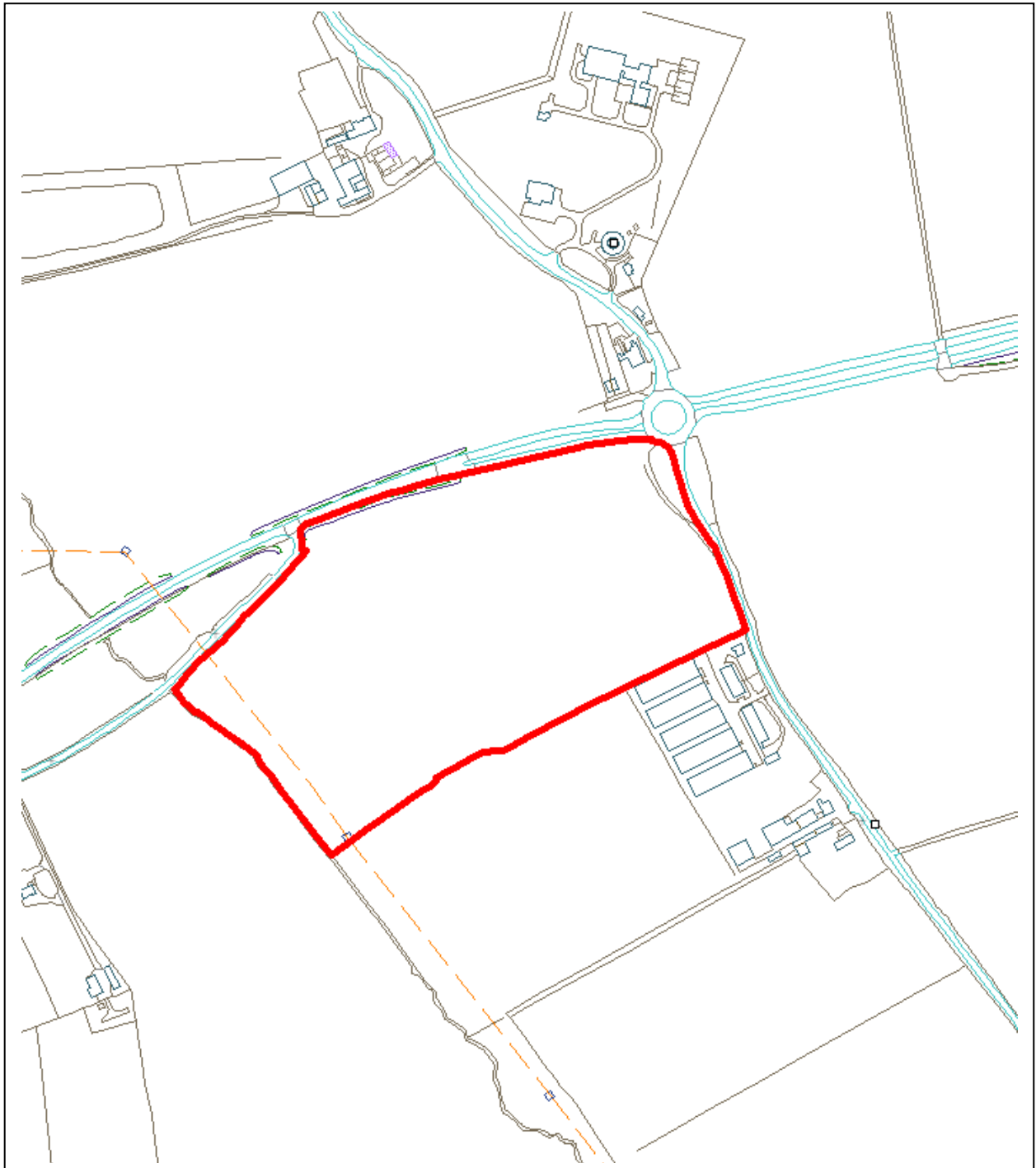


PLANNING COMMITTEE

4 FEBRUARY 2014

REPORT OF THE HEAD OF PLANNING

A.2 PLANNING APPLICATION - 13/00745/OUT - LAND SOUTH WEST OF HORSLEY CROSS ROUNDABOUT CLACTON ROAD, HORSLEY CROSS, CO11 2NZ



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Application:	13/00745/OUT	Town / Parish: Mistley Parish Council
Applicant:	Croland Ltd	
Address:	Land South West of Horsley Cross Roundabout Clacton Road Horsley Cross CO11 2NZ	
Development:	Development of site to provide a new industrial park with up to 28,280m ² of floorspace for B2 and B8 uses , a bus depot and 30m high telecommunications mast. All with associated access, landscaping, parking and highway improvements.	

1. Executive Summary

- 1.1 The application is submitted in outline with all matters, except access, reserved for future consideration.
- 1.2 The application proposes the development of the site with up to 28,280m² of floor space for Class B2 (General Industrial) and Class B8 (Warehouse and Distribution) uses; a bus depot; and 30m high telecommunications mast to facilitate broadband access to homes and businesses in the surrounding areas.
- 1.3 The proposed development, for the most part, accords with the NPPF which, amongst other things, says that Councils should positively seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. It also presumes in favour of sustainable development that is defined in terms of social; environmental; and economic benefits arising from development.
- 1.4 The application accords with emerging local plan policy MLM6 that allocates the site for an amount of both Class B2 and Class B8 uses. The policy can be afforded weight due to the local plan's advanced stage of preparation and the Council having taking into account the objections received to the proposed policy.
- 1.5 The development will not have an adverse impact on the capacity of the highway network and will provide a safe means of access and egress to the B1035. As it is detached from local settlements and provides little opportunity for access by sustainable modes of transport the application does not fully accord with the NPPF or local plan policies but the application is supported by a draft travel plan that will provide a public transport service. This is to be controlled by means of a legal obligation.
- 1.6 The application proposal will not have an adverse impact on nature conservation; flood risk issues; or heritage assets (including archaeology).
- 1.7 The application proposal will have an adverse visual impact on the landscape qualities of the area but these can be mitigated to a certain extent by landscaping and control over the height of the proposed buildings.
- 1.8 The benefits of the scheme can be summarised as follows : delivery of sustainable economic development; increased employment; advantageous location; super fast broadband connection; and provision of extended bus services.
- 1.9 The application does not meet the criteria within the Town and Country Planning Consultation Direction 2009 and as such the application does not have to be referred to the

Secretary of State and it falls to be determined by this Council as the relevant Local Planning Authority.

- 1.10 The NPPF presumption in favour of sustainable development and Policy MLM6 of the emerging local plan apply to this proposal unless significant and demonstrable impacts outweigh the benefits of the proposal.
- 1.11 The recommendation is to approve outline planning permission subject to the completion of a legal obligation under Section 106 of the Town and Country Planning Act 1990 and a number of controlling conditions.

Recommendation: That the Head of Planning is authorised to grant outline planning permission for the development subject to:-

A) The completion of a legal agreement under the provisions of Section 106 of the Town and Country Planning Act 1990 (as amended) within 6 months of the date of the Committee's resolution to approve, dealing with the following matters:

1. Phasing of development and design code – including delivery of broadband mast
2. The future management of the communal areas of the site
3. The future management and maintenance of the strategic landscaping areas and surface water attenuation pond and sustainable urban drainage measures
4. Travel plan and public transport service and provision of additional and improved bus stops
5. The division of floor space accommodated by B2 and B8 uses
6. The retention of the bus depot for a specified period of time
7. Air Quality Monitoring
8. Retention of land for potential future A120 improvements
9. Employment and Skills Plan (for the construction phases of development) and a Local Labour Agreement (for all jobs created on the business park)

B) Planning conditions in accordance with those set out below (with such amendments and additions, if any, to as the Head of Planning in her discretion considers appropriate).

1. Submission of reserved matters within three years
2. Commencement of development within two years of approval of last reserved matter
3. Existing and proposed site levels and finished floor levels – identifying areas of cut and fill and the import or export of materials
4. Samples of all external roof and wall materials
5. No building on northern boundary to exceed 10 metres in height
6. No other building to exceed 12 metres in height
7. Details of screen walls and fences and security gates
8. Details of street lighting; floodlighting or other means of illumination
9. Highways conditions as reproduced within the report including provision of new roundabout junction
10. No building to be used as an independent office (Class B1)
11. Details of hard and soft landscaping
12. Implementation of landscaping
13. No outside storage or commercial or manufacturing activities
14. Details for the storage of refuse
15. Dust management plan during construction
16. No retail sales unless ancillary
17. Details of on site surface water attenuation and discharge to Holland Brook and implementation of recommendations of flood risk assessment
18. Foul water strategy

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| <ul style="list-style-type: none">19. A scheme to minimise impact on wildlife20. Programme of archaeological work21. Broadband provision |
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2. Planning Policy

National Policy:

The National Planning Policy Framework (NPPF)

- 2.1 The NPPF sets out the government's commitment to securing economic growth in order to create jobs and prosperity and ensuring that the planning system does everything it can to support that aim. For local planning authorities this includes drawing up Local Plans that positively and proactively encourage sustainable economic growth, identifying sites to attract local and inward investment and containing policies flexible enough to respond rapidly to changes in economic circumstances.
- 2.2 The NPPF advocates a 'presumption in favour of sustainable development' which requires local planning authorities to **positively** seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. **Where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits.**
- 2.3 The NPPF encourages Councils to support patterns of development that facilitate the use of sustainable modes of transport (such as walking, cycling and public transport), where practical, but states that development should only be prevented or refused on transport grounds where the impacts of development will be severe. It also encourages Councils to support the expansion of electronic communications networks, including telecommunications and high speed broadband.
- 2.4 The NPPF requires Councils to direct development away from areas at risk of flooding and ensure that developments do not increase flood risk elsewhere, for example through surface water run-off. It also encourages Councils to protect and enhance valued landscapes, in particular Areas of Outstanding Natural Beauty and the undeveloped coast. Where development of agricultural land is considered necessary, the NPPF encourages Councils to use areas of poorer quality land in preference to that of a higher quality.
- 2.5 The NPPF gives a high degree of protection to sites of international importance for wildlife, seeking to direct development away from these areas. Elsewhere, if development is likely to result in significant harm to biodiversity, Councils should work with applicants to either avoid, mitigate or compensate for this harm. The NPPF also requires Councils to consider potential effects of development on 'heritage assets' including the presence of archaeological remains where it may be necessary for a developer to undertake a field evaluation.
- 2.6 The NPPF requires development to contribute positively to making places better, through their design, by responding to local character and history and reflecting the identity of local surroundings and materials, while not preventing or discouraging innovation.

