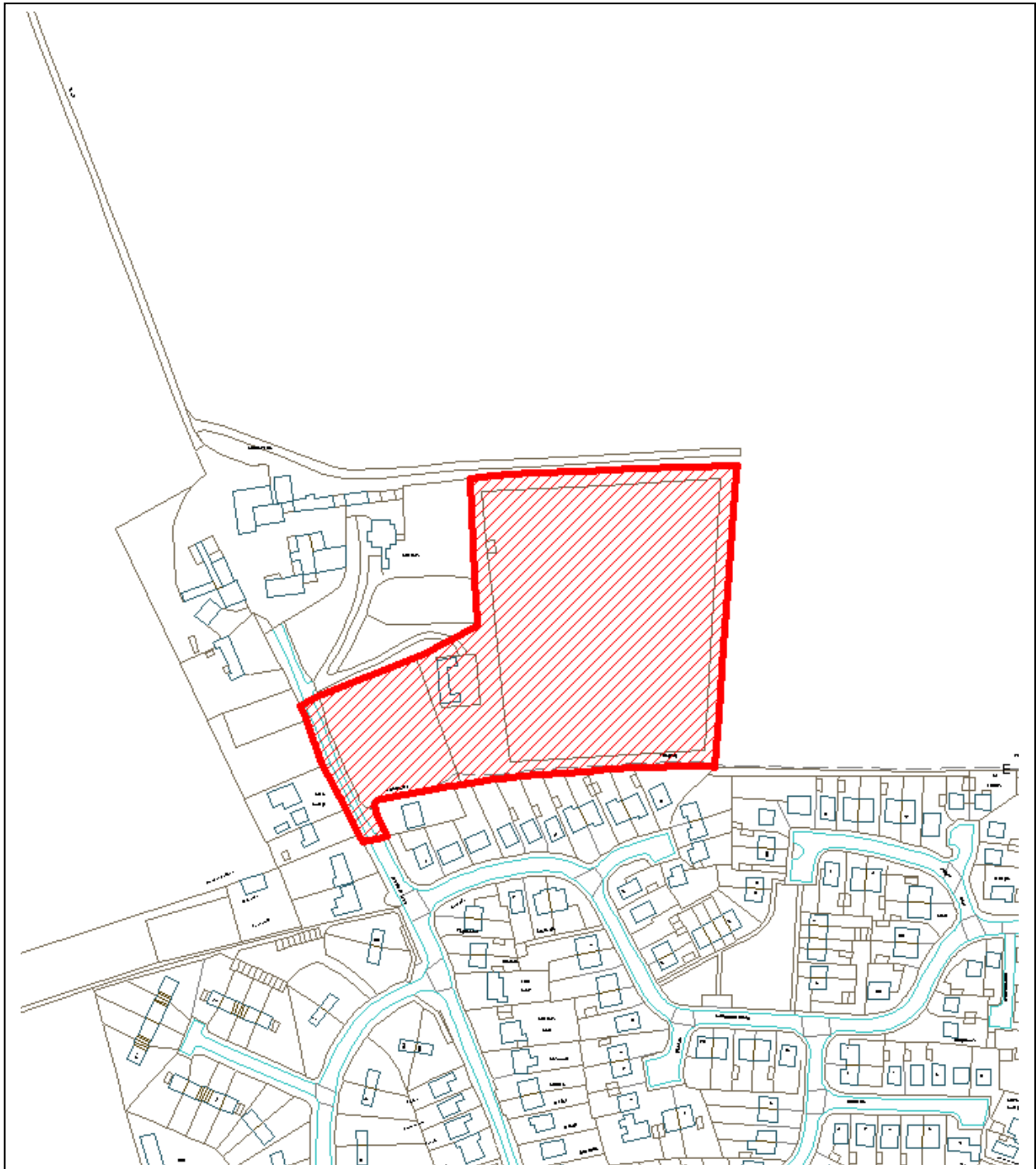


**PLANNING COMMITTEE**

**22 July 2014**

**REPORT OF THE HEAD OF PLANNING**

**A.2 PLANNING APPLICATION - 14/00431/FUL - STURRICKS FARM STURRICK LANE, GREAT BENTLEY, COLCHESTER, CO7 8PT**



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<b>Application:</b>	14/00431/FUL	<b>Town / Parish:</b> Great Bentley Parish Council
<b>Applicant:</b>	Mr Martin Jones & Mersea Homes	
<b>Address:</b>	Sturricks Farm Sturrick Lane Great Bentley CO7 8PT	
<b>Development:</b>	Erection of 32 dwellings with associated outbuildings and landscaping, with a new access from Sturrick Lane.	

## 1. Executive Summary

- 1.1 The application site lies outside of the defined settlement development boundary of Great Bentley as set out in the Tendring District Local Plan (2007), however the site lies within the extended defined settlement boundary of Great Bentley in the Tendring District Local Plan Proposed Submission Draft (2012).
- 1.2 Outside of these boundaries Policy QL1 of the Tendring District Local Plan (2007) and Policy SD5 of the Tendring District Local Plan Proposed Submission Draft (2012) states that permission is to be refused for new residential development subject to specified exceptions.
- 1.3 Great Bentley has been identified as one of seven 'Key Rural Service Centres' within the district in Policy SD3 of the draft Local Plan. These are larger villages containing a relatively good range of local services and facilities with potential for limited growth in homes and jobs. For these settlements, the draft Local Plan identifies opportunities for the enhancement of village centres public transport facilities and other community facilities.
- 1.4 The National Planning Policy Framework sets out that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 1.5 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers considered that Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF and as a result the proposed development cannot be refused solely on the basis that a site is outside the development boundary.
