations to access driveway; landscaping and all ancillary works.

6.4 The 19 dwellings are comprised of the following:

- 2 no. North Lodges – *It is suggested by the applicant that these are to be sited close to the location of two former lodge buildings, demolished in the 1960s.*
- Lodge Piece House – *Designed as an 18th century Dower House and sited on the western edge of Lodge Piece, the former quarry site.*
- 2 no. Lake Houses (North and South) – *to be sited at the edge of the two Cemex lakes (which are a result of the previous mineral extraction).*
- West Lodge – *It is suggested by the applicant that a lodge was historically located in the south west of the Park.*
- South Lodge – *To be sited to the north east of the West Field proposals.*

- 8 no. Slip Cottages – *to be located on the east side of the Park near to the existing garden's cottage with vehicular access from Colchester Road.*
 - Nun's Hall – *The applicant suggests that one wall remains of the historic building and that this building is to be used as a holiday let.*
 - Grotto Grove-Shell House – *The applicant suggests that much of the wall remains of the original structure and that this building is to be used as a holiday let.*
 - Pigeon House – *The applicant suggests that historically a Pigeon Cote was located within the Park and that this building is to be for holiday use.*
 - Deer House – *The applicant suggests that this building is proposed to be sited close to the location of the original Deer House and that this building is to be used as a holiday let.*
- 6.5 The supporting Design and Access Statement (DAS) provides that the proposed new buildings are designed to reanimate the listed, historic park and to provide a mixture of residential and visitor accommodation and facilities to contribute to the long-term maintenance of the estate. In particular the following are identified as dwelling houses:
- North Lodges (x2)
 - Lodge Piece House
 - North and South Lake Houses
 - West Lodge
 - South Lodge.
- 6.6 The following are identified as holiday let or rental accommodation:
- Slip Cottages (x8)
 - Nun's Hall
 - Pigeon House
 - Deer House
 - Grotto Grove (aka Shell House – Kitchen)
- 6.7 The DAS goes on to state that many of the proposed buildings are sited at, or adjacent to, the location of an original building and that all are designed to provide the visual incident so necessary in the 18th century designed landscape, which has been obliterated over the years at St Osyth.
- 6.8 The DAS also explains that the new introductions to the park are partially born of the desire to minimise enabling development outside the park and to recognise the new landscape created by the 20th century gravel works as well as provide another layer of history that has its origins in the 21st century.
- 6.9 It is explained that all the residential dwellings will be kept under one freehold in order to control how they are used and managed but also to ensure that the long term income generated by this development is available for the restoration of the Priory buildings.

Submitted Documents

- 6.10 The suite of applications is formed by the following submissions:
- Application forms, certificate of ownership and red line plans;
 - Site survey;

- Application drawings;
- Supporting Planning Statement;
- Heritage Documents comprising a Statement of Heritage Significance, Conditions Survey, Conservation Management Plan, Landscape Conservation Management Plan, Condition Plan, Marketing Evidence and Conservation Deficit Report;
- Environmental Statement;
- Statement of Community Engagement and Addendum;
- Sustainability Report;
- Transport Assessments, and
- Draft S106 Agreement

Principle of Development

- 6.11 The National Planning Policy Framework (NPPF) was published by the Government on March 27th 2012. The NPPF sets out the Government's planning policies for England and how these are expected to be applied. It remains the case that the Council is required to make decisions in accordance with the development plan for an area, unless other material considerations indicate otherwise (S.38 (6) of the Planning Act). The
- 6.12 Development plan for Tendring comprises:
- Tendring District Local Plan (2007)
- 6.13 In addition, limited weight can be attributed to the recently published Tendring Local Plan: Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014).
- 6.14 The NPPF sets out policies and principles that local planning authorities should take into account, when both preparing local plans, and determining planning applications. The policies within the NPPF are a material consideration that should be given significant weight. Of particular note within the NPPF is the requirement that there is a presumption in favour of sustainable development. Paragraph 6 of the NPPF states that 'The policies in paragraphs 18 – 219, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system' and paragraph 7 sets out three dimensions of sustainable development:
- 6.15 *An economic role* – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- 6.16 *A social role* – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
- 6.17 *An environmental role* – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.
- 6.18 Saved Local Plan policies QL1 and HG3 are relevant. Policy QL1 outlines the spatial strategy for the district and establishes that development will be concentrated within settlement boundaries. Policy HG3 states that within defined development boundaries of towns and villages, residential development will be permitted provided it satisfies amenity,

design, density, environmental, highway, local housing needs and sustainability criteria, as appropriate, and can take place without material harm to the character of the local area.

- 6.19 In terms of general housing provision, the National Planning Policy Framework (NPPF) requires local planning authorities to identify and keep up-to-date a deliverable five year housing land supply + 20%. Without this, even recently adopted planning policies for the supply of housing will be considered out of date (NPPF para 49). This is particularly important given that the NPPF states that where relevant policies are out-of-date, permission should be granted unless any adverse impacts outweigh the benefits, or other policies indicate otherwise, when assessed against the NPPF (paragraph 10). Having an understanding of supply is also key to fulfilling the NPPF requirement to demonstrate the expected rate of housing delivery and how housing targets will be met (paragraph 47). The Councils Five year supply + 20% of housing land equates to 4,110 dwellings.
- 6.20 Policy EN30 requires any proposals for development within the Historic Centre of St. Osyth to require an appropriate level of archaeological mitigation prior to development.
- 6.21 The proposal site lies outside the confines of the St Osyth settlement. As such, the site is in a location where residential development is not considered appropriate, except in special circumstances, such as agricultural workers' accommodation. However, the NPPF does allow local authorities to consider 'enabling development' proposals, which would secure the future conservation of a heritage asset.