Tendring District Local Plan 2007

- 2.7 The Council's 2007 Adopted Local Plan is the statutory development plan for Tendring. Although the plan was only designed to last until 2011, the policies within it were 'saved' through a direction by the Secretary of State, allowing the Council to use them for an

extended period of time while a new plan was being prepared. In accordance with national policy, the Council can only give due weight to the policies in the Adopted Local Plan according to their degree of consistency with the NPPF.

2.8 The following policies are considered relevant to this planning application:

Policy QL1 – ‘Spatial Strategy’ aims to facilitate a sustainable pattern of growth throughout the district by concentrating development within the settlement development boundaries of defined towns and villages and only permitting development outside of those boundaries that is consistent with countryside policies.

Policy QL2 – ‘Promoting Transport Choice’ requires developments to be located and designed to avoid reliance on the use of the private car and promote travel choice, other than in exceptional circumstances – in which case measures to improve the accessibility of development, particularly by walking, cycling and public transport, can be required.

Policy QL3 – ‘Minimising and Managing Flood Risk’ requires applications for development involving sites of 1 hectare or more, even within areas of low flood risk, to be accompanied by a Flood Risk Assessment to consider potential drainage and surface water flooding issues.

Policy QL4 – ‘Supply of Land for Employment Development’ allocates 59 hectares of employment land for development in use classes B1 (b and c), B2 and B8 use which does not include the land at Horsley Cross.

Policy QL5 – ‘Economic Development and Strategic Development Sites’ allocates two strategic employment sites: Bathside Bay for an extension to Harwich International Port; and Land East of Pond Hall Farm for the development of a new business park.

Policy QL7 – ‘Rural Regeneration’ encourages regeneration in rural areas by supporting rural diversification schemes and developments that provide housing, community facilities and employment opportunities whilst ensuring they improve access to the countryside and protect and/or enhance landscape character and biodiversity.

Policy QL9 – ‘Design of New Development’ is mainly applicable to detailed planning proposals but does require applications for development on large, complex or sensitive sites to be accompanied by a Design Statement.

Policy QL10 – ‘Designing New Development to meet Functional Needs’ requires developments to meet functional requirements such as safe highway access, measures to minimise opportunities for crime and anti-social behaviour and space for servicing and car parking.

Policy QL11 – ‘Environmental Impacts and Compatibility’ requires developments to be of a scale and nature appropriate to the locality, to avoid material loss or damage to important environmental assets, to avoid damaging levels of pollution and to ensure that the health, safety or amenity of occupants of the development will not be harmed by pollution.

Policy QL12 – ‘Planning Obligations’ gives the Council the power to secure planning obligations from development, through the use of legal agreements, to ensure that development is accompanied by the necessary infrastructure to make it acceptable in planning terms.

Policy ER1 – ‘Employment Sites’ lists the sites allocated for employment use in the Local Plan, requiring a planning brief for sites of more than 5 hectares. The list of sites does not include land at Horsley Cross.

Policy ER2 – ‘Principal Business and Industrial Areas’ states that employment related development will be directed toward existing principal business and industrial areas listed in the supporting text and sites allocated for employment in Policies QL5 and ER1. Land at Horsley Cross does not fall within these categories.

Policy ER5 – ‘Transport Depots’ allows new transport depots and lorry parks to be developed on existing and proposed employment sites or outside of employment sites where it can be demonstrated that no suitable land in these areas is available and that there would be no adverse impact on rural and residential amenity and/or highway safety.

Policy ER7 – ‘Business, Industrial and Warehouse Proposals’ sets out a range of criteria that such proposals are required to meet that consider the scale and nature of the proposal, pollution, vehicular access, utilities and storage facilities. The policy also aims to ensure that new developments do not compromise the movement of freight by rail or through the district’s ports.

Policy COM2 – ‘Community Safety’ requires developments to contribute to a safe and secure environment by minimising the opportunities for crime and anti-social behaviour.

Policy COM20 – ‘Air Pollution/Air Quality’ aims to ensure that new development does not contribute, significantly, toward air pollution.

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

2.9 The NPPF allows Councils to apply policies in emerging Local Plans with varying degrees of weight depending on how far they have advanced through the Local Plan process, how well they fit with the thrust of national policy and how many objections remain ‘unresolved’. The relevant policies from the 2012 Draft Local Plan, as amended through the recently published ‘Pre-Submission Focussed Changes’ are listed below:

Policy SD1 – ‘Presumption in Favour of Sustainable Development’ reinforces the thrust of national policy which is to approve applications wherever possible, particularly where they accord with the other policies in the Local Plan, unless material considerations indicate otherwise.

Policy SD5 – ‘Managing Growth’ aims to direct development toward sites within settlement development boundaries but does allow development outside of settlement development boundaries if a site is specifically allocated for a particular form of development in the Local Plan or if the proposal can otherwise meet the criteria in the policy.

Policy SD7 – ‘Securing Facilities and Infrastructure’ aims to ensure that new development is supported by necessary facilities and infrastructure, providing the Council with the power to seek this through the use of legal agreements or through developer contributions.

Policy SD8 – ‘Transport and Accessibility’ requires developments to be acceptable in transport terms, in particular ensuring that site access and service arrangements are addressed, the transport network is able to cope with any increase in vehicles and the opportunities to access sustainable transport (e.g. public transport, cycling and walking) are maximised.

Policy SD9 – ‘Design of New Development’ sets out the Council’s general expectations for how developments should be designed and laid out to ensure good quality results that meet practical requirements, minimise environmental impacts and take opportunities to enhance the locality.

Policy SD10 – ‘Sustainable Construction’ requires developments to maximise the opportunity to incorporate sustainable design and construction, renewable energy and recycling.

Policy PRO1 – ‘Improving the Strategic Road Network’ lists the transport projects (which includes the upgrade of the A120 between Hare Green and Ramsey) and states that development proposals outside of Settlement Development Boundaries that would jeopardise the delivery of these transport projects will be refused.

Policy PRO1a – ‘Improving the Public Transport Network’ which sets out the Council’s commitment to work with partners to improve bus and rail services in the district.

Policy PRO2 – ‘Improving the Telecommunications Network’ supports proposals for telecommunications infrastructure so long as they avoid interference with electrical equipment and air traffic services and minimise visual impacts. The policy also requires new developments to be served by super fast broadband where possible.

Policy PRO3 – ‘Improving Education and Skills’ requires developers to employ local contractors for construction and for new employment opportunities arising from the development to be advertised through channels agreed by the Council – aimed at maximising the opportunities to employ local people.

Policy PRO12 – ‘Freight Transport and the Movement of Goods’ sets out the Council’s approach to applications for freight, distribution and logistics facilities with a preference for them to be located on allocated or safeguarded employment sites or, where this is not possible, with good access to the railway network or failing that, good access to the A120. The policy includes criteria against which proposals will be judged.

Policy PRO14 – ‘Employment Sites’ sets out the Council’s approach to safeguarding employment sites from loss to housing development and allowing flexibility for a range of employment uses to be considered on existing and allocated employment sites, so long as they do not conflict with other policies in the Local Plan.

Policy PLA1 – ‘Development and Flood Risk’ requires applications for development involving sites of 1 hectare or more, even within areas of low flood risk, to be accompanied by a Flood Risk Assessment to consider potential drainage and surface water flooding issues.

Policy PLA3 – ‘Water Conservation, Drainage and Sewerage’ requires development to incorporate sustainable drainage systems (SuDS) as a means to reduce surface water flooding, demonstrate that the sewage network will cope with wastewater from the development and incorporate measures to make an efficient use of water.

Policy PLA4 – ‘Nature Conservation and Geo-Diversity’ requires development proposals to consider the potential impact on biodiversity and geodiversity and, where development is considered acceptable, put measures in place to mitigate against any adverse impacts.

Policy PLA5 – ‘The Countryside Landscape’ sets out the Council’s requirements for developments to protect and, wherever possible, enhance the district’s landscape and its distinctive local character.

Policy MLM6 – The pre-ambles to this policy and the policy itself is set out in full in the assessment to this report. In summary, the policy allocates the application site for development in use classes B2 and B8 – restricting B8 use to 25% of the total commercial floorspace, requiring access from the B1035, setting aside land adjoining the A120 to allow

future widening and ensuring that the development would not jeopardise the upgrading of the A120 necessary for the proposed port expansion at Bathside Bay.

Other guidance:

Essex Car Parking Standards 2009

Tendring Employment Study 2010 – “...commercial activity is concentrated around the Clacton and Harwich areas. While these two market areas are the most populous and the focus of housing and commercial growth in the future there is a need to consider other market areas’ potential to deliver employment growth.”

Sustainability Appraisal – the site is “well positioned in relation to the trunk road, being approximately half way between Harwich International Port and the A120/A12 junction in Ardleigh. This employment allocation could help to deliver inward investment and jobs for local people and would also sustain and enhance the rural economy by providing an employment site in a rural location.”

Economic Development Strategy - The 2013 Economic Development Strategy includes a baseline assessment of the district’s economy, identifies the sectors of the economy expected to grow or decline, identifies potential barriers to growth and sets out a range of measures aimed at generating growth in Tendring’s economy and creating new jobs. The Economic Development Strategy was prepared by consultants working closely with Officers with valuable input from Members through a series of workshop sessions. Two of the recommendations from the strategy were to target sectors of the economy most likely to grow (including the renewable energy industry and health care) and target growth in certain locations most likely to support the creation of jobs (including Harwich, Clacton and West Tendring/Colchester Fringe).

