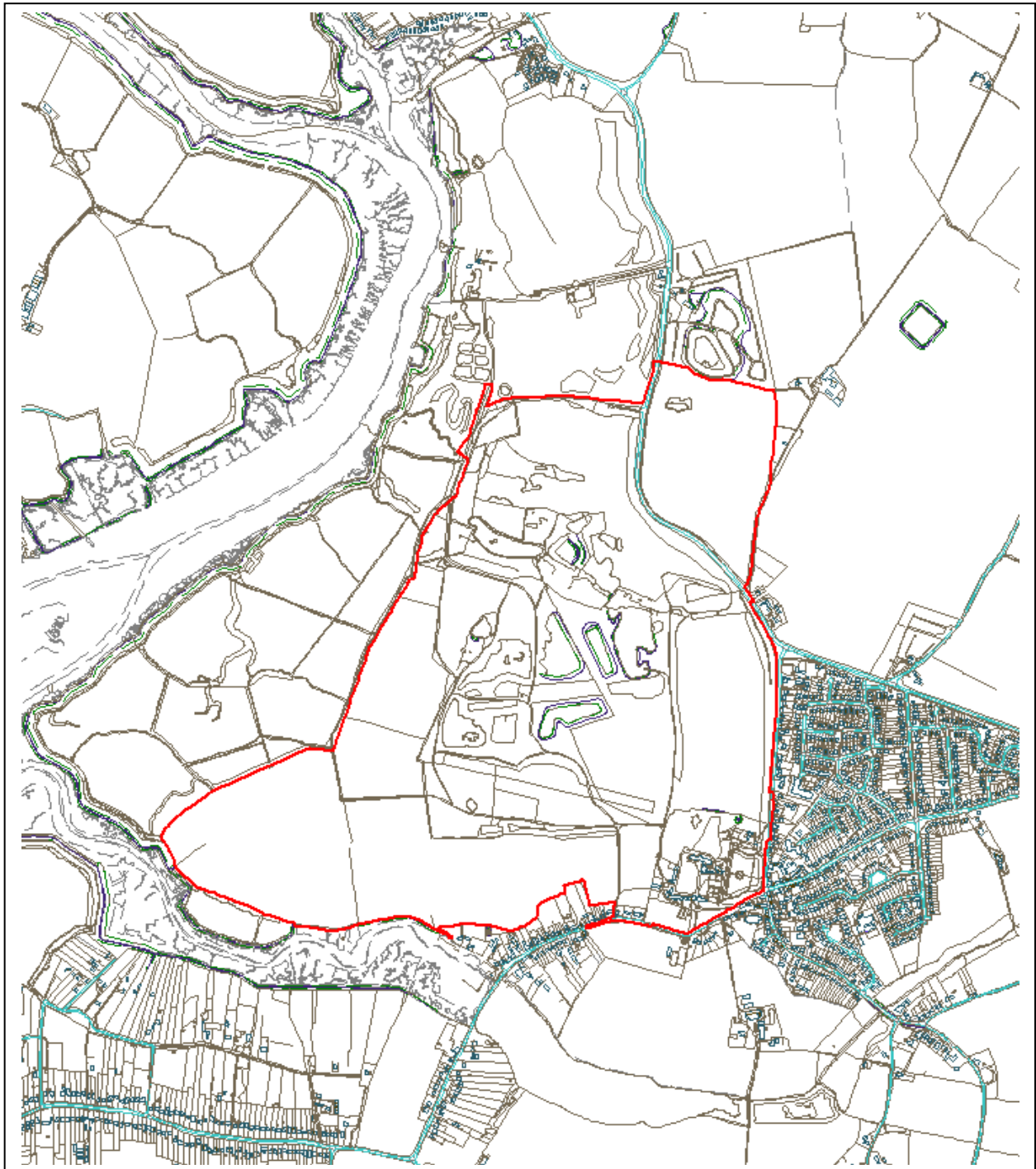


**PLANNING COMMITTEE**

**21 January 2014**

**REPORT OF THE HEAD OF PLANNING**

**A.3 PLANNING APPLICATION - 11/00333/OUT - THE PRIORY ESTATE ST OSYTH,  
CLACTON ON SEA, ESSEX, CO16 8NY**



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<b>Application:</b>	11/00333/OUT	<b>Town / Parish:</b> St Osyth Parish Council
<b>Applicant:</b>	Mr R.A, T.R, D.R, A.I Sargeant	
<b>Address:</b>	The Priory Estate St Osyth Clacton On Sea CO16 8NY	
<b>Development:</b>	Erection of 190 dwellings on 16.3 hectares of land; new junction and access roads; driveways; parking; footpaths; landscaping and all ancillary works; use of land as an archery range; construction of access drive and layout of parking area including siting of storage container for archery equipment. The proposals also include for a new footway to be built along a section of Colchester Road, south of the Wellwick.	

## 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, the West Field and the Wellwick site situated outside of the Priory Estate. This particular application relates to the Wellwick site and seeks outline planning permission for the erection 190 dwellings with all associated works and the establishment of a new archery range.
- 1.2 The proposals are being promoted as necessary for the generation of funds needed 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.
- 1.4 The proposal is in conflict with elements of Policy EN27. However, the development proposed could make a significant contribution towards providing urgently required funding. Taking this into account as well as the impact of the development on the heritage asset and all other material considerations, officers recommend that this application be conditionally approved subject to an accompanying S106 Agreement ensuring the development makes the necessary financial, phasing and biodiversity provisions.
- 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:** Conditional Approval subject to a S106 legal agreement with obligations relating to:

- The implementation of restoration/repair works to the Priory Estate (in a manner to be agreed with English Heritage);
- Phasing

- Mitigation/monitoring work (as requested by Natural England)

**Conditions:**

- Standard time limit for commencement - either before the expiration of 5 years from the date of this outline permission or from the expiration of 2 years from the date of approval of the last reserved matters to be approved, whichever is the later.