Enabling Development Guidance

- 6.22 'Enabling development' is development that would be unacceptable in planning terms but for the fact that it would bring public benefits sufficient to justify it being undertaken, and which could not otherwise be achieved. While normally a last resort, it is an established and useful planning tool by which the long term future of a place of heritage significance maybe secured, provided that the balance of public advantage lies in doing so. The public benefits are funded through the increased value of the land, as a result of the granting of planning permission for its development.
- 6.23 The difference between the cost of carrying out works to bring a heritage asset (such as a listed building), back into use and the end market value can be negative. In such instances the difference is known as the 'conservation deficit'. The term conservation deficit is therefore referred to throughout this report.
- 6.24 The basic proposal behind the group of applications before the Council is that repairs to the historic buildings, along with the historic landscape, within the St Osyth Priory Estate are proposed to be funded through new developments within the St Osyth Priory Park (i.e. Westfield and Park developments) and outside of the estate (i.e. Wellwick). This application relates to the development within the Park.
- 6.25 The NPPF, at paragraph 140, provides that Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.
- 6.26 At the heart of enabling development is an 'exchange' whereby some disbenefit is accepted, as a result of permission being granted for development which would otherwise be unacceptable, in return for a benefit funded from the value added to the land through the consent granted. Thus, there must be a consensus that the public gain outweighs the public loss. In this case, because of the national importance of the site (a unique collection of grade I, II* and II buildings and ancient scheduled monuments within a Grade I landscape), 'community' and 'public interest' must be considered in the widest sense. The public gain

would be the conservation of the heritage assets for the long term; the public loss would be new development outside the site in this application, and outside the site in others. The submitted Statement of the Heritage Significance details the exceptional significance in the case of St Osyth Priory and cites, inter alia, the site being a substantial part of village life for 1300 years, the significance of the site for the people of England who value the monastic architecture, the ecology and nature conservation, patients who recuperated at the site after World War II and in relation to the history of both Anglican and Catholic churches in Britain as factors as to why the Priory is of exceptional significance.

- 6.27 English Heritage's document on enabling development, entitled Enabling Development and the Conservation of Significant Places, Policy and Guidance, (June 2008) advocates a presumption against enabling development unless it meets specific criteria, the most important being that the benefits of the proposed enabling development should outweigh the perceived disbenefits.
- 6.28 This English Heritage document clearly states under what circumstances enabling development should be acceptable. The policy states that enabling development that would secure the future of a significant place, but contravene other planning policy objectives should be unacceptable unless:
- a) It will not materially detract harm the heritage values of the place or its setting;
 - b) It avoids detrimental fragmentation of management of the place;
 - c) it will secure the long term future of the place and, where applicable, its continued use for a sympathetic purpose;
 - d) it is necessary to resolve problems arising from the inherent needs of the place, rather than the circumstances of the present owner, or the purchase price paid;
 - e) sufficient subsidy is not available from any other source;
 - f) it is demonstrated that the amount of enabling development is the minimum necessary to secure the future of the place and that its form minimises harm to other public interests;
 - g) the public benefit of securing the future of the significant place through such enabling development decisively outweighs the disbenefits of breaching other public policies.
- 6.29 The policy goes on to state that if it is decided that a scheme of enabling development meets all these criteria, English Heritage believes that planning permission should only be granted if:
- a) the impact of the development is precisely defined at the outset, normally through the granting of full, rather than outline, planning permission;
 - b) the achievement of the heritage objective is securely and enforceably linked to it, bearing in mind the guidance in ODPM Circular 05/05, Planning Obligations;
 - c) the place concerned is repaired to an agreed standard, or the funds to do so are made available, as early as possible in the course of the enabling development, ideally at the outset and certainly before completion or occupation;
 - d) the planning authority closely monitors implementation, if necessary acting promptly to ensure that obligations are fulfilled.

6.30 Tendring Local Plan policy EN27 reflects the English Heritage criteria for enabling development. The policy clarifies that failure to meet any one of the criteria will normally result in the refusal of any planning application justified through the enabling development argument.

6.31 Policy EN27 states that enabling development will not be permitted unless it satisfies all of the following criteria:

Part 1

- a) The enabling development will not materially detract from the archaeological, architectural, historic or landscape interest of the heritage asset, or materially harm its setting;
- b) It has been clearly demonstrated that all alternative options have been fully evaluated;
- c) The proposal avoids detrimental fragmentation of management of the heritage asset;
- d) The enabling development will secure the long term future of the heritage asset, and where applicable, its continued use for a purpose that reflects the character of the asset;
- e) The need for the enabling development arises from the inherent needs of the heritage asset, rather than the circumstances of the present owner, or the purchase price paid;
- f) Financial assistance is not available from any other source consistent with the preservation or enhancement of the heritage asset;
- g) It is demonstrated that the amount of enabling development is the minimum necessary to secure the future of the heritage asset; and
- h) The value, or benefit, of the survival or enhancement of the heritage asset outweighs any harm to the asset by providing the enabling development.

Part 2

- a) The impact of the development is precisely defined at the outset, normally through the granting of full, rather than outline, planning permission;
- b) With reference to the guidance contained in Circular 1/97, Planning Obligations, the objective of the preservation of the historic asset is securely linked to the planning permission; and
- c) The historic asset is restored to an agreed standard, or funds made available to secure this aim, prior to the commencement of the use of the enabling development.

6.32 Policy EN27a states that the Council is committed to the conservation, preservation and restoration of St. Osyth Priory and to that end, will work in conjunction with the landowner and English Heritage. Policy EN27a makes it clear that any application for enabling development will be judged against the criteria set out in Policy EN27 above. Accordingly there is a development plan commitment to work with the landowner in this regard.

The Public Benefit

6.33 At the very heart of enabling development is the intention to secure a public benefit. St Osyth Priory is of outstanding national importance, as denoted by its Grade I status, meaning that it is within the top 2% of listed buildings in England. English Heritage advises

that St Osyth's Priory is a remarkable complex of buildings dating from the 13th to 19th centuries and forms a poetic ensemble. The importance of the Estate is reflected by the number of statutory designations. A large part of the site is scheduled as an ancient monument, 22 listed buildings of which 7 are at Grade I. The gardens and park are registered as Grade II listed. The Priory also falls within the St Osyth Conservation Area. The statutory listing status imposes a presumption in favour of preservation and underlines the importance of such sites in our national culture and heritage. Thus the preservation of the historic buildings and landscape for their own sake is a public benefit. It goes without saying that the historic environment is a non-renewable resource, we hold in trust for future generations. The recognised importance of the heritage assets also requires that the land and buildings be managed with respect for the listed buildings, the historic landscape and biodiversity.