Employment Land Review 2013 - The 2013 Employment Land Review includes an assessment of the likely demand for employment land, for business and industrial use in the district over the 15 year period of the Draft Local Plan taking into account projected population growth and economic trends. It also includes an assessment of a range of existing and proposed employment sites, advising on their suitability for employment use. This study compares the anticipated demand for business and industrial premises with the supply of land and then puts forward recommendations for which sites should be allocated or protected in the Local Plan. The study concludes that there was almost ten times as much employment land identified in the Draft Local Plan than was actually likely to be needed and that any significant demand for new business and industrial premises was most likely to be in locations on the edge of Colchester or adjacent to the port of Harwich. The study therefore recommended that land at Horsley Cross should remain in agricultural use.

Landscape Character Assessment 2001 – the application site lies within the Holland Valley System and the Bromley Heaths Area. The latter area is recognised as being visually sensitive and sensitive to change as a result of its open and rural character. The landscape management strategy, refers to the following issues that are of particular relevance to the current application:

- Service facilities, factories, or employment sites that use local materials and informal native planting are likely to have less impact on landscape character;
- Particular care should be taken in the siting of communication masts or other vertical elements – these have the potential to be highly visible in this open landscape. This also applies for large scale rural buildings e.g. for agriculture; and
- Opportunities exist for creation of some innovative landscapes and architecture provided they fit with the scale of the landscape, utilise local materials and planting species and maintain the scattered rural settlement pattern.

3. Relevant Planning History

Planning Application 06/00891/OUT – refused planning permission following a Public Inquiry in 2008

3.1 The site was the subject of a previous outline application made by Green Transport Ltd (06/00891/OUT) for the following proposed development:

“1. Use of agricultural land for employment purposes by formation of six plots and the erection of buildings to enable relocation and expansion of existing businesses in North East Tendring District as follows:-

- PLOT 3 - 0.7ha, building 2,500sq. m, manufacture/refurbishment of filling and packing machinery contract packing operation
- PLOT 4A/4B, 1.3 ha, total : Plot 4A building 2000sq. metres logistics depot serving Tendring District, Class B8; Plot 4B building 1900 sq. metres storage involving manufacture of specialist brick related products for the construction industry. Class B2/B8
- PLOT 5 - 1.0 ha, building 1,900 sq. m, logistics depot national and international, Class B8
- PLOT 6A - 0.5 ha, (ancillary building) 240sq. m, car transporter depot
- PLOT 7 - 0.75 ha, 1,900sq. m, labelling operation, Class B2
- PLOT 8 - 0.75 ha, 1,900sq. m, logistics depot, Class B8

2.

- PLOT 1 - 1.7ha, erection of 80 bedroom hotel

3.

Remainder of the site to be comprehensively landscaped (PLOT 6B, waste recycling centre (to be the subject of a separate application for full planning permission to Essex County Council).”

3.2 In December 2006 the Council’s then named Development Control Committee resolved to approve the application. At the same time the Council was defending the site’s non allocation in the draft local plan (later to become the adopted Local Plan in 2007). As the site was not allocated for development in the local plan that was in force at the time of the resolution; it was in open countryside and was not closely related to existing main settlements, public transport or other services and facilities the Council were required to refer the Committee’s resolution to approve to the Secretary of State as a significant departure from the adopted development plan in accordance with the relevant “departures regulations” that were in force at the time of the application.

3.3 The application was called in for consideration at a Public Inquiry in March 2007. The Inquiry was then held in abeyance pending receipt of the binding Inspector’s report into the Replacement Tendring District Local Plan (this document was adopted in November 2007). The Inquiry finally “re-started” in January 2008 and was heard between 22nd and 30th July 2008.

3.4 The Local Plan Inspector’s binding report into the 2007 Local Plan rejected an objection that this site should be allocated for employment development and the site remained unallocated when the Inspector at the Public Inquiry considered the merits of the 2006 application. When the Inspector considered the application at the Public Inquiry she pointed out that the Local Plan Inspector did not have the benefit of certain information including the Harwich Strategic Flood Risk Assessment 2008; and the fact that some of the intended occupants of the site had had their existing premises destroyed by fire in the interim.

Furthermore, the Local Plan Inspector had also deleted from the Local Plan a strategic employment allocation at Frating that had left the District without sufficient employment land allocations to serve the District into the future.

3.5 The Inspector's report was necessarily comprehensive and took into account a number of planning policies and other material considerations. These other material considerations included:

- The feasibility over the deliverability in the near future of other Harwich employment allocations; strategic development proposals (including Bathside Bay) or the intensification by redevelopment of existing industrial sites;
- The delay which may occur if the provision of employment land is considered through the development plan process;
- The urgent need of some but not all of the firms to find new premises and the need for all of them to move in order to fulfil their ambitions (although this enhancement was seen to be a benefit rather than a compelling need);
- The suitability of the alternative sites that were either too small for any of the firms individually or were remote from major roads or their proximity to housing (which was of particular importance to the distribution firms);
- The deliverability of the Horsley Cross site had relatively few constraints and could realistically be delivered within three years and benefitted from the strong motivation of the applicant, their co-option holders and the other members of the group. The companies that formed the consortium at the time included : PLF International Limited; Green Planet Transport Limited; Brick Logic; Carlson Group Limited; Oak Logistics Limited; Hamblion Transport Limited; and Premier Labellers Limited.
- The site was more likely to be delivered than a site where a speculative developer had an unknown group of occupiers;
- The limited capacity of the A133/120 junction was also a further constraint to the efficiency of B8 operations in those sites suggested to the south of the A120 (e.g. in Clacton) and these sites would not necessarily ensure the retention of existing staff many of whom were Harwich based;
- All the businesses were "home-grown" established businesses where it was felt that economic regeneration was more likely to generate from;

3.6 Essentially though her decision was based on a simple question of whether the "weighty" economic, employment and regeneration benefits, as listed above, outweighed the strong policy objections to a site that would represent a free standing employment hub in the open countryside roughly equidistant from both Harwich and Colchester, with no public transport to where most employees would live and which is too far away to walk or cycle to work. There was only a modest capacity via a Travel Plan to reduce an otherwise complete dependence on private transport. There would be a significant adverse impact on the visual qualities of the landscape that even after 15 years of landscape growth would still likely result in a development of a scale and nature that would be at odds with the surrounding rural landscape. Furthermore, the Inspector was concerned that it would set a precedent for other Greenfield development unrelated to existing settlements and with poor accessibility.

3.7 The Inspector thus concluded that the development proposal by virtue of its location would be contrary to strategic planning policies at national and local level and recommended refusal of the proposed development. Her final paragraph reads:

“The decision is thus finely balanced, much more so than an initial appraisal of the development plan and national policy context would suggest. My overall conclusion is that there are very weighty material considerations in support but they are still insufficient to outweigh the powerful objections to development in this unsustainable location at Horsley Cross. The balance tips against this proposal.”

- 3.8 The Secretary of State ratified this decision by way of letter dated 18 November 2008.

Planning Application 12/00954/FUL - Use of land for additional car boot sales.

- 3.9 Part of the site was also refused planning permission in November 2012 for the use of the land for up to 28 car boot sales per year. The reason for refusal was based on the adverse impact that the proposal would have on highway safety and convenience on Clacton Road (the B1035). The Inspector noted that the site had been used for in excess of four years for boot sales for 14 days each year (and as such fell within permitted development rights). He concluded that

“Overall therefore, given that the proposal would not change the number of vehicles using the site on individual event days, that this level of use has not led to any reported highways problems in the past and that reasonable visibility splays can be achieved, I consider that, with appropriate conditions, the proposal would not have a harmful effect on highway safety or convenience.”

- 3.10 The appeal was allowed and planning permission was granted on 2 October 2013.

4. Consultations

- 4.1 The application site is located within the parish boundary of Mistley, however, as the site will have implications for a wider surrounding area a number of nearby parishes and town councils have also been consulted. The responses are reproduced in full below.

Town and Parish Councils

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| Mistley Parish Council | Mistley Parish Council's Planning Working Party initially considered this application on 11 July (2013) and it was agreed to support the planning application in principle with the following comments: <ul style="list-style-type: none">i) Mistley Parish Council endorses Policy MLM6 of the Local Plan and the creation of employment opportunities in the locality.ii) The terms of Policy MLM6 (c) i.e. provision for the widening of the A120 are essential and need to be highlighted within the proposal.iii) Confirmation of commitment from the development for vehicular access and public transport, including details from Bus Operators willing to modify existing services or introduce new services.iv) Concern about what measures would be undertaken by the developer to prevent run-off and pollution from oil and other chemicals into Holland Brook. |
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Mistley Parish Council wrote to residents at Horsley Cross to seek their comments on the planning application.

Mistley Parish Council's Planning Working Party met 15 August (2013) to consider this application include the additional plans, together with communications received from nine Horsley Cross residents setting out their concerns about the proposed development.

The Planning Working Party had broad support for the development of the industrial park but was sympathetic with the concerns of the residents of Horsley Cross and in particular the potential increase in volume of traffic, speed limits and the weight of lorries using Clacton Road.

Mistley Parish Council wrote to the developer to obtain details of potential uses and businesses of the industrial park. Subsequently, a meeting was arranged with the representatives of the developer to discuss their application on 12 September (2013).

Mistley Parish Council had previously supported an earlier application for the site that lost on appeal when it was not part of the Local Plan. Now it has been proposed to be included, the plans to develop the site have come forward again. Last time the site was also rejected because Pond Hall Farm at Parkeston was in the Local Plan. The developer's representatives explained that this site was not being developed because of technical issues and also to obtain a change of use for a mixed development, i.e. housing.

The developer's representatives explained that the site is viable from the interest shown because of links to the A120 and that most businesses will be new to the area including services and component makers for the offshore wind turbine industry. The Planning Working party was reassured that the businesses would not be relocations from the Tendring area. The Planning Working party noted that the site would be served 07.00 to 19.00 by a scheduled bus service from Harwich, Mistley/Manningtree, Clacton and Colchester, by a service run by Cedrics/New Horizon who are planning to consolidate on the site. They are considering subsidised travel for local employees and to help disincentivise travel by car.

The Planning Working Party was also reassured by the measures which the developer would put in place to minimise environmental impact, including local sewage treatment, use of 'grey water' and anti-pollution measures.

The Planning Working Party was mindful that such a development will mean more traffic on the A120, but an increase in large lorries was not envisaged, although an increase in buses and coaches is likely. Mistley Parish Council's concern is the use of the B1035 northwards through Manningtree to the A137/A14.