- Reserved matters applications to be submitted
- Development to be carried out in accordance with approved drawings relating to access
- Details of infrastructure works including utility services, earthworks, drainage/attenuation and roadworks
- Phasing of works
- Materials/detailing
- Hard and soft landscaping
- Landscaping implementation
- Landscape Management Plan (to include RSPB requirements)
- Existing trees to be protected in accordance with measures meeting British Standards
- Car Parking Standards compliance
- Cycle Parking details to be submitted and approved
- Wheel cleaning facility to be provided
- Highway works to be carried out in accordance with approved drawings to include:
  - a priority junction off the B1027 to include 1no. 3 metre wide footway/cycleway and 120x4.5x120 metre visibility splay;
  - a right turn priority junction to include 1 no. non-pedestrian central island and 1 no. cycle/pedestrian central island, and
  - 3 metre footway/cycleway along the western side of the B1027
- Provision of two new bus stops on the B1027 adjacent to the proposal site and/or upgrade of two nearest bus stops in Colchester Road
- Residential Travel Information Packs
- Pond survey to be undertaken to assess the presence or otherwise of protected species
- New Bowmans Archery Range site to be used for archery purposes only and associated car parking to be laid out and maintained for such use at all times
- A surface water drainage scheme based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development to be submitted and approved
- Construction and Environmental Management Plan to be submitted and Water, energy and resource efficiency measures during the construction and operational phases to be submitted and approved
- Wastewater strategy to be submitted and approved
- Foul water strategy to be submitted and approved
- Surface water/flood risk assessment to be submitted and approved
- Pre-works bat surveys to be undertaken
- External lighting details to be submitted and approved to ensure lighting is sensitively designed, minimises light spillage and avoids illuminating bat commuting and foraging routes and to ensure the use of low level, directional lighting to minimise light pollution
- Reptile habitat provision in accordance with Protected Species Survey findings
- Bespoke landscaping strategy (to introduce a strong Invertebrate foraging