6.34 Other public benefits could include:

- Public access to the Priory and estate
- The estate as a whole is used and managed with respect for the
- Heritage assets, the landscape and biodiversity
- Tourist attraction
- Facility for weddings etc
- Facility for charitable events
- Place of employment
- Provision of an attraction and facility which has positive impact on the image of the District

Enabling Development Policy Criteria Assessment

- 6.35 The National Planning Policy Framework (NPPF) paragraph 129 states 'Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal'.
- 6.36 Paragraph 131 states: local planning authorities should take account of: the desirability of sustaining and enhancing the significance of heritage assets...the desirability of new development making a positive contribution to local character and distinctiveness.
- 6.37 Paragraph 132 states 'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation...Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification'.
- 6.38 Paragraph 134 states: 'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal'.
- 6.39 Paragraph 17 provides that a core principle is that planning should conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.
- 6.40 Local Plan Policies EN17, EN22 and EN22a address the issues of conservation areas, listed buildings and development within the proximity of a listed building.

- 6.41 The main policy relating to enabling development remains Policy EN27 of the Tendring District Local Plan (2007). This policy is detailed above and reflects the English Heritage guidance contained within their publication 'Enabling Development and the Conservation of Significant Places (2008)'.
- 6.42 The first criterion (a) is that enabling development that would secure the future of a significant place, but contravene other planning policy objectives should be unacceptable unless: ***The enabling development will not materially detract from the archaeological, architectural, historic or landscape interest of the heritage asset, or materially harm its setting;***
- 6.43 English Heritage advises that the range of enabling developments would cause substantial harm to the character of the Priory, to the park, its setting and to the village. In addition, it is advised that this proposal within the park would compromise its character as a designated landscape subordinate to a country house, and in doing so would damage the setting of the Priory. English Heritage acknowledge that there is scope to build some structures of traditional form that could complement that character, but the number and scale of the buildings proposed would turn what was historically a landscape ornamented by some buildings into a landscape dominated by new buildings. Officers concur with this advice. As an example it is explained that the proposed West Lodge would form a monumental structure commanding the ridge overlooking Flag Creek and St Osyth's Creek and its prominence in wide views would overshadow the presence of the Priory in the landscape. It is further identified that the proposals would have a pronounced and harmful effect both on the Priory's historical value and aesthetic value. English Heritage state that these values derive in part from the survival of the Priory and its setting free from the incursion of later and alien development.
- 6.44 It is acknowledged that the park has been compromised by the damage caused through previous mineral extraction, but that the park remains free from encroachment by development. English Heritage advance that the relationship between the Priory and its setting, comprising of the park and the village and surrounding land and seascapes is strong and that were the proposals to be implemented, new development within (and beside) the park would obscure or intrude upon the historic and aesthetic value of the place, thereby harming vital aspects of its significance.
- 6.45 Accordingly the proposals are contrary to Part 1 (a) of policy EN27.
- 6.46 The second criterion (b) is that enabling development that would secure the future of a significant place, but contravene other planning policy objectives should be unacceptable unless: ***It has been clearly demonstrated that all alternative options have been fully evaluated;***
- 6.47 At the time of writing there are no alternative options under consideration through the formal submission of any planning application for an alternative scheme over and above the suite of proposals being considered on this agenda. Assessment of other funding streams is ongoing, including in relation to the formation of an independent trust (as discussed later in this report), as this is seen as having the most potential in unlocking other forms of subsidy. However the fact remains that at the present time, such matters have not been concluded, and therefore in the absence of a full assessment of all alternative options, it has not been fully demonstrated that all alternative options have been fully evaluated.
- 6.48 Accordingly the proposals are contrary to Part 1 (b) of policy EN27.
- 6.49 It is noted from the submitted information that alternative options such as the repair and reuse of existing buildings were considered and formed the basis of the initial conservation deficit calculations. Further to this consideration was given to office and hotel/spa

developments at the site but ruled out. This then led to the initial enabling development considerations, which in turn has led to the submission of this suite of enabling development applications.

- 6.50 The third criterion (c) is that enabling development that would secure the future of a significant place, but contravene other planning policy objectives should be unacceptable unless: ***It avoids detrimental fragmentation of management of the place;***
- 6.51 The application documents confirm that the intention is for all the buildings to remain under a single freehold ownership. Such an intention can be secured through the provisions of a S106 Agreement.
- 6.52 Accordingly there is no material conflict with Part 1 (b) of policy EN27.
- 6.53 The fourth criterion (d) is that enabling development that would secure the future of a significant place, but contravene other planning policy objectives should be unacceptable unless: ***it will secure the long term future of the place and, where applicable, its continued use for a sympathetic purpose;***
- 6.54 The financial considerations are accepted as being central to the idea of enabling development as a means of funding the repair/restoration of heritage assets. Enabling development exists as only one potential means of funding for repairs that could or would not ordinarily be funded by an owner due to the existence of a 'conservation deficit'. A conservation deficit is the deficit that arises when the total cost of repair and, where applicable, conversion to make possible a viable use, exceeds the market value of a place upon completion of the works. Therefore the financial justification for such development must be the surplus profit obtained from the development of a site, on which development would not otherwise be allowed, is sufficient to fund the necessary repair and, as appropriate, conversion.
- 6.55 In this regard a financial appraisal, consisting of details of the current condition of the Priory assets, proposed repair schedule and cost plans for both the repair and enabling development, was submitted in support of the suite of enabling development applications.
- 6.56 This information has been subject to independent scrutiny by CBRE Limited (CBRE) and the RNJ Partnership (RNJ), following a joint instruction from English Heritage and Tendring District Council. CBRE were asked to assess the extent of the conservation deficit and to determine the likely contribution that the enabling development might generate. The RNJ Partnership was asked to review the cost plans (as submitted by the applicant's Quantity Surveyor, McBains Cooper (MAC)).
- 6.57 Further to the receipt of the findings of both CBRE and The RNJ Partnership, Tendring District Council and the applicants jointly instructed BNP Paribas (BNP) to review the information originally submitted by the applicant.
- 6.58 Finally, CBRE were then instructed by English Heritage to review the report prepared by BNP Paribas (and a St Osyth Market Report dated November 2012).
- 6.59 Accordingly the local planning authority is in receipt of a collection of reports, none of which are in total agreement as to their actual findings. However, some commonality has been found and for the purposes of this Planning Committee report, officers are relying on information primarily contained within the latest CBRE report and the BNP Paribas Report.
- 6.60 The overall conservation deficit has been identified as being £40.79m by BNP (please note that the BNP figure allows for inclusion of costs not accepted by the Council's initial consultants and for higher sales and repair costs). In any event this is a substantial figure.