Mistley Parish Council met on 7 October and following a discussion of the Planning Working Party's recommendations, agreed to support the outline planning application.

Tendring Parish Council	Tendring Parish Council are against this development on a number of grounds:
	<p>The dualling or redesigning of the A120 needs to be decided before any development along this stretch. If the A120 central reservations are closed around the Gt Bromley/ Lt Bentley junctions then more traffic would be using the Horsley Cross roundabout. Would the roundabout cope with increased traffic from this development too or would it become a bottleneck? This would be become the accident blackspot rather than Pellans Corner.</p>
	<p>Paragraph 2.15 states that west of the site the A120 links with the A133 - yes, directly through the parish of Tendring using Crown Lane and Crow Lane which are single carriageway for large sections, unsuitable for further smaller vehicles. HGVs have to continue through the parish of Tendring down The Street, which has private on street parking for residents - totally unsuitable for large lorries. This is a constant problem for residents at present without extra traffic being generated.</p>
	<p>This site will encourage, in time, companies to relocate from Clacton and Harwich leaving these areas empty. TDC policy has always been to promote employment in the towns, not in the middle of nowhere, where all employees will drive to work!</p>
	<p>There are already empty units around the district which smaller companies can accommodate.</p>
	<p>All the infrastructure in the area is insufficient for this site.</p>
	<p>We already have two masts in the area which could be used for improved broadband?</p>
Little Bromley Parish Council	Chairman explained that he felt this would bring jobs to the area and a new bus route.
	<p>It was also explained that the reasons why this might not be the right location for this type of development were:</p>
	<ul style="list-style-type: none"> • Unsustainable location - there's no way of getting to it without travelling on the A120 • Has very few houses around it • Loss of open countryside • Loss of agricultural land • Insufficient transport • Out of size and scale and not in keeping with the local environment. • Doesn't comply with the sequential test
Wix Parish Council	Wix Parish Council discussed this application at a recent routine bi-monthly meeting on Monday 2 nd September 2013.
	<p>Following a discussion on this topic, it was agreed that the Council should raise an objection to this application.</p>

Wix Parish Council's objection now follows:

1. There will be a loss of agricultural/greenfield land when several suitable brownfield sites are available at the Dovercourt/Harwich end of the A120.
2. This site is located at a relatively high position in a rural setting that abounds the West border of Wix Parish, at which boundary – a couple of metres away – the proposed 30 foot telecoms mast will be an uncompromising eyesore – particularly to those residents who live in the Goose Green sector of our village.
3. We note, amongst the documents a line suggests that a bus service to the site be from Manningtree. Of all the services from nearby areas that are possible, this seems to be of the least value, there being modest employment facilities in Manningtree and easy rail access to Ipswich/Colchester/Chelmsford and London etc.
4. Because of Horsley Cross location (i.e. no footpaths, no cycleways and a very infrequent bus service) all of the employees at this proposed site will have to travel by car to the site.
5. This will create noise and fume pollution.
6. The North West segment of the proposed site is adjacent to the only single lane section of the A120 in that specific vicinity. This road is desperately in need of an upgrade both in quality of surface and dualling – not only at this location, but on its whole length from Harwich. Until this is done the Horsley Cross vicinity has no validity for any non-rural development.
7. The present A120 also passes parallel to, and to the North of the old Harwich - Colchester road in Wix.
8. The earlier Horsley Cross development proposed in 2006 (06/00891/OUT) had proposed users – whose products were intended for regular weekly shipment to places such as Scandinavia, The Netherlands and Belgium. Any such similar potential users in the present proposal would necessarily create two-way heavy goods vehicle movements along the section of the A120 that runs parallel to and close to all Wix residents who live on the old Harwich/Colchester roads (particularly the north side), all of who live on the Swedish Estate and a few on the Bradfield Road by the overpass. Thus creating a considerable increase in noise pollution for Wix residents to that which already exists.
9. Apart from the heavy vehicle noise pollution just mentioned, there is every probability there will also be added noise pollution from private vehicles belonging to probable employees from the Harwich/Dovercourt residential areas going to and from work at this proposed site.
10. To sum up, this proposed development lacks intelligent forethought concerning:
 - a) The use of Greenfield Land.
 - b) The consequences of inadequate access.
 - c) Visual impact in an agricultural area.
 - d) In particular, an unacceptable increase in noise pollution to many residents of Wix.

Little Bentley Parish Council

Opinions were split equally between the four Little Bentley Parish councillors voting on the proposal and the issue was accordingly decided in favour of the application by the casting vote of the Chairman. Those in favour noted that it would bring more jobs to the area; the broadband tower would provide a benefit to the area; and that Horsley Cross had good road access. Those against noted that the units were speculative and not needed as there were vacant units elsewhere in Tendring; the proposal wasn't viable or appropriate in the proposed location in the open countryside; jobs wouldn't necessarily go to local people and that employees from farther afield would be likely to travel by car; and that more information was needed on sewage and water issues.

Harwich Town Council

Harwich Town Council wishes to place on record its support for this application since it offers the one immediate, realistic opportunity for significant job creation in the vicinity of Harwich.

Great Bromley Parish Council

Great Bromley Parish Council objects to this application.

The Parish Council would wish to see the detailed planning application relevant to this proposed development along with the Planning Officer's report.

At present the Parish Council would wish to object to any development at this location at all.

Cllr. Matthew Patten

I object to this application on the following grounds:

- Very poor access to the site.
- The A120 is already highly pressured and its future development uncertain.
- This application will dramatically worsen the situation on what is already a dangerous and busy roundabout.
- The proposed access point of the site itself, on the main Clacton Road, is also dangerous with poor visibility.
- It makes no sense to approve such an application without understanding the future strategic development of the A120.
- The offer of local employment for Tendring residents is unproven.
- There is insufficient access to the site via local public transport.
- The site is a greenfield site in the heart of the district.
- It represents a significant loss of what is a rural area and setting.
- The proposed buildings and activity on the site are poorly designed and out of keeping with the surrounding area.
- The proposed telecoms mast is ridiculous and a blot on the landscape.
- There are already 2 existing masts in close proximity.
- This is not the solution to Tendring's broadband provision.
- Local residents in Wix, Bradfield and Tendring will be negatively impacted by this development in terms of loss of amenity, noise and pollution, increased traffic and increased danger.

Consultation Responses

Environmental Health	<p>Concerns over potential impact on local air quality with the bus depot and HGV movements around the site.</p> <p>Minded to request a Section 106 to provide monitoring for a period prior to the work commencing and then continue for a couple of years after to ensure that the local air quality objectives are not exceeded.</p>
Regeneration	<p>If Members are minded to approve the application Regeneration would wish to see this come forward as a comprehensive development proposal suited to this high profile location. To ensure high quality development this service would wish to see a comprehensive design brief for the site to focus on the palette of building materials, the scale and mass of the proposed development and a suitable phasing scheme for the build out. The Regeneration team would also wish to ensure that a condition is attached to any approval referring to Policy PRO3 – Improving Education and Skills to ensure that an Employment and Skills Plan (for the construction phases of development) and a Local Labour Agreement (for all jobs created on the business park) are produced and agreed to ensure all employment opportunities are made available to Tendring residents.</p>
Principal Tree & Landscape Officer	<p>The site is currently open and clearly visible from a several locations as shown in the document entitled 'Landscape and Visual Constraints and Opportunities' submitted by the applicant in support of the application.</p> <p>Section 1.3 of this document states that it is not a detailed 'landscape and visual appraisal or impact assessment' but is intended to 'identify and highlight relevant landscape and visual constraints and opportunities only'. It also provides a landscape strategy.</p> <p>It is difficult to see how a landscape strategy for, what may be, the first phase of an extensive and potentially much larger development could be produced without fully assessing the potential impact on the landscape.</p> <p>In terms of the proposed radio mast it is noted that there are several other similar structures in the relatively local area and in itself such a structure may not appear significantly incongruous in the landscape.</p> <p>With regard to the amount and scale of the proposed built form it seems unreasonable to compare this element of the development proposal favourably with existing isolated farms and associated agricultural buildings. The development proposal is completely out of context with any existing buildings in the area.</p> <p>The proposed new soft landscaping showing native tree planting belts on the perimeter of the application site and 'internal buffers' will go some way to screening the proposed built form.</p> <p>Whilst the site is not seen extensively over large distances the buildings would be greatly out of scale with the open rural surroundings. The proposed soft landscaping will be unlikely to adequately screen the proposed buildings in the medium to long term</p>

and they are likely to remain significant 'alien' structures in what is otherwise quite open landscape.

The development does not result in an improvement to the character or appearance of the area but instead would cause significant harm to both rural character and open appearance.

Anglian Water Services
Ltd

Assets affected – No assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.

Wastewater Treatment – Unknown where the flows will connect, unable to comment on the Wastewater Treatment at this time.

Foul Sewerage Network – Not clear where proposed connection is for foul water flows from the development. No public foul sewers within the vicinity of the proposed development. Therefore, if a connection to a main sewer is proposed, a drainage strategy will need to be prepared in consultation with Anglian Water to determine mitigation measures. Request a condition requiring the drainage strategy covering issues to be agreed.

Surface Water Disposal – The surface water strategy/flood risk assessment submitted with the planning application is not relevant to Anglian Water and therefore is outside out jurisdiction for comment. We request that the agreed strategy is conditioned in the planning approval.

Trade Effluent – To discharge effluent from trade premises to a public sewer vested in Anglian Water requires consent. It is an offence under Section 118 of the Water Industry Act 1991 to discharge trade effluent to sewer without consent. The following text should be included within decision notice should permission be granted:

“An application to discharge trade effluent must be made to Anglian Water and must have been obtained before any discharge of trade effluent can be made to the public sewer.

Anglian Water recommends that petrol/oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of such facilities could result in pollution of the local watercourse and may constitute an offence.

Anglian Water also recommends the installation of a properly maintained fat traps on all catering establishments. Failure to do so may result in this and other properties suffering blocked drains, sewage flooding and consequential environmental and amenity impact and may also constitute an offence under Section 111 of the Water Industry Act 1991.”