- element)
- Post construction monitoring and control programme to ensure pond is not affected by the potential spread of Australian stonecrop
- Scheme for the provision and implementation of rainwater harvesting to be submitted and approved
- Secure by Design compliance
- Submission of cross-sections drawings to illustrate finished floor and roof levels
- Ground contamination and remediation details (as appropriate) to be submitted and approved
- High speed broadband connection
- Employment and Recruitment Strategy

## 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)

### 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 West Wing)	Approved	21.08.2000

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 space. New staircase to first floor	Approved	23.08.2001

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 Dismissed at Appeal	24.08.2006 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 wall. Relocate curved first floor	Approved	10.07.2007



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	Approved	08.10.2013

opening up of windows and the forming of a new window in the gable.

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 Layout will need to comply with the requirements of Approved Document B5 - Access and Facilities for the Fire Service. The whole of the site is indicated as contaminated land.

###### TDC Principal Landscape and Tree Officer

4.3 No objection.

##### **External Consultee Responses**

###### English Heritage

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

*(N.B. Application 1 - 11/00328/FUL, Application 2 - 11/00329/FUL, Application 3 - 11/00330/FUL, Application 4 - 11/00331/FUL, Application 5 – 11/00332/FUL, Application 6 – 11/00333/OUT, Application 7 – 11/00334/FUL).*

- 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;
- Wellwick development results in more limited harm;
- 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;
- 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 site's location means that it is not easily accessed by more sustainable modes of transport such as public transport, cycling and walking. It is not adjacent or very close to services e.g. schools, community/retail/leisure facilities, employment opportunities. There is no rail station nearby. There are no bus stops adjacent to the proposal site; instead the nearest stops are in Colchester Road, which do not meet current ECC specification. The number and speed of vehicles using the B1027 is likely to dissuade people from cycling and walking along it as well as cross it. There is no footway along the western side of the B1027 and only a very narrow one along the eastern side. The proposal is therefore contrary to policy DM9 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.

- 4.6 Request a s106 Agreement to provide additional primary school and early years and child care 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 may not be achieved but based on the current capacity of St Osyth CE Primary and forecast demand, 150 new houses could be accommodated. Any more 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

- 4.7 No objection but 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.

#### Natural England

- 4.8 No objection. Natural England are satisfied with the conclusion that whilst golden plover, a SPA/Ramsar qualifying species are occasionally present on site, they are not particularly site faithful and given the alternative habitats available in the vicinity it is likely that any birds will simply be displaced onto other areas. Natural England are also satisfied that appropriate pathways have been considered for St Osyth Pit and Riddles Wood (SSSI 0.75km north of the Wellwick site) and are satisfied with the conclusion that there are unlikely to be significant effects, either direct, or indirect, upon either site as a result of this application.
- 4.9 Natural England has reviewed the protected species surveys and is satisfied that protected species are unlikely to be a restraint at this location. The avoidance, mitigation and enhancement measures as detailed in the EIA should be secured by condition.
- 4.10 Proposals not anticipated to have significant adverse impacts on bats but require pre-works surveys as a condition of planning consent. However, Natural England request that external lighting details are to be submitted and approved to ensure lighting is sensitively designed, minimises light spillage and avoids illuminating bat commuting and foraging routes.
- 4.11 In relation to reptiles Natural England note the presence of slow worm and grass snakes in low numbers but do not anticipate these are under threat by the development. Request that the recommendations of the reptile report are fully explored to maximise potential for this group.
- 4.12 Natural England also advises that the Invertebrate potential of Wellwick is high, but has yet to be reached. Development of this area should include a bespoke landscaping strategy which introduces a strong Invertebrate foraging element, to complement the available nesting habitat which is a by-product of the bank side rabbit warrens.
- 4.13 In relation to the Advisory Appropriate Assessment it is identified that the Wellwick site is ecologically uninteresting (with the exception of the acid grassland slopes), being predominantly grassland, with areas of wet grassland and areas of scrub, however given the proximity to the SPA it is unsurprising that SPA cited species such as golden plover occasionally show up in surveys. Natural England anticipates that the habitat improvements elsewhere on the Priory Estate will adequately mitigate for the loss of habitat at this location.