- 6.61 CBRE also advise that there is a conservation deficit but for a variety of reasons were unable to quantify the amount of deficit. CBRE further advise that they estimate that on the basis of repair and conversion costs alone, there is a construction deficit of £4.4m. This figure was arrived at by subtracting the repair costs provided by RNJ from the value of the repaired Priory (as estimated by CBRE). It should be noted that repairs to the heritage asset have been put forward as costing £20.9m by the applicant, £16.73m as per BNP and £12.02m from RNJ.
- 6.62 The other important financial element relates to the 'residual value' of the development proposed. Residual value is the difference between the total development value and total costs, including developer profit. In terms of this application (i.e. the Parkland proposals), CBRE identify that the scheme produces a negative residual value of -£694,000 (from a total residual value across all the enabling development schemes of £3.6m). BNP provide a residual value for this element ranging between £220,000 - £608,000 (from an overall residual value of £3.5m - £7.08m from all of the enabling development schemes).
- 6.63 It is clear from the financial appraisals undertaken that the proposals, even if taken as a whole, and irrespective of which set of figures is used, will not secure the long-term future of the entire Priory, given the significant shortfall in potential funding arising from the proposed enabling development. The Priory does however comprise a substantial number of heritage assets, many of which individually may qualify for enabling development in their own right, due to their category of listing. English Heritage suggest in their report that an approach which disregards some of these assets is, for now, the correct approach. Of course monies raised could be put towards the repair and continued use of a small number of buildings within the complex but the clear shortfall means that the proposals as a whole, fail to meet the policy criteria which requires enabling development to secure the future of a significant place.
- 6.64 The residual value, according to the consultants assessments, ranges from a best case scenario of £608,000 to at worst, a negative figure of £694,000. Even taking into consideration the best-case scenario it is clear that the viability of the scheme is such that the potential contribution is insignificant and certainly not of a level to outweigh the disbenefits identified in terms of impact of the significance of the Priory. CBRE advise that this proposal is unviable and this opinion is shared by officers and English Heritage.
- 6.65 Accordingly the proposals are contrary to Part 1 (d) of policy EN27.
- 6.66 The fifth criterion (e) is that enabling development that would secure the future of a significant place, but contravene other planning policy objectives should be unacceptable unless: ***The need for the enabling development arises from the inherent needs of the heritage asset, rather than the circumstances of the present owner, or the purchase price paid;***
- 6.67 English Heritage consider that the two key elements to be considered are whether there is a conservation deficit and if so, could the owners undertake the necessary repairs without the need for enabling development. The first element has already been addressed above and answered in so far that a conservation deficit is agreed to exist, even if the precise figure remains to be universally agreed.
- 6.68 The second element however focuses on whether the owners could repair the Priory without the need for enabling development, or could repair it with less. In order to understand the answers to this, applicant's are required to have marketed the property in order ascertain the existence, or otherwise, of others willing to purchase the Priory (and able to undertake the necessary repairs). CBRE were asked to consider the details of the marketing campaign and found the marketing campaign to be flawed. CBRE identifies a

number of issues relating to the particulars of sale that may have been dissuasive is eliciting interest.

- 6.69 It is concluded that the marketing campaign has failed to demonstrate the necessity for enabling development. However when balanced against other known factors, including the general need for urgent works, it is considered that the inadequacy of the marketing should not, in its own right, be an overriding factor in the determination as to whether enabling development is justified in this case.
- 6.70 Accordingly the proposals are contrary to Part 1 (e) of policy EN27.
- 6.71 The sixth criterion (f) is that enabling development that would secure the future of a significant place, but contravene other planning policy objectives should be unacceptable unless: ***Financial assistance is not available from any other source consistent with the preservation or enhancement of the heritage asset;***
- 6.72 Local Plan policy and English Heritage guidance make it clear that enabling development should be unacceptable unless financial assistance, or sufficient subsidy, is not available from any other source. In this regard it is necessary to assess the efforts of the applicants in securing financial assistance consistent with the preservation or enhancement of the Priory.
- 6.73 Enabling development should be seen as a subsidy of last resort since it is an inefficient means of funding a conservation deficit (EH Guidance para 4.3.6). Whilst most buildings at risk are capable of beneficial use, particularly for residential or commercial use, it is advanced that Building preservation trusts, as property developers with charitable status and objectives can provide a vehicle for securing the future of some places that are not attractive in commercial terms. Such trusts are seen as a catalyst in prompting owners to bring forward workable schemes to secure the future of a building, or to sell them.
- 6.74 Notwithstanding the Higher Level Stewardship grant and offer from English Heritage towards the repair of the Abbot's Tower, at present no alternative means of financial assistance have been secured in relation to the repair and restoration of the heritage asset. Discussions have been held in relation to the formation of a Trust, and the applicant has put forward suggestions as to how this may operate. However, the fact remains that to date to agreement is in place and it is the opinion of English Heritage that the possibility of public funding has not been fully explored to the point that this policy criterion is met.
- 6.75 However, it is agreed by all parties that other sources of income are necessary to provide additional contribution towards the conservation deficit, and that a building preservation trust may play an important role in this regard.
- 6.76 From the information gained throughout the assessment of the applications in relation to potential grant funding etc, it would appear that the amount of financial input possible is likely to fall far short of what is necessary to eliminate the identified costs, even when taken in conjunction with the monies raised by all of the proposed enabling development. As such a balancing act has to be performed as to whether the securing of financial assistance is necessary prior to the determination of the enabling development applications. Officers consider in this case that the harm identified to the significance of the place, together with the lack of viability of the proposals results in development clearly in conflict with national and local planning policy.
- 6.77 Accordingly the proposals are contrary to Part 1 (f) of policy EN27.
- 6.78 The seventh criterion (g) is that enabling development that would secure the future of a significant place, but contravene other planning policy objectives should be unacceptable

unless: ***It is demonstrated that the amount of enabling development is the minimum necessary to secure the future of the heritage asset;***