- 1.6 Paragraph 14 of the NPPF sets out that where relevant policies are out-of-date planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 1.7 On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight.
- 1.8 Officers conclude that the proposed development would satisfy the 3 dimensions of 'sustainable development' whilst also being able to achieve a development that would comply with Policies QL9, QL10 and QL11 of the Tendring District Local Plan (2007) as well as Policies SD3 and SD9 of the Tendring District Local Plan Proposed Submission Draft (2012).

### **Recommendation: Approve Full**

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

- a) Within 6 months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where required)
- Affordable Housing Off-Site Provision;
  - Education Provision; and
  - Public Open Space Contribution Provision.
- b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate).

#### **(i) Conditions:**

1. The development hereby permitted shall begin no later than three years from the date of the permission.
  2. Samples of the materials.
  3. Hard and soft landscaping details including tree protection measures.
  4. All hard and soft landscaping implementation.
  5. Landscaping - Five year clause.
  6. As requested by the Highway Authority.
  7. Boundary treatments and rails.
  8. Details of Refuse storage/collection areas.
  9. Permeable surfacing.
  10. Scheme to provide renewable energy and energy and water efficiency technologies to be used.
  11. Archaeology investigative and report works.
  12. Biodiversity enhancement provision and mitigation measures.
  13. Site lighting strategy.
  14. As requested by the Environment Agency.
- c) That the Head of Planning (or the equivalent authorised officer) be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 months, as the requirements necessary to make the development acceptable in planning terms had not been secured through S106 planning obligation, contrary to saved policies COM6, HG4, COM26 and QL12 of the Tendring District Local Plan (2007) and draft policies SD7, PEO10 and PEO22 of the Tendring District Local Plan Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014).