- 4.14 Natural England note that this is an outline application but expect any reserved matters application to provide further detail regarding green infrastructure including the maximisation of potential both outside and within the footprint of housing development. In addition Natural England would like to see opportunities pursued to include habitats within the development for street trees and green/brown walls and roofs.
- 4.15 Natural England are satisfied that the correct impact pathways during and post construction have been identified but recommend a post construction monitoring and control programme to ensure the Wellwick pond is not affected by the potential spread of Australian stonecrop from the Cemex Lakes within the Park.
- 4.16 Natural England agree that this application will lead to a slight increase in light pollution and recommend a condition requiring the use of low level, directional lighting to minimise these effects.
- 4.17 Natural England agree to the proposed mitigation measures contained within the EIA in relation to invertebrates and vegetation clearance and that the pond is to be retained and that seasonally wet attenuation pools will be created as an integral part of the proposals. These drainage systems should be designed and managed to maximise their opportunities for habitat provision and flood alleviation.

#### Anglian Water

- 4.18 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. Request a condition relating to the following:

- *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. Request that an agreed strategy is reflected in the planning approval.

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 –

- 4.19 Development only acceptable if a planning condition is imposed in relation to a scheme of surface water drainage being submitted and approved.

### Essex Wildlife Trust

4.20 Object to the applications in total on the grounds of permanent habitat loss and damage, net biodiversity loss, construction and operational disturbances. Does not believe proposed environmental mitigation and compensation measures are adequate.

### Essex Wildlife Trust (Tendring Local Group)

4.21 Object to the applications in total. Cannot judge impact of this application because there is a lack of detail, but any inert landfill at Wellwick would cause concern as existing drainage goes to Howlands Marsh.

### Campaign to Protect Rural Essex (CPRE)

4.22 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.

### Royal Society for the Protection of Birds (RSPB)

4.23 No objection subject to conditions relating to the provision of a Construction and Environmental Management Plan, Landscape Management Plan and water, energy and resource efficiency measures.

### The Garden History Society

4.24 No objection.

### Essex Gardens Trust

4.25 Wellwick (and Westfield) are outside of the registered landscape but are likely to have an adverse visual impact and will introduce noise and light pollution. 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

4.26 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.

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

4.28 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

4.29 The proposal to develop on Wellwick field is premature, pending the applicants/relevant authority negotiations being completed. This site is totally unacceptable from a highway/transport point of view. Should this be permitted we are convinced this will prove lethal. In particular we strongly object to the proposed pedestrian crossing. We therefore object to this application in its entirety as being on an unsuitable site. The need for this development is not proven.

4.30 In conclusion, we claim that the considerable disadvantages far outweigh the perceived advantages of restoring the ancient place by the means proposed and the applications should BE REJECTED IN TOTAL and alternative means of funding the minimum necessary repairs sought, preferably one that restores the essential communal value of the Priory to the people of St Osyth and beyond and prevents irrevocable fragmentation.

## **Parish Council Responses**

### St Osyth Parish Council

4.31 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.

4.32 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

4.33 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.

4.34 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.



- 4.35 The environmental impact of 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.
- 4.36 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

- 4.37 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 has received 258 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.
  - Applicant's constantly purchasing property within village to make a profit.
  - 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.
  - Increase in traffic and population would cause rapid decay of ancient monuments.
  - 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.
  - Construction process will cause chaos to village.
  - Additional visitors will cause parking problems.
  - 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.
- 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/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 set a precedent for enabling development – locally and nationally.
- Will directly violate conservation area.
- Resources, character and future prosperity of village will be compromised.
- Will compromise quality of life of residents.