- 6.79 The proposals, both in relation to this application and as a whole, would not result in reducing totally the conservation deficit. As such it is clear that this enabling development proposal and the enabling development proposals collectively, could not be seen as providing more development than is necessary.
- 6.80 However, and notwithstanding the conclusions reached in relation to the Wellwick proposals, and based on the financial information provided, it is clear that that this application (and all of the enabling development applications when taken as a whole) fail to provide sufficient funds to fund the identified total repair costs.
- 6.81 Accordingly the proposals are not in conflict with Part 1 (g) of policy EN27.
- 6.82 The eighth and final criterion (h) is that enabling development that would secure the future of a significant place, but contravene other planning policy objectives should be unacceptable unless: ***The value, or benefit, of the survival or enhancement of the heritage asset outweighs any harm to the asset by providing the enabling development.***
- 6.83 English Heritage consider that the public benefit that might be achieved in relation to the suite of applications is unlikely to outweigh the disbenefits also consequent upon it and that the scheme will result in repair and reuse of part of the Priory only. Furthermore, English Heritage are of the opinion that in its entirety the scheme would be unnecessarily damaging and has been devised without consideration of the potential public funding to contribute to the Priory's repair. Accordingly English Heritage considers that the proposals would cause significant harm to the significance of the Priory and would be of only limited benefit and therefore cannot be justified. Your officers do not disagree with the assertions of English Heritage. This application results in clear harm to the significance of the place adding further weight to this conclusion.
- 6.84 The second part of Policy EN27 requires that:
- a) The impact of the development is precisely defined at the outset, normally through the granting of full, rather than outline, planning permission;
 - b) With reference to the guidance contained in Circular 1/97, Planning Obligations, the objective of the preservation of the historic asset is securely linked to the planning permission; and
 - c) The historic asset is restored to an agreed standard, or funds made available to secure this aim, prior to the commencement of the use of the enabling development.
- 6.85 Criterion a) is complied with by this application. In terms of criterion b) and c) these matters would form the basis of any S106 agreement.

Landscape Impact

- 6.86 The application supporting documents provide that the cumulatively, the proposed buildings will have a beneficial impact on the Park as they will help reveal the historical significance identified in the Statement of Heritage Significance in so far that many of the 18th century buildings are to be restored or recreated. It is also explained that historically Nun's Wood contained seven structures alone. It is acknowledged that both the proposed Lodge Piece House and West Lodge will have an impact on the setting of the Conservation Area.

- 6.87 The deer park and gardens associated with The Priory are one of only 3 sites in Tendring recognised for their importance by inclusion on the English Heritage Register of Parks or Garden of Special Historic Interest in England. It is considered that the proposal to construct 19 dwellings and associated infrastructure within the curtilage of the listed garden would significantly alter its character.
- 6.88 In principle the erection of dwellings within a park or garden included on the English Heritage Register of Parks or Garden of Special Historic Interest in England is not acceptable because it they would significantly and detrimentally affect the character and appearance of the listed garden.
- 6.89 Many of the access roads shown are already in use and currently have 'loose fill' sand or hogging type material as a surface. The formalisation of the roads to serve dwellings within the listed garden would in itself have an adverse impact on the character of the land.
- 6.90 Officers consider that the proposed dwellings and associated developments would collectively diminish the quality of the landscape and its value to wildlife. The noise and light pollution combined with the human and vehicular traffic as well general use of the gardens and adjoining land would both degrade the landscape and disturb wildlife to an unacceptable level.
- 6.91 *Notwithstanding the objection to the application, please see comments relating to landscape/tree impact in relation to the individual dwelling proposals below.*
- 6.92 **Lodge Piece House** - The proposed dwelling would not have a direct impact on individual trees or shrubs.
- 6.93 **North Lodges** - The proposed dwelling may also have a direct impact on individual trees that are important in terms of the contribution they make to the listed garden and to the character and appearance of the conservation area.
- 6.94 The position of the proposed dwellings and access road close to an existing Public Right of Way would also affect the public's perception of being 'in the countryside' when using the Public Right of Way.
- 6.95 **Nun's Hall** - The proposed dwelling may also have a direct impact on individual trees that are important in terms of the contribution they make to the listed garden and to the character and appearance of the conservation area.
- 6.96 **Slip Cottages** - Slip Cottages appear to be an integral part of the original visitor centre proposal. No wider impact on the landscape or trees.
- 6.97 **West Lodge** - The proposed dwelling appears to be just outside the listed garden but will still have a significantly detrimental impact on its character and appearance. In addition to its impact on the listed garden the dwelling would be clearly visible from the Public Right of Way on the boundary of Howlands Marsh and going north from St Osyth Creek. The positioning of a dwelling of any size in this location is undesirable but the proposal of a dwelling of such size and scale is especially harmful.
- 6.98 **South Lodge** - The proposed dwelling is situated outside the listed garden but would still have a significantly adverse impact on its character and appearance. The development proposal would result in the removal of a short section of Countryside Hedgerow and an assessment of the hedgerow should be carried out to determine whether or not it meets the criteria in the Hedgerows Regulations 1997 whereby it is considered important and therefore must be retained.

- 6.99 **Lake House – South** - The development proposal will not have an impact on any trees that make a positive contribution to the character or appearance of the conservation area. However the scale and design of the proposed dwelling would be out of character with the site and its context.
- 6.100 **Lake House – North** - The construction of the dwelling would result in the removal of several trees however these are mainly young self-sown Sycamores and their removal would not significantly affect the appearance of the land. Notwithstanding, and as per the South Lake House, the scale and design would be out of character with the site and its context.
- 6.101 **Pigeon House** – The building would be prominent in the landscape.
- 6.102 **Deer House** - The proposed position of the dwelling is close to several large and important mature oaks. The access road serving the proposed dwelling is situated within the Root Protection Area of 2 trees.
- 6.103 **Grotto Grove – Shell House** - The remains of the Shell House make it clear that this structure was a type of ‘Folly’ situated within the garden and it is unlikely that it would have been used to live in, with any degree of permanence. The principle of using the existence of this type of structure as justification for the construction of dwellings within the listed garden is not soundly based. The proposed position of the dwelling is close to several important mature trees.
- 6.104 **Grotto Grove – Kitchen** - The remains of the Kitchen give little indication of its former use but it is likely that this structure was a type of ‘Folly’ situated within the garden and it is unlikely that it would have been used to live in, with any degree of permanence. The principle of using the existence of this type of structure as justification for the construction of dwellings within the listed garden is not soundly based.
- 6.105 In terms of the impact of the development proposals contained in this application on trees situated on the land it is considered that any harm caused could be mitigated by new planting. The best trees, especially those in the avenues are not affected. Through the imposition of controlling conditions, new planting proposals could be secured and all of the important trees on the land retained in order to secure a net gain in the tree population. However, the combined impact of the proposed parkland developments is so harmful that the ability to impose such landscaping conditions would not mitigate the harm caused to this nationally important landscape.
- 6.106 **Woodland Areas** - In terms of the impact of the development proposals on the existing trees, the submitted document entitled ‘Nun’s Wood Management Proposals’ explains that the management proposals for the wood are not integral to the development proposal. The Deer Park and Listed Garden are now included in a Higher Level Stewardship (HLS) Scheme administered by Natural England. Therefore the maintenance and development of the park and garden is to follow the recommendations in the Management Plan associated within this scheme. Such work is assisting in significantly improving the landscape within the park.
- 6.107 The Conservation Management Plan (Appendix D Landscape Details) identifies the removal of certain trees and states that these must not be removed under the development proposals. It is noted that any works to trees within the conservation area should only to be carried out under a Management Plan that has been approved by The Garden History Society. This should be addressed through the HLS Scheme. Where necessary the local planning authority must be notified and a felling licence must be obtained from the Forestry Commission.