## **2. Planning Policy**

### National Policy:

NPPF National Planning Policy Framework (2012)

### Local Plan Policy:

Tendring District Local Plan 2007

- QL1 Spatial Strategy
- QL2 Promoting Transport Choice
- QL3 Minimising and Managing Flood Risk
- QL9 Design of New Development
- QL10 Designing New Development to Meet Functional Needs
- QL11 Environmental Impacts and Compatibility of Uses
- QL12 Planning Obligations
- HG4 Affordable Housing in New Developments
- HG6 Dwelling Size and Type
- HG7 Residential Densities
- HG9 Private Amenity Space
- HG14 Side Isolation
- COM6 Provision of Recreational Open Space for New Residential Development
- COM26 Contributions to Education Provision
- EN1 Landscape Character
- EN6 Biodiversity
- EN23 Development within the proximity of a Listed Building
- EN29 Archaeology
- TR1A Development Affecting Highways
- TR7 Vehicle Parking at New Development

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

- SD1 Presumption in Favour of Sustainable Development
- SD3 Key Rural Service Centres
- SD7 Securing Facilities and Infrastructure
- SD8 Transport and Accessibility
- SD9 Design of New Development
- SD10 Sustainable Construction

PEO3 Housing Density

PEO4 Standards for New Housing

PEO7 Housing Choice

PEO10 Council Housing

PEO22 Green Infrastructure in New Residential Development

PLA1 Development and Flood Risk

PLA4 Nature Conservation and Geo-Diversity

PLA6 The Historic Environment

PLA8 Listed Buildings

Other guidance

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good Practice

**3. Relevant Planning History**

None

**4. Consultations**

- 4.1 TDC Housing – Affordable housing provision off-site is appropriate in this instance.
- 4.2 TDC Public Experience – Request Section 106 monies (see Assessment below).
- 4.3 TDC Public Experience (Environmental Services) – The Environmental Report submitted with the application recommends that no further action is required. This report and its recommendations are accepted.
- 4.4 TDC Regeneration Team – Recommend conditions in line with draft Local Plan policies PRO2 and PRO3.
- 4.5 Essex County Council Education Services – Request Section 106 monies (see Assessment below)
- 4.6 ECC Highways Dept - The Highway Authority raises no objection subject to:-
  1. Prior to the occupation of any of the proposed development, the proposed means of access (the continuation of Sturrick Lane) shall be provided in complete and precise accord with the details shown on Drawing Numbered 1096/L.004.
  2. Prior to the proposed residential accesses being brought into use, a 1.5m. x 1.5m. pedestrian visibility splay, relative to the highway boundary, shall be provided on both sides of that access and shall be maintained in perpetuity free from obstruction exceeding a height of 600mm. These splays must not form part of the vehicular surface of the access.

3. Prior to occupation of the proposed development, each proposed vehicular access shall be constructed at right angles to the highway boundary and to a width of 3.7m and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.
4. No unbound materials shall be used in the surface treatment of the any of the proposed vehicular access within 6m of the highway boundary.
5. Prior to the commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.
6. The carriageway(s) of the proposed estate road(s) shall be constructed up to and including at least road base level, prior to the commencement of the erection of any dwelling intended to take access from that road(s). The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling, prior to occupation has a properly consolidated and surfaced carriageway and footway between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any up-stands to gullies, covers, kerbs or other such obstructions within or bordering the footway. The carriageways, footways and paths in front of each dwelling shall be completed with the final surfacing within twelve months from the first occupation of such dwelling.
7. Prior to commencement of the proposed development, a vehicular turning facility for service and delivery vehicles of at least size 3 dimensions and of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.
8. Prior to commencement of the proposed development, details of the provision for storage of bicycles for each dwelling, of a design which shall be approved in writing with the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.
9. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i. the parking of vehicles of site operatives and visitors
  - ii. loading and unloading of plant and materials
  - iii. storage of plant and materials used in constructing the development
  - iv. wheel washing facilities
  - v. HGV Routing plan
10. Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.
11. At the completion of the construction of the sixteenth dwelling, the adjacent PRow, Footpath No 3 (Great Bentley) shall be resurfaced and compacted with recycled road planings or a similar material and all obstructing vegetation removed from site to provide a minimum clear width of 2m and also clear to a height of 2.0m across the entire sites frontage to the footpath.