- 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.
- Should have been submitted as a Detail Planning Application not Outline.
- 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
- Position of proposed pedestrian crossing will prove lethal.
- Priory has been left to deteriorate for 10 years.
- 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. Planning 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 site is broadly rectangular in shape and measures some 16.3 hectares. The site, known as The ‘Wellwick’ site, is situated to the north-eastern side of the B1027 Colchester Road, thereby separated from the Park. The site is formed of a 12 hectare crater resulting from gravel extraction undertaken in the 1970s and now lies around 8 metres lower than its surroundings. The area is generally flat with steep verges at the sides. To the southern and western boundaries can be found a scattering of vegetation running alongside Colchester Road. A caravan holiday park lies to the north.

### **Proposal**

6.3 This application seeks outline planning permission for the erection of 190 dwellings. Details of site access are included for consideration with all matters reserved for later consideration i.e. appearance, landscaping, layout and scale.

- 6.4 The supporting documents detail a mixture of properties consisting of 23 x 2 bedroom dwellings, 107 x 3 bedroom dwellings and 60 x 4 bedroom dwellings. It is suggested that the dwellings are predominantly of 2-storey height with elements of rooms in the roof and with building widths set to reflect modern house types.
- 6.5 The proposals include the creation of a new footway along the western side of Colchester Road and a new Archery Club facility and parking in order to facilitate the proposed relocation of the Bowman Club from the Priory Park.

### **Submitted Documents**

- 6.6 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**

- 6.7 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 development plan for Tendring comprises:
- Tendring District Local Plan (2007)
- 6.8 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).
- 6.9 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:
- 6.10 *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;

- 6.11 *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
- 6.12 *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.
- 6.13 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.
- 6.14 The proposal site lies in the countryside outside the confines of the St Osyth settlement. 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.
- 6.15 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 requirement + 20% of housing land equates to 4,110 dwellings. The delivery of 190 dwellings would make a positive contribution to the supply of housing land in the district. There is a current shortfall which would be reduced slightly by this development proposal. The construction of homes would also have economic benefits, including the increased population living and buying goods and services in the area.

### **Enabling Development Guidance**

- 6.16 '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.
- 6.17 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.
- 6.18 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 outside the Park at Wellwick.

- 6.19 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 of the estate in respect of this application and on the estate for development proposed in other applications. 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.
- 6.20 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.
- 6.20 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.
- 6.21 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.

6.22 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.

6.23 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.

6.24 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.

6.25 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**

6.26 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 13<sup>th</sup> to 19<sup>th</sup> 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.

6.27 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**

6.28 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'.

6.29 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.



- 6.30 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'.
- 6.31 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'. 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.
- 6.32 Local Plan Policies EN17, EN22 and EN22a address the issues of conservation areas, listed buildings and development within the proximity of a listed building.
- 6.33 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)'.
- 6.34 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;***
- 6.35 English Heritage advise that the Wellwick proposals are the least harmful of the enabling development schemes, although this opinion is tempered by stating that the Wellwick proposals would, to some degree, urbanise the Priory's wider setting. However, the Wellwick site lies outside the confines of the St Osyth Priory Estate and also outside of the designated St Osyth Conservation Area. The application site is separated from the St Osyth Priory Estate by a main highway and lies significantly lower than surrounding land. Accordingly, the development of this site in the manner proposed is not considered to materially adversely impact upon the significance of the heritage assets. Whilst the development would lead to an urbanising effect of an otherwise undeveloped area, the site specifics mean that the development will not be prominent in the landscape. It therefore follows that the effects on the Priory Estate are considered to be modest.
- 6.36 As this is an outline planning application with matters of appearance and scale reserved for later consideration, a full assessment of the design merits cannot be made at this time. However, officers are satisfied from the extensive information provided that an acceptable design solution has been considered and be arrived at. Formal applications for the approval of the reserved matters will of course include full details of the scale, layout and appearance of the buildings.
- 6.37 Accordingly there is no material conflict with Part 1 (a) of policy EN27.
- 6.38 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;***
- 6.39 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.

- 6.40 Accordingly the proposals are contrary to Part 1 (b) of policy EN27.
- 6.41 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.
- 6.42 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;***
- 6.43 This application relates to land outside of the St Osyth Priory Estate and therefore residential development of this site results in there being no conflict with this element of the policy.
- 6.44 Accordingly there is no material conflict with Part 1 (c) of policy EN27.
- 6.45 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;***
- 6.46 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.
- 6.47 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.
- 6.48 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)).
- 6.49 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.