- 6.108 **Landfill** - Although the proposal would seek to re-establish the ground contour levels that existed prior to the mineral extraction, it is considered that the land is currently pleasantly contoured and would not necessarily be improved by a lengthy period of importing material to re-create previous levels. Over the years parts of the garden have changed considerably for a number of different reasons one of the most significant being mineral extraction. This has resulted in the extensive lakes that exist following remediation of such mineral extraction works. In terms of the impact of previous works that have not been carried out with the specific intention of improving the character of the garden, it is a matter of opinion as to whether or not an attempt to recreate a feature that existed historically or accept the changes, either because they are not significantly detrimental or because they could be viewed as positive improvements. In this instance it is considered that the sunken field known as Lodge Piece is not significantly detrimental and the proposed landfill would not result in any material visual improvement to the protected landscape. In addition, Natural England raise concern as to the proposed re-grading of 9 hectares at Lodge Piece and the proposed deer bank. The proposals clearly have the potential to adversely affect biodiversity at the site.
- 6.109 Given the above The HLS Agreement is providing significant improvements to the landscape of the parkland and development in the manner proposed is considered detrimental. Therefore whilst re-grading could result in a financial benefit, it is considered that any benefits resulting from the scheme are outweighed by the harm caused in biodiversity and landscape terms.
- 6.110 **Deer Bank** - The Park has historically been home to deer and methods of containment are an integral part of the garden. Therefore in landscape terms the re-creation of a deer bank and a Ha-Ha are not, in themselves, considered unreasonable. However the comments are Natural England are such that whilst they are broadly supportive it is advised that funding for this work has already been agreed through the HLS agreement and it is unclear what this application is proposing to deliver in addition to the works associated with the HLS.
- 6.111 Overall the proposal is considered harmful in landscape terms given the significant resulting harm to the setting of the Priory. Given that the proposals appear to generate no funds (or minimal) to put towards the repair of the Priory it is considered that no public benefit would result in approving the application.

Highway Issues

- 6.112 Essex County Council advises that the proposal includes a direct access off the B1027 and is therefore contrary to policy DM2 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.
- 6.113 In response to these concerns it is noted that Policy DM2 includes provisions for exceptions to be made where access is required to developments of overriding public, environmental, national and/or regional need. In this case the development promotes enabling development required to fund repairs to a heritage asset of significant national importance and therefore there should be no objection in principle, as such development would constitute an overriding need. However, as the application appears to make no such contribution it is concluded that the application would result in a direct access off the B1027, without a recognised overriding need. Accordingly the application is contrary to the County Council's policy DM2 and in turn, Local Plan policy TR1a as there is a general presumption against the formation of new access from major roads within the countryside.

Biodiversity and nature conservation

- 6.114 The NPPF states that the planning system should contribute to and enhance the natural environment (paragraph 109) recognising that distinctions should be made between the

hierarchy of international, national and locally designated sites so that protection is commensurate with their status (paragraph 113). The NPPF also applies the following principles to the determination of planning applications (paragraph 118):

- If significant harm cannot be avoided, adequately mitigated or (lastly) compensated, then permission should be refused;
- If an adverse effect on a Site of Special Scientific Interest (SSSI) is likely, either individually or in combination with other developments, the development should not normally be permitted;
- Opportunities to incorporate biodiversity should be encouraged; and
- Development resulting in the loss or deterioration of irreplaceable habitats should be refused unless the need for, and benefits of, the development in that location clearly outweigh the loss.

6.115 When determining a planning application for a development which has an impact on European Protected Species, the Local Planning Authority (LPA) has a legal duty under the Conservation of Habitats and Species Regulations 2010 to take into account the three derogation tests contained within Article 16 the Habitats Directive 1992.

6.116 Saved policy EN6 seeks to protect local biodiversity and geodiversity. Saved policies EN11a, EN11b and EN11c relate to international, national and locally protected sites.

6.117 The Colne Estuary Site of Special Scientific Interest (SSSI) lies adjacent to the St Osyth Priory Estate and the west Field and is approximately 270m from the Wellwick site. Parts of this SSSI are also designated as a National Nature Reserve (NNR). The Estuary is designated as a Ramsar Site due to its estuarine habitats, birds and other animals. In addition the area is designated as a Special Protections Area (SPA) and a Special Area of Conservation (SAC), as part of the Essex Estuaries SAC). The Parkland is a designated Local Wildlife Site (LoWS).

6.118 The St Osyth Priory Park is noted as being divided into seven areas within a submitted habitat zoning plan. These are:

- Area 1 – Lodge Piece
- Area 2 – Nun’s Wood
- Area 3 – The Mowing Ground
- Area 4 – South Park
- Area 5 – The Cemex Lakes
- Area 6 - Deer House Park
- Area 7 – The Priory Hardens

6.119 In addition, studies have revealed that protected species are potentially present including the common lizard, slow worm, water vole, adder, grass snake, dormouse, great crested newt and common pipistrelle bat.