ECC Highways Dept

The Highway Authority would not wish to raise an objection to the above application subject to the following requirements:

1. Prior to commencement of the development details of a wheel cleaning facility within the site and adjacent to the egress onto the

highway shall be submitted to and approved in writing by the local planning authority. The wheel cleaning facility shall be provided prior to commencement and during construction of the development

Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011

2. No occupation of the development shall take place until the following have been provided or completed:

- a) A roundabout on the B1035 to provide access to the proposal site along with any speed management measures required by the Highway Authority
- b) Two new bus stops to the Highway Authority's latest specification (to include but shall not be to real time passenger information) on the B1035 between the A120 roundabout and site access roundabout
- c) New sections of footway (minimum 2 metres wide) in the vicinity of the site access roundabout and two bus stops mentioned under b) above
- d) A bus service between the proposal site and Manningtree rail station, Harwich Quay, Pier Avenue, Clacton-on-Sea and High Street, Colchester as shown in principle on the planning application drawings. Bus services shall have a minimum frequency of 30 minutes, during a minimum daily time period of 0700-1900 hours, 7 days a week and shall be provided for the life of the development
- e) Improvements to 20no. bus stops along the routes of the bus services mentioned under d) above as set out in principle in the documents accompanying the planning application
- f) A travel plan to include but shall not be limited to a £3,000 contribution to cover the Highway Authority's cost of approving, reviewing and monitoring the Travel Plan

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM1, DM9 and DM10 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011

Essex County Fire Officer	No reply received at time of writing this report.
Network Planner - UK Power Networks	No reply received at time of writing this report.
Environment Agency	Thank you for consulting us on planning application 13/00745/OUT. We wish to make the following comments.

Environment Agency position
The proposed development will only meet the requirements of the National Planning Policy Framework if the following measure as detailed in the Flood Risk Assessment submitted with this application is implemented and secured by way of a planning condition on any

planning permission.

Condition

The development permitted by this planning permission shall be carried out in accordance with the Surface Water management Strategy proposed by the Pegasus Group in their Flood Risk Assessment, Ref: CAM.0862, dated July 2013:

1. Runoff from the developed site shall not exceed the existing rates of runoff for a range of return period rainfall events, as detailed within section 3.0 of the FRA, i.e. 1.8 l/sec/ha in the 1 year event up to 5.0 l/sec/ha in the 1 in 100 year event.
2. The proposed surface water management scheme, comprising permeable paving, swales etc linked to an attenuation pond shall be installed, having been designed to attenuate and dispose of runoff generated by storm events up to and including the 1 in 100 year return (incorporating the recommended 30% allowance for the potential impacts of climate change).
3. The LPA should be satisfied that arrangements are in place for the long term maintenance and management of the surface water management scheme.

The mitigation measures shall be fully implemented prior to the construction of commercial units in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason

To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system.

Flood Risk

Surface Water Drainage

The application lies predominantly within Flood Zone 1 defined by the Technical Guide to the National Planning Policy Framework (NPPF) as having a low probability of flooding. However the proposed scale of development may present risks of flooding on-site and/or off-site if surface water run-off is not effectively managed. Footnote 20 of paragraph 103 of the NPPF requires applicants for planning permission to submit an FRA when development on this scale is proposed in such locations.

An FRA is vital if the local planning authority is to make informed planning decisions. A Flood Risk Assessment (FRA), prepared by the Pegasus Group, (Ref: CAM.0862, dated July 2013), has been submitted in support of the above application.

Further Explanation

Site Description

This whole Greenfield site comprises 11.2 hectares and lies mainly within Flood Zone 1, with a small linear length of Zone 3 (on the western boundary, adjacent to Holland Brook) as defined by Table 1 of the Technical Guidance to the National Planning Policy Framework (NPPF).

The topography varies in height from about 37.0m AOD on the eastern boundary down to 22.0m AOD on the western part of the site, adjacent to the Holland Brook, where some fluvial flooding occurs. However, no development is proposed in this narrow band of flooding. It has also been demonstrated that there is very little risk from any overland flow, or groundwater flooding to this site, but in a worst case scenario the slope on the site would result in a 'sheet' flood flow of minimal depth traversing across the site.

Surface Water Strategy

The surface water will be managed by providing attenuation using three main types of facility:

- ~ drainage blankets/shallow crates on each plot
- ~ storage swales/linear basins on the down slope plot boundaries
- ~ an attenuation pond, situated 'off plot', adjacent to Holland Brook, but sited out of the flood plain.

Water Supply

The Services Appraisal report submitted states that the questions of supply of potable water to, and removal of foul drainage from, the proposed development have been applied to the relevant water companies, but no firm reply as to their sustainability has been yet received. These issues will need to be resolved to their, and our, satisfaction before any work commences.

Water Quality

Arrangements for surface water drainage on site (both during construction and occupation phases) need to take account of the effects of the quality of drained water onto their receptor - it is noted that the Holland Brook runs along one side of the site, so this is likely to be a receptor for at least some surface water run-off. The Holland Brook is locally extremely important as a supply of irrigation water for local farmers, and any drop in quality could potentially have a significant impact for them, as well as representing a potential breach of the Water Framework Directive.

Waste

Waste from the development should be re-used, re-cycled or otherwise disposed of in accordance with waste management legislation and in particular the Duty of Care.

In order to minimise the use of resources and the production of waste, we suggest the development incorporates principles of sustainable

construction and design. These include passive systems using; natural light, air movement and thermal mass, as well as solutions involving energy produced from renewable sources. There is the opportunity to install water efficiency and water saving devices in buildings on the proposed development. Water butts, low flush toilets and efficient appliances would be obvious measures, but there may be opportunities for more innovative techniques such as grey water recycling.

Any materials being imported onto the construction site, such as soils and aggregates which are deemed waste, can only be accepted and used subject to acquiring the relevant environmental permits under the Environmental Permitting Regulations 2010.

Should you have any questions then please do contact me on the details below.

Essex Wildlife Trust

No reply received at time of writing this report.

Highways Agency

Initial comment : 23 July 2013 & 27 August 2013 – The Highways Agency requests that this application is not determined until the Secretary of State has reviewed the information provided and made an informed decision. Enclose a holding direction as follows:

“The Secretary of State requires further time to determine whether the proposed development would generate traffic on the trunk road to an extent that would be incompatible with the use of the trunk road as part of the national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980, and with safety of traffic on the trunk road.

The direction shall be maintained until such time as the Secretary of State has reviewed the information about the traffic implications.”

Updated comment : 25 October 2013 – As the application will not adversely affect the A14 Trunk Road at this location, the Highways Agency does not intend to issue a direction and offers no objection.

The site is remote from any other settlement and is only considered sustainable in planning transport terms by the location of the bus depot on the application site if this were to disappear for any reason the site would be considered unattainable in transport policy terms.

I should be grateful if you would send me a copy of decision notice.

Health and Safety
Executive

Only the installations, complexes and pipelines considered by Tendring District Council during the PADHI+ process have been taken into account in determining HSE's advice. Consequently HSE does not advise, on safety grounds, against the granting of planning permission in this case.

As the proposed development is within the Consultation Distance of a major hazard pipeline you should consider contacting the pipeline operator before deciding the case. There are two particular reasons for this:

- The operator may have a legal interest (easement, wayleave, etc.) in the vicinity of the pipeline. This may restrict certain developments within a certain proximity of the pipeline.
- The standards to which the pipeline is designed and operated may restrict occupied buildings or major traffic routes within a certain proximity of the pipeline. Consequently there may be a need for the operator to modify the pipeline, or its operation, if the development proceeds.

HSE's advice is based on the situation as currently exists; our advice in this case will not be altered by the outcome of any consultation you may have with the pipeline operator.

As the proposed development is also within the Safeguarding Zone of a licensed explosive site, the details of the consultation must be sent to H.M Explosives Inspectorate, HSE, for their consideration.

Natural England

The application does not appear to fall within the scope of consultations that Natural England would routinely comment on. Lack of specific comments should not be interpreted that there are no impacts on the natural environment, only that the application is not likely to result in significant impacts on statutory designated sites, landscapes or species. It is for the local authority to determine whether or not this application is consistent with national and local policies on biodiversity and landscape and other bodies and individuals may be able to help the Local Planning Authority.

Expect the Local Planning Authority to assess and consider the following:

Protected Species

If there is a possible presence of a protected or Biodiversity Action Plan (BAP) species on the site the authority should request survey information from the applicant before determining the application.

Local Wildlife sites

If the proposal results in an impact on a Local Site, Local Nature Reserve or priority habitat the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before determining the application, ensuring it does so in conformity with the wording of paragraph 168 of the NPPF.

Biodiversity enhancements

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant if it is minded to grant permission for this application (in accordance with Paragraph 118 of the NPPF). Section 40 of the Natural Environment and Rural Communities Act 2006 states "Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity". Section 40(3) of the same act states "conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat."

Local Landscape

This proposal does not appear to be either located within, or within the setting of, any nationally designated landscape. All proposals however should complement and where possible enhance local distinctiveness and be guided by your Authority's landscape character assessment where available, and the policies protecting landscape character in your local plan or development framework.

Should the proposal be amended in a way which significantly affects its impact on the natural environment Natural England should be consulted again.

Arch. Liaison Off, Essex
Police

No reply received at time of writing this report.

Royal Society For The
Protection of Birds

No reply received at time of writing this report.

Essex County Council
Archaeology

The Tendring Historic Environment Characterisation Project identifies the archaeology of this area (HECZ 13.2) as being characterised by a high density of cropmarks with high potential for extensive below ground deposits. The below ground archaeology of the zone is highly sensitive to change.

The area of the proposed development includes a recorded site on the Essex Historic Environment Record (EHER 3094) which comprises a ring ditch and ditched field boundaries. The Heritage appraisal that accompanies the application correctly identifies that there is the potential for associated, currently unrecorded prehistoric remains to survive below ground, within the proposed development site. These features are presently of unknown significance but the proposed development will lead to their loss or a reduction in their significance.

Recommended Condition: No demolition or preliminary groundworks of any kind shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority.

Further Recommendations: A professional team of archaeologists should undertake the archaeological work. This will comprise initial trial trenches followed by targeted open area excavation of identified archaeological remains. A mitigation strategy detailing this archaeological excavation/preservation strategy shall be submitted to the Local Planning Authority following the completion of the initial trial trenching work.