- 6.50 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).
- 6.51 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, sufficient commonality has been found to allow a broad assessment of the financial impact of the proposals. 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.
- 6.52 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.
- 6.53 CBRE also advises 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 a construction deficit of £4.4m on the basis of repair and conversion costs alone. This figure was arrived at by subtracting the repair costs provided by RNJ from the value of the repaired Priory (as estimated by CBRE), thus this is not a conservation deficit as such. 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.
- 6.54 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 Wellwick proposals), CBRE identify that the scheme could be expected to produce a residual value of £3.2m (from an overall residual value of £3.6m from all the enabling development applications). BNP provide a residual value for this element ranging between £1.5m - £3.6m (from an overall residual value of £3.5m - £7.08m from all the enabling development applications).
- 6.55 It is clear from the financial appraisals undertaken that the proposals alone, 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 in the short term 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.
- 6.56 However, despite this conflict with policy, the Wellwick proposals are capable of making a positive financial contribution, and are deliverable in the short to medium term. Given the accepted urgency of works required, and in the absence of any other clear revenue stream to date, officers consider that approval of enabling development at Wellwick would offer a partial solution. This, added to any revenue that may be forthcoming from any grants or funding resulting from the formation of any independent trust could then be judged as offering the most realistic and deliverable solution at this time. Development at Wellwick does not compromise other funding streams being developed in the future.
- 6.57 Accordingly although there is conflict with Part 1 (d) of policy EN27, officers recommend that the positive contribution towards the conservation deficit is a material consideration capable of outweighing this element of the policy in this instance.

- 6.58 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;***
- 6.59 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.
- 6.60 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, applicants 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 in eliciting interest.
- 6.61 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.
- 6.62 Accordingly the proposals are contrary to Part 1 (e) of policy EN27.
- 6.63 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;***
- 6.64 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.
- 6.65 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.
- 6.66 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 forming of a trust, and the applicant has put forward suggestions as to how this may operate. However, the fact remains that to date no 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.

- 6.67 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.
- 6.68 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 that the urgency of works necessitates a pragmatic approach in so far that approval of this application is acceptable in advance of securing additional financial assistance. This opinion is based on the deliverability of this scheme in the shorter term, which will provide an impetus and injection of finance necessary to provide some repairs and restoration whilst additional efforts are made to form a building preservation trust or secure grant funding. The grant of planning permission at Wellwick need not prejudice securing other sources of funding in due course.
- 6.69 Accordingly although there is conflict with Part 1 (f) of policy EN27, officers recommend that the positive contribution towards the conservation deficit is a material consideration capable of outweighing this element of the policy in this instance.
- 6.70 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;***
- 6.71 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.
- 6.71 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 meet the identified repair costs. However, given the assessment above it is the opinion of officers that in this instance, the Wellwick scheme can provide a contribution towards preserving the heritage assets.
- 6.72 Accordingly the proposals are not in conflict with Part 1 (g) of policy EN27.
- 6.73 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.***
- 6.74 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 consider that on balance this application will, in isolation, result in enabling development that generates sufficient funds to undertake important repair works to the heritage assets, providing significant benefits in the shorter

term. Therefore, whilst there are clear failings in relation to this scheme in isolation, and when considered as a whole with the other applications for enabling development at Westfield and within the Park, approval of this application is the least damaging whilst offering some demonstrable benefits. English Heritage do state that the Wellwick scheme could be justified were it to be combined with the formation of an independent trust. Given that the grant of planning permission for this development would not compromise establishment of a trust, it is considered appropriate to grant planning permission.

6.75 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.

6.76 Criterion a) is complied with by all of the applications except this scheme at Wellwick. However, given the location and level of information submitted and through the imposition of controlling conditions, the receipt of an outline application in this instance is acceptable. In terms of criterion b) and c) these matters will form the basis of any S106 agreement.