- 4.7 ECC Archaeological Services – Recommend conditions due to the potential for surviving below ground archaeology on the site.
- 4.8 Natural England – No objection. Recommend securing measures to enhance biodiversity of the site.
- 4.9 Essex Wildlife Trust – No comments received.
- 4.10 Environment Agency – No objection subject to conditions.
- 4.11 ECC SuDS Approval Board – Advisory comments (request informative).
- 4.12 Essex Police Service – Objects on the grounds of permeability, security and safety due to footpath to the south of the site.
- 4.13 Ramblers Association – Objects on the grounds that there is no reference to how the PRoW will be accommodated within the development, or how it will be affected whilst the building work is carried out.
- 4.14 Essex Bridleways Association – Objects for the following reasons:
- Opportunity to improve the public rights of way network not taken.
  - No consideration given to the affect upon the Bridleway during construction or long term.
  - Sturrick Lane will suffer from increased traffic movements increasing risk to horse riders and other users.
  - Transport Plan is misleading as bridleway is not at the sites northern extremity. This is misleading and incorrect. Also states footpath strikes westwards which is incorrect as it runs along the southern boundary of the site in a west to east location.
  - This footpath should be upgraded to a Bridleway.
  - Section 106 monies should be sought from developer to improve the public rights of way network especially bridleways.
- 4.15 SusTrans – Request provision is made available for the safe and secure storage of cycles; and section 106 monies should be used towards the improvements of the surface of the Bridleway which links the development to the National Cycle Network Route 51 to Harwich and Clacton.

## **5. Representations**

- 5.1 The Parish Council has objected to the application for the following reasons:
- The highways are completely unable to cope with any further increase in traffic.
  - There is great uncertainty about drainage infrastructure. Residents are concerned that the current systems will be inadequate.
  - There is no plan as to how the site would be built, and construction traffic would affect all the surrounding areas detrimentally.
  - There is no affordable housing contribution. Any affordable housing contribution should be allocated directly to Gt Bentley for use in the future within the Parish.
  - Generally can the village infrastructure cope? Any extra children will have to be accommodated in temporary class rooms. Is there sufficient capacity at the Doctors Surgery?
  - General over-development in terms of numbers of the site.

- If the site is given permission it must be that any Community Contribution via the Section 106 contribution should all come to the PC so that it can be spent for the benefit of people within the Parish.
- At the present time the site is a haven for wildlife, and consideration should be given to its protection.
- It is difficult to see how the (currently well used) bridleway would be practicably usable with the development.

5.2 Cllr L McWilliams (Ward member for Great Bentley) has commented upon the application, and her comments are summarised below:

- Housing growth strategy to increase housing stock in Great Bentley by 6% is now withdrawn.
- The Sturrick Lane site has been estimated for 20 dwellings, not 32.
- The impact of 32 dwellings on the area is too great.
- Sturrick Lane is narrow and will not cope with increase in traffic movements.
- The lane does not have footpaths or drainage system.
- Where the lane has been widened over the years the telegraph poles are preventing any further encroachment onto properties.
- Alternative route is through De Vere Estate, which is difficult to negotiate as it regularly has many vehicles parked along its roadside.
- No on site allocation for affordable housing.
- Gt Bentley is keen to give residents, especially the young born in the village the opportunity to be able to afford a property in the village.
- Site access is not clear on the drawings – it appears there will be an inappropriate impact on the Bridleway.