A brief outlining the level of archaeological investigation will be issued from this office on request. The District Council should inform the applicant of the recommendation and its financial implications.

Essex County Council
Community Infrastructure

Initial comment : The development generating between 300 to 500 new employees is likely to generate the need for an additional 12 to 20 early years and childcare places in the locality of the development.

Our Children's Community Commissioning Officer for the area states that there is no full day provision in the locality of the proposed development and that the latest figures for the two pre schools that provide sessional provision show that there is unlikely to be sufficient places to meet the needs of the development.

Any permission for this development should be granted subject to a Section 106 agreement to mitigate its impact on early years and childcare provision. For information purposes only, should the final development result in 500 employees the contribution would be £237,300 index linked to April 2013 costs using the PUBSEC index.

If the council is minded to turn down the application, would be grateful if the lack of education provision in the area can be noted as an additional reason for refusal and that we are automatically consulted on any appeal or further application relating to the site.

Subsequent comment : Unable to specify a project that the money would be spent on as existing providers and potential providers would be consulted as to the best way that places could be generated at a time when it was known that the money would be available. The money would be used to generate places within the locality of the development and this approach has been sufficient to satisfy an Inspector on appeal that the requirements of the CIL regulations have been met.

5. Representations

- 5.1 A total of 16 representations were received in relation to this application, comprising 8 in objection, 6 in support, 1 observation and 1 comment raising concerns but neither supporting nor objecting.
- 5.2 The following main points were raised in **objection**:
- Application site has a chequered and contradictory planning history.
 - Previous problems associated to Horsley Cross site fundamentally remain unchanged.
 - Telecommunications mast should be located close to ports of Harwich and Parkeston.
 - In conflict with the NPPF.
 - Full weight should not be given to the emerging local plan.
 - Employment land encouraged – but needed in the more suitable locations.
 - Unsustainable development.
 - Concerns over access to site, increased traffic and accidents on A120.
 - Harmful and unsightly in the open landscape and countryside.
 - Concerns over speed and vehicle weight limit.
 - Empty business units in Lawford.
 - Against building on Greenfield site.
 - No unemployment problem in nearby villages.
 - Increase in carbon footprint.
 - Reliance on private modes of transport maximised.
 - B2 & B8 uses at Horsley Cross would delay occupation of buildings at Pond Hall Farm.
 - Create demand for uses within Use Class C and Class A which would be difficult to resist.
 - Loss of agricultural land.
 - Light pollution.
 - Other priority areas for regeneration.

- Not compatible with surrounding uses.
- Companies relocating would bring own workers – no job opportunities.
- Unclear car parking ratio.
- Telecommunications mast poses health risk to nearby residents.
- Public transportation and utilities infrastructure cannot support development.
- Pedestrian access concerns – no footpath.

5.3 The following points were raised in **support**:

- Provision of high speed rural broadband in this area.
- New businesses will be attracted to the area.
- Will help existing businesses to grow.
- Encourage young people of the area to stay in the area and help it develop.
- A need for a smart new business park with good access.

5.4 A letter from the adjacent poultry farm raises no objection to the proposal but points out that the farm creates noise; smell and dust from time to time and that if subsequent complaints are received from occupiers of the site then the farmer will hold the Council responsible.

6. **Assessment**

The Application

6.1 The application is made by Croland Ltd dated 2 July 2013. The application is submitted in outline with access included for consideration as part of the application. Siting, scale, landscaping and external appearance are reserved for future consideration.

6.2 The application is accompanied by the following drawings and documents:

- Site location plan
- Indicative site masterplan
- Topographical survey
- Lattice mast general arrangement & details
- Design & access statement
- Planning statement
- Extended phase 1 survey
- Interim ecology report
- Transport assessment
- Landscape & visual constraints & opportunities
- Flood risk assessment
- Services appraisal
- Consultation statement
- Heritage appraisal
- Lighting Report
- Sustainability Appraisal

6.3 The application proposals were screened in accordance with the Town and Country (Environmental Impact Assessment) Regulations 2011. Although the application proposals are in outline the Council considered that sufficient information regarding the scale and nature of the development were included to make a reasoned assessment of the likely environmental impacts. The Council determined that the proposal did not require the submission of an Environmental Statement. The scheme falls within Schedule 2 of the Regulations and having considered the development against the criteria contained within Schedule 3 based on factors such as nature; scale; size and location it was concluded that the development would not have significant effects on the environment. This is consistent

with the view taken by the Planning Inspector that considered the previous outline application on this site at Public Inquiry in 2008.

The Site

- 6.4 The application site is approximately 11.2 ha and is presently agricultural (arable) land. Part of the site is used for weekly car boot sales. It is in a rural area in the centre of the district and to the immediate south west of the A120 (T)/B1035 roundabout at Horsley Cross. Colchester is about 8 miles to the west and Harwich is about 9 miles to the east. The landscape within the vicinity of the site is characterised by large open fields, occasionally broken by small groups or individual buildings. The site is near the top of a plateau and is roughly rectangular in shape. It has a northern boundary with the A120 (T); a southern boundary to Kelly's Farm; the eastern to the B1035; and the western boundary to Holland Brook (this part of the site is crossed by electricity pylons). There is a fall of approximately 15 metres between the middle of the site and the western boundary.
- 6.5 The site is within open, largely flat countryside outside the settlement limits of any town or village. The site boundaries are devoid of any significant vegetation but there are some existing trees adjacent to the A120 roundabout and extending for a short distance down the B1035 and also adjoining the A120 closer to the Brook.
- 6.6 There is a small cluster of buildings, including The Cross pub; a farm to the north and some cottages and to the south is Kelly's Poultry Farm but most notable in terms of its visual impact is the water tower. There are no footways or cycle ways along either the A120 or the B1035. The A120 is dualled for a short section either side of the roundabout and the B1035 is a single carriageway rural road. The nearest village is Wix.

The Proposal

- 6.7 The description of the development is as follows:
- “Development of site to provide a new industrial park with up to 28,280m² of floorspace for B2 and B8 uses , a bus depot and 30m high telecommunications mast. All with associated access, landscaping, parking and highway improvements.”
- 6.8 The proposed development is known as Tendring Europark.
- 6.9 The Planning Statement advises that some of the previous firms that were interested in the site in 2008 are still interested and that the applicant has been approached by a number of firms in the wind industry. The Planning Statement says :
- “This industry provides employment both during construction and whilst in operation. Aside from the obvious requirement for parts to build turbines themselves there is also the requirement for materials to facilitate the build process and ongoing maintenance of the turbines and associated kit. This has created an increase in the supply chain industry This supply chain industry requires premises of suitable quality and size and in locations that are readily accessible to port side facilities The A120 is one such location and the proposal for Tendring Europark is one such suitable site.”
- 6.10 The application is made in outline but includes an illustrative masterplan that indicates the following:
- The overall total development will amount to 28,280 sq. Metres. Class B2 uses will amount to 18, 690 sq. Metres. Class B8 to 7, 070 sq. Metres and the bus depot will amount to 2, 520 sq. Metres.

- This will be spread over ten plots. The exact location and size will be specifically designed for the proposed end user.
 - A 30 metre high telecommunications mast that will be operated by Micrologic and that will supply business grade broadband to the entire district (off site users will be able to access the service wirelessly).
- 6.11 Potential occupants that have been named currently include Green Planet Transport (that was one of the originally proposed occupiers and that distributes palletised goods) and APC Courier (a national van-based courier service).
- 6.12 The applicant advises that it has had confirmed interest for over 20, 000 sq. Metres of floor space. A large percentage of this (38%) is said to be from industries associated with the supply chain for the wind industry. A further 25% has attracted interest from existing storage and distribution uses that are currently using inadequate sites that inhibit the growth potential of those firms.
- 6.13 New Horizon Travel will operate the bus depot and is currently located on a small site within the district that the landowner has asked it to vacate. The proposal is to expand its operation to provide hourly services over new routes to connect the site with the local area; main urban areas and local transport connections. New bus stops are proposed outside the site entrance with footpath links to the site.
- 6.14 It is also said that the interest of manufacturing firms in France and Holland have expressed an interest and that the location of the site on the A120 is particularly appealing to these firms.
- 6.15 It is estimated that the development will create between 300 and 500 jobs.
- 6.16 Access to the site will be from a new roundabout junction from the B1035 Clacton Road. It will also provide pedestrian access to the site.
- 6.17 Parking will be provided in accordance with the relevant parking standards. The indicative number is 354 spaces (including a proportion of disabled spaces).

Planning Considerations

- 6.18 The main planning considerations are:
- National and Local Plan Policy
 - Highway and transport issues and sustainability
 - Design Principles and Landscape Impact
 - Nature conservation; flood risk and heritage issues
 - Planning obligations under Section 106 of the Town and Country Planning Act 1990.

National and Local Plan Policy

- 6.19 This site forms the southern portion of a wider area of land at Horsley Cross allocated for employment use in the Tendring District Local Plan: Proposed Submission Draft (2012) – the ‘2012 Draft Local Plan’. This site is the subject of a specific Policy MLM6 ‘Development at Horsley Cross’.
- 6.20 The pre amble to the policy and the policy are reproduced in full as follows:

“Development at Horsley Cross

9.39 Horsley Cross lies at the junction of the A120 and B1035 and is instantly recognisable by the large water tower that overlooks the roundabout. Both in the course of preparing this

Local Plan and the previous Local Plan, some businesses, Parish Councils and District Councillors had argued that Horsley Cross would be a prime location to accommodate business and industrial development because of its good access to the trunk road, approximately half-way between Harwich International Port and the A120/A12 junction in Ardleigh.

9.40 In 2006, the Council received a planning application to develop land at Horsley Cross for employment use and permission was granted only for the decision to be later called in and overturned by the government. The proposal was rejected over concerns about it being too remote from populated areas and that development would therefore encourage unsustainable car journeys. However, during the last public consultation exercise in 2010, the landowners requested that Horsley Cross be considered once more as a potential employment site in the new Local Plan as it could help deliver much needed inward investment and jobs for local people in difficult economic times. At the meeting of the Full Council on 11th September 2012, it was agreed that land south west and north west of Horsley Cross (within the Parish of Mistley) be allocated for employment use in the new Local Plan.