### **Landscape Impact**

6.77 Section 11 of the NPPF 'Conserving and enhancing the natural environment' states that the planning system should contribute to and enhance the natural and local environment. Saved policy EN1 'Landscape character' seeks to protect the quality of the district's landscape. Any development which would significantly harm the character or quality will not be permitted.

6.78 The application site rests approximately 8 metres lower than the surrounding countryside, no doubt as a result of the previous mineral extraction at the site. The site is set to grass and has sloping grass banks around its perimeter. There is a well-established hedgerow and scrubby tree growth on the top of the bank which helps to screen the site from the adjacent highway and public right of way. The submitted tree survey provides an accurate description the botanical composition of the trees and hedgerows on the perimeter of the application site as well as their health and condition. The report identifies the need to rejuvenate the elm hedgerows and to gap up existing hedgerows to ensure they act as an effective screen. The main feature on the land is an established pond in the north western corner. There are several mature white willow trees on the pond margins which are covered in marginal aquatic plants, dominated by the common reed. Incidentally this pond has the potential to accommodate important protected species and a survey will be required to establish the presence or otherwise of such species. The indicative site layout makes provision for the retention of the pond and its margins as a feature within the proposed open space element of the development.

6.79 In terms of the impact of the development proposal on the character and appearance of the area it is considered that the application site is currently degraded in terms of its natural or semi-natural qualities. Landscape Character Type 7b St Osyth and Bentley Heaths describes the importance of protecting plateau edges from development and the potential for new development to be seen from a considerable distance. In this respect the development of the low land is unlikely to adversely impact on the character of the area. In the same way the important characteristics of Landscape Character Type 3c St Osyth

Coastal Slopes are not affected by the development proposal. It is recommended that new landscaping, broadly in accordance with the indicative scheme set out in the landscape proposals for the site, is secured by way of planning condition in order to improve the landscape. In addition, a controlling condition is recommended in relation to the protection of existing trees.

- 6.80 Accordingly, this application does not give rise to any material harm upon the landscape character, given the former use of the site, the existing characteristics of the site and its surroundings and the ability to improve matters through the imposition of appropriate landscaping and ecological conditions.

### **Highway Issues**

- 6.81 NPPF paragraph 34 states that 'Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.' Saved policy TR1a 'Development Affecting Highways' seeks to ensure that development proposals are considered in relation to the appropriate road hierarchy.
- 6.82 Essex County Council raise concern in relation to the site's location in so far that it is not easily accessed by more sustainable modes of transport and that it is not close to services such as schools, retail/leisure facilities and employment opportunities.
- 6.83 In this case the development relates to enabling development required to fund repairs to a heritage asset of significant national importance and therefore there should be no objection in principle. In addition the site, whilst divorced from the main settlement, is to be linked to the village through the provision of a new footway/cycleway and thereby providing easy access to village facilities. Revised plans have been received in relation to the technical requirements of the highway authority. Significant concern has been raised locally in relation to the additional traffic to be generated by this development but in terms of highway safety, no objection is raised to the scheme by the highway authority. However, on balance it is considered that the site is acceptable in highway terms.

### **Biodiversity and nature conservation**

- 6.84 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.
- 6.85 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.

- 6.86 Saved policy EN6 seeks to protect local biodiversity and geodiversity. Saved policies EN11a, EN11b and EN11c relate to international, national and locally protected sites.
- 6.87 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).
- 6.88 Wellwick itself is an area of improved grassland within which is a pond. It is acknowledged that a small number of birds nest in the surrounding hedgerow, of which some are likely to feed on the open banks. The proposals include planting to the banks, which may have a negative impact on the invertebrates and some birds (whilst also of benefits to others). The applicant advances that enhancements within the Priory Estate will mitigate for the loss of open areas at Wellwick and that the proposals will have a positive impact on other species such as bats.
- 6.89 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 :-
- 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
- 6.90 Natural England raise no objection to this application provided that the mitigation as set out in the Environmental Impact Assessment (EIA). 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.
- 6.91 The mitigation plan is required to include the following detailed information about:
- (i) the location of the new open space 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
- 6.92 The scope of the final mitigation plan will need to be agreed with Natural England and Tendring Council.
- 6.93 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.
- 6.94 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.
- 6.95 Given the above there is no objection to this application on the grounds of biodiversity and nature conservation.