5.3 A total of 90 representations have been received for this application.

86 representations have been received objecting to the development. The issues raised are summarised below:

- Increased traffic.
- Highway safety and access concerns.
- Loss of a green area.
- Impact on footpath at edge of development.
- General, noise and light pollution.
- Impact on wildlife and loss of habitat.
- Loss of privacy.
- Loss of countryside views from property and footpath.
- Dangerous to pedestrians due to no footpath.
- Will have impact on the saleability of nearby property.
- Thought new builds were affordable housing not 5 bed homes.
- Village infrastructure unable to cope with high density development
- Impact on schools, doctors, utilities etc.
- Character of village will diminish.
- Adverse impact on residential and visual amenity.
- Mobile telephone reception.
- Consideration should be given to the public footpath and bridleway.
- Development does not provide lower cost housing.
- No social/affordable housing within development.
- Consider TDC overall housing development plan.
- Overlooking and overshadowing.
- Overdevelopment of site.
- Out of character with existing dwellings in vicinity.
- Will open the door for further development.



- Contravenes S106 of Town and Country Planning Act 1990.
- Un-neighbourly form of development within fenced boundary.
- Concern over health and safety of trees.
- Construction traffic likely to cause further damage to Sturrick Lane.
- Better alternative sites.
- Nearby listed building.
- Effect crime rate.
- Cannot see significance of pedestrian link to existing footpath.
- Negative effect on resident's health and well-being.
- Drainage and sewerage concerns.

5.4 1 representation from members of the public was received supporting the development, which is summarised below:

- Need for extra housing in Great Bentley.
- Increase in traffic will cut down speed of traffic.
- Schools have potential capacity for extra children.
- More people will mean more use of train station and local businesses.

5.5 3 representations have been received neither objecting to nor supporting the planning application, the points raised are summarised below:

- Consideration should be given to perimeter planting to assist with loss of privacy and increase in noise generated.
- Construction traffic impact, causing damage to Sturrick Lane.
- Drainage and new demand for sewerage concerns.
- Plots 1 – 5 should be single storey dwellings to protect from overlooking.

## **6. Assessment**

6.1 The main planning considerations are:

- Site Context;
- Proposal;
- Principle of Development;
- Housing and Density;
- Layout, Scale and Design;
- Residential Amenity
- Highways and Parking Issues;
- Impact on Heritage Assets;
- Biodiversity;
- Arboriculture/Landscaping;
- Drainage and Flood Risk;
- Site Contamination; and,
- Other Material Considerations (including Section 106 Obligations).

### **Site Context**

6.2 The application site measures approximately 2.1 hectares. The majority of the site is laid out as paddock land, with a timber post and rail fence situated around the perimeter of the site. The site is devoid of any buildings, except for a purpose built stable building with associated hardstanding, and field shelters. The western side of the site comprises overgrown vegetation, and piles of manure.

6.3 Existing vegetation is located on all boundaries of the site, but is generally devoid of vegetation within the site. Field hedgerows and trees are located on the northern and

eastern boundaries, with open countryside beyond. A hedgerow is situated along the southern boundary with a public footpath behind this hedgerow, which links Sturrick Lane, with Green Corner and Great Bentley Green beyond. Part of the western boundary of the site comprises large mature trees which form a small coppice within the grounds of Sturrick Farm, which is a Grade II Listed Building. Also part of the western boundary forms a boundary with Sturrick Lane, where the lane becomes part of the Bridleway (BR2) network in the area.

- 6.4 The southern boundary of the site is adjacent an existing footpath (Footpath No.3). Beyond this footpath are existing residential properties, with comprise mainly bungalows in Larkfield Road.
- 6.5 The topography of the site is relatively level.

### **Proposal**

- 6.6 The application has been submitted for full planning permission, which includes the erection of 32 dwellings with associated outbuildings and landscaping, with new access from Sturrick Lane.
- 6.7 The proposal comprises the erection of 1 x 2-bed unit, 13 x 3-bed units, 14 x 4-bed units, and 4 x 5-bed units. The outbuildings mentioned in the description are the erection of garages. The housing density equates to approx. 20 dwellings per hectare.
- 6.8 The majority of the proposed dwellings are two-storey in height, with the exception of plots 6, 7, 12 and 13, which are single-storey to respond to their location next to the southern boundary and existing residential properties.
- 6.9 The layout has been designed for a single vehicular access point to be located off Sturrick Lane, onto a landscaped street with 2.5m tree lined verges, which leads to a private road. Within part of the private road loop access will be a landscaped core area, which will include details for a SuDS system. Access from the proposed development site will also be made available to the existing public footpath to the south of the site.