9.41 Because Horsley Cross is located some distance from established centres of population, the flexibility afforded to Employment Sites through Policy PRO15 to allow a wide variety of employment activities to take place will not apply to these particular sites. Development will be limited to Use Classes B2 (general industrial) and a smaller proportion of B8 (storage and distribution), uses that, it can be argued, would benefit most from a location with good access to the A120 – particularly for the efficient movement of heavy goods.

9.42 As stated in Policy PRO1, the A120 will eventually need to be upgraded to accommodate the additional freight traffic expected to be generated as a result of the proposed expansion of the container port at Bathside Bay. Because the exact nature of the road improvements are yet to be finalised, the Council will want to ensure that any development proposed at Horsley Cross will not jeopardise these works and, in turn, jeopardise the proposed expansion of the port. For this reason, the Highways Agency, Essex County Council and the operators of Harwich International Port will be key consultees.

POLICY MLM6: DEVELOPMENT AT HORSLEY CROSS

- 6.21 Land south west and north west of Horsley Cross, Mistley is allocated for employment use in Class B2 (general industrial) and B8 (storage and distribution) only. Alongside relevant policy requirements in Chapters 2 to 5 of this Local Plan, development proposals must also meet the following specific requirements:
- a) no more than 25% of the total commercial floorspace on either two of the sites shall be used for B8 (storage and distribution) use;
 - b) the only points of direct vehicular access will be off the B1035;
 - c) the development must set aside a sufficient strip of land either side of the A120 and keep it clear of development to allow for future widening and upgrading of the road; and
 - d) the applicant must demonstrate, in consultation with the Highways Agency, Essex County Council and Harwich International Port that the proposed development will not jeopardise the upgrading of the A120 necessary for the proposed port expansion at Bathside Bay.”

- 6.22 During the public consultation on the 2012 Draft Local Plan between November 2012 and January 2013, the Council received a number of objections to this policy and, on 26th November 2013, Full Council considered a number of 'Pre-Submission Focussed Changes' in response to various comments made in relation to different parts of the plan. At the meeting, the Council resolved not to change Policy MLM6 or the associated site allocation in the Local Plan, notwithstanding the objections received.
- 6.23 In the Council's Adopted Local Plan (2007) the site is not allocated for development and falls outside of the 'settlement development boundaries' where general countryside policies apply and where there is a presumption against most forms of development. Because the Council effectively has two Local Plans in operation (one adopted and one emerging), each with a very different position with regard to the principle of development at Horsley Cross, a judgement as to which policy or policies should carry more weight in the determination of this particular planning application is needed. The government's 'National Planning Policy Framework' (NPPF) provides the principal source of guidance for local planning authorities caught in the transition between one Local Plan and another.
- 6.24 One of the key principles contained in the NPPF is the 'presumption in favour of sustainable development' which encourages Councils to treat proposals for employment positively and, where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits. To avoid such instances, the NPPF encourages Councils to proceed quickly with the preparation of new Local Plans that conform to the requirements of national policy.

Weight to be attached to Adopted Local Plan Policy

- 6.25 On the publication of the NPPF on 27th March 2012, Councils were given a 12 month period within which policies in adopted albeit out of date Local Plans could continue to be afforded full weight in making planning decisions. This allowed a period of time for new plans to be prepared or for current plans to be updated. In that time, the Council prepared and consulted upon the 2012 Draft Local Plan with the intention that it would replace the Adopted Local Plan in full.
- 6.26 Because that initial 12 month period has now passed, the Council can no longer legitimately attach full weight to all the policies and proposals in the 2007 Adopted Local Plan, particularly those that are out of date or contrary to the NPPF. Critically this includes instances where plans fail to make adequate provision to meet the 'objectively assessed needs' for future development – including land for business and industrial activities.
- 6.27 To determine 'objectively assessed needs' the Council commissioned consultants in 2010 to undertake an 'Employment Land Review' which was recently reviewed and updated by consultants Regeneris in 2013 alongside the preparation of an 'Economic Development Strategy'. Both the findings of the 2010 and 2013 Employment Land Reviews (detailed later in this report) indicated modest requirements for employment land to meet the projected demand for traditional business and industrial development in the Tendring District for the period covered by the emerging Local Plan. Both the 2010 and 2013 studies also concluded that the Council had identified more employment land in both the adopted and emerging Local Plans than was likely to be needed to meet these future requirements. Therefore, unlike the situation for housing land supply, the supply of employment land in the Adopted Local Plan is consistent with the latest objectively assessed need, is therefore not out of date and should therefore continue to carry some weight. Because of this, a simple 'presumption in favour of sustainable development' at Horsley Cross purely on the basis that adopted policy could be out of date is not justified. A judgement on how much weight can be afforded to the emerging policy is therefore needed.

Weight to be attached to Emerging Local Plan Policy

6.28 Paragraph 216 of the NPPF allows Councils to give weight to relevant policies in emerging plans (such as the 2012 Draft Local Plan) according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the greater the weight that may be given).

6.29 These points in relation to Policy MLM6 and the allocation of land at Horsley Cross are considered as follows.

Stage of preparation

6.30 The 2012 Draft Local Plan was approved at the Full Council meeting of 11th September 2012 and subsequently published for consultation between 9th November 2012 and 7th January 2013 having followed previous consultation on issues and options in 2009, a draft Core Strategy in 2010 and housing numbers, locations and type in 2011. A series of 'Pre-Submission Focussed Changes' were then considered at the Full Council meeting of 26th November 2013 and approved for consultation in early 2014. Officers therefore consider that the Draft Local Plan with the latest Pre-Submission Focussed Changes has reached an advanced level of preparation and, in general terms, can be given weight, alongside the 2007 Adopted Local Plan, in the determination of planning applications.

Extent of unresolved objections

6.31 With regard to the extent to which there are unresolved objections, Policy MLM6 and the allocation of land at Horsley Cross attracted 9 representations of support, 48 representations of objection and 1 representation of advice when the Draft Local Plan was published for consultation.

6.32 The 9 representations of support included:

- A statement from Tendring Europark, the promoters of the development, supporting the policy and including further justification for the allocation of the site.
- Representations of support from companies Pallet Plus Ltd and Nema Fabrications Ltd suggesting that other sites in the Local Plan, due to their location, are not viable for many businesses whereas Horsley Cross is.
- Representations of support from Harwich Town Council, Little Oakley Parish Council and the Tendring District Council Members for Great and Little Oakley Ward and Harwich East Ward and two residents (1 from St. Osyth and 1 from Parkeston).

6.33 The 48 representations of objection included:

- An objection from Colchester Borough Council concerned that the decision to allocate land at Horsley Cross in the Local Plan was contrary to the Council's own Sustainability Appraisal and premature in advance of the Haven Gateway's A120 Study for future development along the A120 between Stanstead and Harwich.

- An objection from the Highways Agency concerned that the site is too remote from populated areas and would therefore encourage unsustainable car journeys.
- Objections from local campaign groups 'Stour and Orwell Peninsula Habitat Protection UK' and 'POSITIVE' (Public Open Space In Tending Is Vital for Everyone) and the national 'Campaign to Protect Rural England' (CPRE) concerned about the change of high quality agricultural land to employment use and the impact on reducing carbon emissions. Concerned about the impact of development on the surrounding area.
- An objection from major landowner J. Macauley & Sons raising concern over the nature in which Horsley Cross was included in the Local Plan at the Full Council meeting of 11th September 2012, despite the previous history of rejection by the Secretary of State.
- Objections from Frating, Little Bentley, Little Bromley, Tendring, Thorrington and Wix Parish Councils, the Tendring District Council Member for Thorrington, Frating, Elmstead and Great Bromley Ward and 35 objections from residents (14 from Tendring, 8 from Horsley Cross, 5 from Great Bromley, 2 from Little Bentley and 1 each from Bradfield, Frating, Harwich, Lawford, Little Bromley, Mistley, Wix) raising the following concerns:
 - Lack of public transport;
 - Impact of additional traffic on the capacity and safety of the A120 and B1035;
 - Proximity to accident black spots on the A120;
 - Lack of consultation with local areas;
 - Use of greenfield land and the loss of agricultural land;
 - Potential to jeopardise future plans for Bathside Bay;
 - Lack of a proven need for the development;
 - Lack of basis utilities such as water and gas;
 - Setting a precedent for further ribbon development;
 - Goes against the principle to reducing the need to travel;
 - Impact of traffic on the amenities of residents in Tendring village;
 - Air, noise and light pollution and land contamination;
 - Landscape and visual impact;
 - Devaluation of nearby residential properties;
 - Lack of support from surrounding Parish Councils
 - Impact on wildlife;
 - Availability of more suitable sites elsewhere in the district;
 - Previous history of rejection for development proposals on the site;
 - Councillors having vested interests in the land; and
 - The inclusion of the site in the Local Plan without detailed assessment.

6.34 The single representation of advice was from Essex County Council which raised no objections to the proposal in principle so long as it comprised Class B2 (General Industrial) and Class B8 (Storage and Distribution) development only because other forms of development could generate a greater impact on the transportation network.

6.35 Amongst the representations received, the most fundamental objections were those that challenged the principle soundness of allocating Horsley Cross in the Local Plan. These relate to a) whether the development is needed; b) whether the site is sustainable; and c) whether the site is deliverable. Notwithstanding these objections, Full Council on 26th November 2013 resolved not to make any changes to Policy MLM6 or the associated allocation at Horsley Cross. Those in favour of the development considered that the potential economic benefits of development in this location far outweighed any of the concerns expressed by the objectors. Because the Council has decided to keep the allocation in the Local Plan having carefully considered the objections and the evidence in

the 2013 Employment Land Review, it is considered that this element of the emerging Local Plan should carry weight.

Consistency with the National Planning Policy Framework

6.36 The NPPF has at its centre the presumption in favour of sustainable development. Paragraph 14 explains that for decision making on planning applications this means :

- Approving development proposals that accord with the development plan without delay;
- Where the development plan is absent; silent; or relevant policies are out of date, granting permission unless :
 - Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or
 - Specific policies in the NPPF indicate development should be restricted.