6.120 The Parkland is used regularly by a wide suite of bird species of conservation concern, both for breeding, wintering and other times. The breeding bird survey reveals a recorded 21 species that are variously BAP priority species, Essex BAP species, Red List and/or Amber list species.

6.121 Badgers are also widespread through the Park.

6.122 In terms of bats, parts of the Park are deemed as being of high quality providing excellent feeding habitat and good roosting sites.

6.123 Natural England advise the following:

- Higher Level Stewardship (HLS) agreement offered to enable the restoration of the historic landscape;
- HLS agreement will significantly address the condition of the Registered Historic Parkland by appropriately restoring the remaining historic features such as the wood pasture, woodlands, the traditional orchard, the historic belts and ancient trees. Any planned development needs to complement the restoration of the historic landscape as far as possible;
- Wildlife conservation value of equal importance within the HLS agreement;
- HLS agreement will also deliver significant areas of new wildlife habitat;
- Supportive of the intention to restore these important cultural assets;
- Whilst Natural England accepts the conclusion that the small numbers of houses proposed are unlikely to represent a significant risk alone, they will increase the cumulative risk to a degree and, inevitably if more than one of the seven (enabling development) applications are approved, the cumulative risk will increase further;
- Recommend that TDC secure developer contributions to ensure the continuation of the monitoring programme, and, should monitoring show impacts, help fund the implementation of appropriate mitigation measures;
- Works correctly identified as having the potential to affect the SPA through run-off via the northern reed bed and Wet 12, however we are satisfied that the mitigation measures proposed will be sufficient to ensure no adverse impacts;
- Satisfied that appropriate impact pathways have been considered for St Osyth Pit and Riddles Wood (SSSIs). Also satisfied that there are unlikely to be significant effects as a result of this application;
- Protected species unlikely to be a restraint at this location. The avoidance, mitigation and enhancement measures as detailed within the EIA should be secured through planning condition;

6.124 In relation to the proposals, an Appropriate Assessment has been carried out and this work has been assessed and agreed by Natural England, subject to revisions to reflect: -

- New areas of open space including the orchard and the mowing ground
- Enhancements of Martins Farm Country Park
- A circular woodland walk around the perimeter, connecting to riddles wood path
- A new circular route around West Field
- Walking loops to the south of Warren Farm and Mill Dam Lake, and the loop to the east of St Osyth around Daltes farm. (8.5 miles of alternative walking in total)
- Improved links to Martins Farm Country Park on the opposite side of the Colchester Road, to provide access to 34Ha of Country Park

6.125 Natural England also advises that subject to agreeing a mitigation and monitoring plan (as part of a s106 agreement), there would be no adverse effect on the estuary and its biodiversity interests. The mitigation plan is required to include the following detailed information about:

- (i) the location of the new open spaces areas across all development areas,
- (ii) the amount of open space to be provided, the type of open space to be provided. It should also identify the location and length of new walking paths, as well as the routes of any proposed footpath diversions.
- (iii) detailed specifications for all new planting proposed.
- (iv) detailed signage including the proposed wording and proposed location for the signs
- (v) interpretive material

- 6.126 The scope of the final mitigation plan will need to be agreed with Natural England and Tendring Council.
- 6.127 The monitoring work required by Natural England will need to monitor:
- (i) visitor numbers visiting the site. This could be carried out by a local group e.g. local footpath warden or residents group or factored into the existing monitoring work carried out by Colchester Borough Council at other Natura sites.
 - (ii) The effectiveness of the mitigation measures implemented to reduce recreational pressure at the SPA site.
- 6.128 Furthermore English Heritage clarify that they have offered a ten-year Entry Level/Higher Level Scheme agri-environment agreement to the landowners to enable restoration of the historic landscape. Natural England also anticipates that the habitat improvements elsewhere on the Priory Estate will adequately mitigate for the loss of habitat at this location.
- 6.129 However Natural England are clear in their concern as to whether the proposals have appropriately considered opportunities to avoid impacts as a result of the number of new buildings and re-grading at Lodge Piece.
- 6.130 Given all of the above officers consider that the proposal has not demonstrated that the development can be carried out without material harm to the bio-diversity and nature conservation interests of the site. Combined with the failure of the development to contribute financially in terms of being enabling development this leads to the conclusion that the proposals fail to accord with national and local planning policy.

Local Amenity

- 6.131 Given the number of residential dwellings proposed it is inevitable that the proposals will bring about a change in character from the site at present and result in an impact upon local amenity and services. It has been argued by objectors that the scheme will adversely affect village life as a result of such an influx in dwelling number when compared to the existing housing levels and population number.
- 6.132 Given the sparse nature of the dwellings it is unlikely that the 19 buildings would in themselves lead to any significant adverse impact upon amenity.
- 6.133 However, the cumulative effect with the total number of residential dwellings proposed as part of the wider enabling development proposals has the potential to affect local amenity, particularly so in the inability of the proposals to financially contribute towards education provision, placing additional burden on local services and through the increased use of local infrastructure.

Other issues

Alternative Provision

- 6.134 Local planning policy and English Heritage guidance requires grants and other options to have been explored. The potential for alternative ways of meeting the conservation deficit has been raised with the applicants. The potential for an independent trust is currently being discussed and the applicant has provided an outline as to how this may operate.
- 6.135 Since submission of this application the Council has received a vision statement pertaining to the formation of a St Osyth Building Preservation Trust. The document provides the following information within the executive summary:

- *The St Osyth Building Preservation has been established to offer an alternative vision to that of the current owners of the Priory. Their proposal to apply for an enabling development of 332 houses will not only affect the coherence of the village but will be inadequate to fund the repairs to the Priory.*
- *The Trust offers an alternative which the Trustees believe is both credible and viable. They acknowledge that an enabling development will play a part in securing the future of the Priory, but its impact will be minimal compared with that proposed by the applicants.*
- *The foundation of the St Osyth Building Preservation Trust's funding comes from the very generous gift of eight parcels of farmland of one acre each, given specifically by the landowners for the acquisition and repair of the Priory. The enabling development proposed by the Trust is far more modest with possibly four houses to the acre. If planning permission was granted the value of this promised donation would therefore be in the order of £4million.*
- *The Trustees having discussed the repair of the Priory with a number of grant giving bodies anticipate that support will be available for many of the iconic Priory buildings and structures. The Heritage Lottery Fund is a source of significant funding and the enabling development would provide the partnership funding HLF require. Support will also be sought from other charitable and private donors.*
- *The Trustees will take advice from English Heritage so a balance is achieved between the repair of the major buildings on the Priory Estate and the repair of buildings which could be used to generate income; it is recognised that realising the value of the residential buildings early is paramount.*
- *The Priory Estate will be a unique fee paying visitor attraction, it is not only a major heritage site but has the additional advantage of being close to popular seaside resorts. The Trustees believe that the opening of the Priory fully to the public and providing jobs will be the key to unleashing its real potential and be a catalyst for the regeneration of the village, the Tendring District and Essex.*
- *The aspiration of many is that the Priory and its parkland should be in the ownership of a charitable trust, that it is regularly open to the public and that it will once again play its part in the life of the St Osyth community. Equally, with publicly-empowered support it will create significant opportunities for economic development, employment, tourism, education and leadership in environmental issues. The present owners have in effect demonstrated that a commercial approach is incapable of securing the future of the Priory; only a community-led approach is likely to be able to do so.*

6.136 Officers have considered the contents of the document and advise that in the absence of any firm proposals i.e. a planning application providing robust financial justification and in light of the embryonic position of the trust, only minimal weight can be attached to the document and its findings at this time. This is particularly so given that the site is not within the ownership of the trustees and that the document advises the need for a differing scheme of enabling development, which would need to be subject to separate scrutiny and assessment. In any event this application (and others forming the suite of submitted enabling development applications) remain to be considered on their merits.

S106 Agreement

6.137 Under the provisions of the Local Plan contributions would normally be required towards the provision of education, public open space and affordable housing. As the purpose of

enabling development is to close the conservation deficit such contributions are not usually made. In this case a significant conservation deficit exists and therefore the disbenefits of not making contributions would carry less weight. Accordingly the request from Essex County Council for education related contributions have not been sought, although it is acknowledged that the proposals will lead to additional pressure on existing facilities, which will not be mitigated in the absence of any financial contributions towards additional provision.

- 6.138 As an indication, the applicant has provided, within a draft S106 rationale, that the development of Wellwick, together with the first two phases of the West Field developments, would provide enough capital to complete urgent works identified by English Heritage, fully restore and return to Bailiffs Cottage to beneficial use, complete the external and internal repairs of the Abbot's Tower (assuming the English Heritage grant remains in place) and undertake some of the external repairs to the Gatehouse, Abbot's Tower and the Gatehouse. Trigger points relating to the rate of occupation as suggested as appropriate trigger points within which works are to be completed. This would represent an acceptable basis on which a S106 Agreement can be reached. However in this instance the application is considered to be unacceptable and therefore further work in this regard has not been carried out.

Flood Risk and Drainage

- 6.139 The NPPF states that new development should be planned to avoid increased vulnerability to the range of impacts arising from climate change" - Paragraph 99. The NPPF requirement for site-specific flood risk assessments (FRAs) are set out in paragraph 103. The NPPF doesn't contain detailed minimum requirements for FRAs, but the Technical Guidance refers to them in paragraph 9 and Chapter 3 of the PPS25 Practice Guide. In terms of drainage, the NPPF states that development should give "priority to the use of sustainable drainage systems" (Paragraph 103) and "Developers and local authorities should seek opportunities to reduce the overall level of flood risk in the area and beyond through ...the appropriate application of sustainable drainage systems". Saved Policy EN13 'Sustainable Drainage Systems' seeks to ensure that development proposals incorporate measures for the conservation and sustainable use of water. Policy QL3 'Minimising and Managing Flood Risk' seeks to ensure that flood risk is taken into account at all stages of the development process.
- 6.140 A Flood Risk Assessment (FRA) accompanies the application documents. The application site is located within flood zone 1, and is therefore not at high risk of flooding. The Environment Agency has assessed the proposal and raises no objection subject to the imposition of a condition relating to the submission of calculations confirming that there is sufficient capacity within the lakes to accommodate the 1 in 100 year storm (inclusive of climate change) without causing flooding elsewhere.

Human Rights Implications

- 6.141 This application has been considered in light of statute and case law and any interference with an individual's human rights is considered to be proportionate to the aims sought to be realised.

S17 Crime & Disorder Act

- 6.142 Saved policy COM2 provides that all new development shall contribute to a safe and secure environment, which reduces the incidence and fear of crime and disorder by reducing criminal opportunity and fostering positive social interactions between legitimate users. Saved policy QL10 requires, amongst other things, that proposals contribute to community

safety by incorporating or providing measures to minimise opportunities for crime and anti-social behaviour.

- 6.143 It is recommended that Secure by Design measures can be secured by way of a condition. It is also recommended to ensure that the public open spaces are adequately lit and further consideration of the layout of these spaces will be undertaken on consideration. The supporting information suggests that the scheme has incorporated the six principles of Secure by Design, these being integrated approach, environmental quality, natural surveillance, access, open space and lighting.
- 6.144 Subject to safeguarding conditions, the proposed development would not adversely impact upon community safety issues and so it would comply with policies COM2 and QL10 of the Tendring District Local Plan (2007).

Equalities Implications

- 6.145 Section 149 of the Equalities Act 2010 created the public sector equality duty. It states: - (1) A public authority must, in the exercise of its functions, have due regard to the need to:
- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 6.146 Officers have taken this into account in the assessment of this application and the Planning Committee must be mindful of this duty inter alia when determining all planning applications. It is considered that the proposed development would not result in any infringement on Equalities legislation.

Conclusions

- 6.147 According to the findings of CBRE, jointly instructed by TDC and English Heritage, the proposals result in a negative residual value and thereby failing to reduce the conservation deficit and assist in securing the repair of the Priory. Whilst a positive residual value range is advanced by BNP within their independent report, it is insignificant against the conservation deficit and far outweighed by the harm to the significance of the Priory and Parkland. Accordingly the application as a whole fails to meet the criteria of the policy EN27.
- 6.148 Officers are mindful of the provisions of policy EN27a in so far as recognition is made to the commitment of the Council to the conservation, preservation and restoration of St. Osyth Priory and to that end, its commitment to work in conjunction with the landowner and English Heritage. However the proposals have simply failed to demonstrate accordance with national or local planning guidance. Moreover, the scheme gives rise to little public benefit to set against the harm clearly caused.

Background Papers

None.