### **Local Amenity**

- 6.96 Section 7 of the NPPF 'Requiring good design' states that the Government attaches great importance to the design of the built environment. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes. Saved Local Plan policies QL9 'Design of New Development', QL10 'Designing New Development to Meet Functional Needs', QL11 'Environmental Impacts and Compatibility of Uses, HG7 'Residential Densities' and HG9 'Private Amenity Space' seek to encourage good design, ensure that new development is compatible with surrounding land uses and protect the local and residential amenity. Policy COM2 'Community Safety' seeks to ensure that all new development contributes to a safe and secure environment. 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.
- 6.97 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. However, given the setting of the development away from the village (and Priory) it is not considered that there would be any significant harm to the residential amenities of local residents as a result of the proposed development.

### **Other issues**

#### *Alternative Provision*

- 6.98 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.
- 6.99 English Heritage have recommended that this scheme could be justified were it to be combined with the establishment of an independent trust, so as to create the closest to a comprehensive approach to securing the future of the Priory that now seems possible. As such English Heritage suggests that this application is deferred to allow such a trust to be established on terms agreed to be appropriate. In the absence of such a trust English Heritage recommend refusal.
- 6.100 Officers have considered the consequences of such a course of action and are of the opinion that this application can be supported in the absence of a trust being formed first. The likely financial contribution that could be expected from the formation of a trust, via grant funding etc., is thought to be relatively small. Certainly there are no assurances nor any guarantee of funding capable of securing the future of the heritage asset, although of course, any contribution would be beneficial. To defer this application would only serve to worsen the condition of the heritage asset by delaying the capability of much needed

funding being raised through the delivery of the enabling development on this site. As such officers do not consider that a deferral of this application to allow such actions to be appropriate in this instance.

6.101 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.*

6.102 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*

- 6.103 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.
- 6.104 However, a S106 Agreement relating to the implementation of restoration/repair works to the Priory Estate (in a manner to be agreed with English Heritage), the phasing of such works and biodiversity related mitigation/monitoring work (as requested by Natural England) is considered necessary.
- 6.105 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 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.

### *Flood Risk and Drainage*

- 6.105 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.
- 6.106 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 a surface water drainage scheme being submitted and approved. It is noted that the Environment Agency state that the overall details show that it should be feasible to balance surface water on site but strongly recommend that prior to any final drainage scheme being submitted, it is fully assessed by the SuDS Approval Board (SAB). The approval process will run parallel with any planning application and the development may not commence without drainage approval from the SuDS Approval Board.

## **Human Rights Implications**

6.107 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**

6.108 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.

6.109 As this is an outline application no details are submitted to demonstrate how this will be met.

6.110 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.

6.111 It is considered that, 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**

6.112 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.

6.113 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**

6.114 It is acknowledged that residential development of this site is a departure from the development plan and that the proposals will result in a significant amount of new housing in excess of the approach taken on other areas of the district. Additionally, it is also acknowledged that such an influx of new residents has the ability to change the character of the community and place additional strain on local services. Furthermore there is also little

doubt that the development places a reliance on the use of the private car, which runs contrary to the presumption for sustainable development.

- 6.115 However in this instance the proposals relate to enabling development necessary for the generation of funds needed to undertake repairs and restoration of a national heritage asset. Given that this application can make a significant contribution towards these funds, and in the absence of demonstrable harm to any heritage asset, officers recommend that this application can be supported despite the infringement with elements of Policy EN27.
- 6.116 No immediately deliverable alternative ways to fund the conservation deficit have been identified and although the conservation deficit would remain high, the funding raised can be secured through a suitably robust S106 agreement so that the necessary urgent works can be delivered.

Background Papers

None.