6.37 There are three elements to sustainable development: economic; social and environmental. Paragraph 7 explains that these dimensions give rise to the need for the planning system to perform a number of roles:

- An economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available at the right places and at the right time to support economic growth and innovation; and by identifying and co-ordinating development requirements, including the provision of infrastructure
- 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
- 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.

6.38 Paragraph 8 is particularly important as it says that :

“These roles should not be taken in isolation, because they are mutually dependent. Economic growth can secure higher social and environmental standards, and well-designed buildings and places can improve the lives of people and communities. Therefore, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system ..”

6.39 Paragraph 19 of the NPPF states that the : “Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as impediment to sustainable growth. Therefore, significant weight should be placed on the need to support economic growth through the planning system.”

6.40 This statement is not restricted to urban areas as the NPPF equally accepts the importance of providing development in rural areas.

6.41 It seeks to obtain a number of planning objectives. The following statement (Paragraph 17) is particularly relevant to the current application proposal :

“Plans should take account of market signals, such as land prices and housing affordability, and set out a clear strategy for allocating sufficient land which is suitable for development in their area, taking account of the needs of their residential and business communities.”

- 6.42 Paragraph 28 states that plans should : “support the growth and expansion of all types of business and enterprise in rural areas both through the conversion of existing buildings and well designed new buildings ...”.
- 6.43 Paragraph 17 says that the fullest possible use of public transport should be achieved and to locate significant development in areas that are or can be made sustainable.
- 6.44 Paragraph 29 advises that different policies will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
- 6.45 Paragraph 32 requires development that generates significant amounts of traffic to be determined having taking into account the opportunities for sustainable transport modes that have been taken up and requires improvements within the highway network that limit significant impacts and refusal should only be considered on highway grounds where residual impacts are severe.
- 6.46 Paragraph 42 of the NPPF recognises the vital role that the development of high speed broadband has in enhancing the provision of local community facilities; businesses and services.
- 6.47 Whilst the NPPF is, in principle, supportive of economic growth and a flexible approach to considering proposals that will deliver jobs, there is still an expectation for Councils, in their Local Plans, to allocate sites in sustainable locations and promote sustainable patterns of growth. Paragraph 17 of the NPPF sets out 12 core principles of the planning system, of which one is *“actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.”* Paragraph 30 of the NPPF states that *“encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. In preparing Local Plans, local planning authorities should therefore support a pattern of development which, where reasonable to do so, facilitates the use of sustainable modes of transport”*.
- 6.48 This site is located a considerable distance from any of the district’s established settlements and development here would not typically contribute toward a sustainable pattern of growth that make the fullest possible use of public transport, walking and cycling. This was the primary reason why the previous planning application was rejected by the Secretary of State. This is an inherent issue affecting this site which the applicant has sought to mitigate through the provision of bus services linked to the proposed relocation of a local passenger transport company and through the provision of a mast aimed at providing broadband connections for the site and the wider area which, indirectly, could promote home working for surrounding communities and thus help to reduce the need to travel in that way.
- 6.49 Because the NPPF suggests that significant developments should be focussed on locations that are or can be made sustainable, some weight should be attributed to the mitigation measures proposed by the applicant. The NPPF’s overarching definition of sustainable development refers to a balance between economic, social and environmental factors and the fact that the Council has determined that the economic and social benefits arising from potential job creation at this site outweigh any concerns about greenhouse gas emissions and congestion, therefore it is considered that Policy MLM6 should carry weight.

Highway and transport issues and sustainability

- 6.50 The application proposes a new roundabout junction to serve the site from the B1035 Clacton Road. This replicates the previous application proposal that was dismissed at Public Inquiry. However, the technical aspects of the access proposal did not form a reason for the refusal. The Highway Agency and Essex County Council Highway Authority do not object to the current scheme.
- 6.51 The previous proposal was, however, considered by the Inspector to be unsustainable due to its isolated position and its inability (despite a proposed Travel Plan that included a shuttle mini bus) to provide viable alternative modes of transport other than by car. The current application includes the relocation of a bus company (New Horizon) and as part of its relocation the firm intends to expand its business to provide hourly services to the main urban areas of Colchester; Harwich; Clacton and Manningtree. Following discussions this frequency in the service has been increased to every 30 minutes. As a result, the two statutory highway consultees do not object to the proposal as submitted. The Highway Agency has no concerns regarding the capacity of the trunk road network but does comment that the site would only be sustainable if the bus depot were to remain at the location. The County Highway Authority have accepted the principal of the new roundabout junction and have agreed the extent of public transport provision to make the scheme acceptable in sustainable transport terms. These comments are on the basis of a specific quota of floorspace for B2 and B8 uses that is reflected within Policy MLM6. All of these issues can either be secured by controlling condition or by way of a legal obligation.
- 6.52 Furthermore, the application proposes to safeguard an area of land to the northern boundary to accommodate any future improvements to the A120 that may be required to facilitate the development of Bathside Bay in Harwich. HPUK have been approached by the applicant as part of their consultation exercise and HPUK have confirmed in writing that it does not wish to comment on the proposal.
- 6.53 The impacts of the highway and transport impacts are therefore addressed. Any residual impacts are not severe and thus from this perspective the application proposal accords with the NPPF and local plan policy.

Design Principles and Landscape Impact

- 6.54 The application is accompanied by a Landscape Impact Assessment. The site is currently a relatively flat open field within a rural setting with only scattered development in close proximity. Whilst the site is not high quality agricultural land, any development is likely to have an adverse impact on the wider setting of the site and its surroundings. This was recognised by the previous Inspector's decision. However, it should also be noted, that whilst the development surrounding the site might be limited, one of the existing built forms of development includes the highly prominent water tower. The Landscape Assessment accepts that views of the proposed 30 metre high broadband mast will be had from a wide range but that the structure is relatively light weight in its form and will be viewed in relation to the existing tall structure of the water tower. Structural landscaping is proposed around the site boundaries to take account of existing topography and it is anticipated by the applicant's consultant that in the medium to longer term the built form will be less visible in the landscape. This is at odds with the Inspector's previous assessment that indicated that even after a number of years, due to the scale of the development, that the proposed landscaping would not entirely mitigate the impact of the development. Since this time the NPPF has been introduced and only the most valued landscapes are offered protection from development. Furthermore, it is intended to secure the long term management and maintenance of the landscaping by way of legal obligation as well as the phasing of the development to ensure an ordered and comprehensive development of the site within certain parameters defining height and use of materials as well as incorporating low carbon

and sustainable design features within the built development. In addition, the adverse impact on the landscape by virtue of the scale and extent of development needs to be weighed against the other economic; social and environmental benefits of the scheme and this adverse visual impact of the development is considered by officers to be outweighed by the numerous benefits of the scheme that are supported by national and local plan policy.

Nature conservation; flood risk and heritage issues

- 6.55 The application is accompanied by a Phase 1 Habitat Survey; a Flood Risk Assessment and a Heritage Statement. The statutory consultees including Natural England; the Environment Agency and Essex County Council Archaeological Officer do not object to the proposal. Again, this situation was previously reflected by the Inspector's decision that found the original application acceptable in all these respects subject to mitigation measures. The current application proposes the use of sustainable urban drainage features including swales and an attenuation pond. These, together with the additional structural landscaping proposals w, will enhance biodiversity measures and ensure that the site's development does not increase the flooding of other sites from surface water runoff. The Archaeological Officer has requested a condition to be imposed to any approval to secure a programme of archaeological works. All of these impacts can be controlled either by condition or via a legal obligation. It is thus considered that the scheme accords with NPPF and local plan policy.

Planning obligations under Section 106 of the Town and Country Planning Act 1990.

- 6.56 In order to mitigate against the impacts of the development it is proposed to secure a legal obligation under Section 106 of the Town and Country Planning Act. These obligations are to include :
- Phasing of development and design code – including delivery of broadband mast
 - The future management of the communal areas of the site
 - The future management and maintenance of the strategic landscaping areas and surface water attenuation pond and sustainable urban drainage measures
 - Travel plan and public transport service and provision of additional and improved bus stops
 - The division of floor space accommodated by B2 and B8 uses
 - The retention of the bus depot for a specified period of time
 - Air Quality Monitoring
 - Retention of land for potential future A120 improvements
 - Employment and Skills Plan (for the construction phases of development) and a Local Labour Agreement (for all jobs created on the business park)

- 6.57 These requirements meet the requirements of the CIL Regulations in that they are relevant to the development; relative in scale and kind and necessary to make the development acceptable.

Conclusion

- 6.58 The site is allocated for employment use through Policy MLM6 of the 2012 Draft Local Plan and whilst the Council's 2013 Employment Land Review questions the need for development in this location and the proposal attracted a number of objections challenging its soundness, Full Council on 26th November 2013 resolved that the proposal should remain in the emerging plan with the intention for it to be submitted to the Secretary of State for examination by a Planning Inspector.

- 6.59 The Council has therefore determined that the potential economic and social benefits of job creation on this site outweigh any concerns about need and sustainability and it is recommended that Policy MLM6 should therefore carry weight in favour of this application.
- 6.60 The new roundabout junction and provision of public transport services are acceptable to the two statutory highway consultees and can be secured either by controlling condition or legal obligation. The proposal is therefore acceptable in highway safety and sustainable transport terms.
- 6.61 The design will be controlled by set parameters in terms of phasing; height; use of materials and incorporation of sustainable features. It is acknowledged that the scale of the development will, however, have an adverse visual impact on the landscape due its scale and the defining characteristics of the open and flat landscape as it exists today. However, this has to be weighed against the overarching aim of the NPPF that seeks to support sustainable social; economic and environmental growth wherever possible and the numerous other benefits that will be delivered if the scheme were to be approved. Members will need to assess whether the proposed mitigation measures combined with these benefits are sufficient to outweigh the adverse impact on the landscape qualities bearing in mind that it is not a protected landscape or high quality agricultural land.
- 6.62 As with the previous Inspector's decision, the current proposal does not have an adverse impact on other areas of recognised importance such as nature conservation; flood risk; or heritage assets.
- 6.63 Planning obligations under Section 106 of the Town and Country Planning Act 1990 and controlling conditions are proposed to address the identified impacts of the development.
- 6.64 The benefits of the scheme can be simply summarised as: delivery of sustainable economic development; increased employment; advantageous location; super fast broadband connection; and provision of extended bus services.

Background Papers

None.