### **Principle of Development**

- 6.10 The application site is located immediately to the north of existing residential development in Great Bentley. The site is adjacent to but outside the village development boundary as defined within the Tendring District Local Plan, 2007 which aims to restrict new development to the most sustainable sites. Outside development boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.
- 6.11 Great Bentley is identified as a village within Policy QL1 of the Tendring District Local Plan (2007) and on this basis it is considered that a modest amount of growth can be supported. Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan.
- 6.12 The application site has been identified within the Tendring District Local Plan Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014) as supporting an urban extension to the village and has been specifically identified for potential residential development.

- 6.13 However, given the limited weight that can be applied to the draft Local Plan, and the status of policy QL1, assessment of the principle of development falls to be considered under the NPPF.
- 6.14 Chapter 6 of the National Planning Policy Framework (NPPF) has as an objective the delivery of a wide choice of high quality homes. In order to facilitate this objective paragraph 49 of the NPPF sets out housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 6.15 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers consider that Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF.
- 6.16 This view has also been supported by the Planning Inspectorate in a number of recent appeal decisions for similar outline schemes.
- 6.17 The Council has published the Tendring District Local Plan Proposed Submission Draft (2012), but the document is yet to be submitted to the Secretary of State. Formal adoption cannot take place before it has been examined, consulted on and found to be sound and until that time the relevant emerging policies may be subject to change. When considered in relation to paragraph 216 of the Framework they may be afforded only limited weight.
- 6.18 Based on the above it is considered that, in the absence of up-to-date policies, development proposals cannot be refused solely on the basis that a site is outside the development boundary. Paragraph 14 of the NPPF supports this view when it sets out that where relevant policies are out-of-date planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 6.19 On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight. As a result the current scheme falls to be considered against the 3 dimensions of 'sustainable development',
- economic,
  - social; and,
  - environmental roles.
- 6.20 The sustainability of the application site is therefore of particular importance. In assessing sustainability, it is not necessary for the applicant to show why the proposed development could not be located within the development boundary.

### **Economic**

- 6.21 Officers consider that the proposal would contribute economically to the area, for example by providing employment during the construction of the development and from future occupants utilising local services such as shops and public houses, and so meets the economic arm of sustainable development.

### **Social**

- 6.22 In terms of the social role, the site is within close proximity of various community services all within walking distance of the site. Great Bentley is also on a bus route and there are bus stops on Thorrington Road to the south of the site, with services to Colchester.

- 6.23 Furthermore, it is noted that Great Bentley train station is within walking distance of the site, which connects the village to Clacton and Colchester, and further afield into London.
- 6.24 In addition, it is noted that Great Bentley has been identified as one of seven 'Key Rural Service Centres' within the district in Policy SD3 of the draft Local Plan. These are larger villages containing a relatively good range of local services and facilities with potential for limited growth in homes and jobs. For these settlements, the draft Local Plan identifies opportunities for the enhancement of village centres public transport facilities and other community facilities. Whilst the policy has limited weight at this stage, it goes some way to illustrate the sustainability credentials for the village.
- 6.25 Overall officers consider that the application site performs reasonably in terms of the social role within the definition of sustainability.

### **Environmental**

- 6.26 It is acknowledged that, in terms of settlement shape and form, development in this location is unlikely to have a significantly detrimental impact (subject to consideration against other Local Plan policies) as the site immediately adjoins the Settlement Development Boundary in the 2012 Draft Local Plan with a number of residential dwellings to the south and west of the site, and a small cluster of dwellings and outbuildings to the north-west of the site.
- 6.27 As a result, development would be comparable with existing development in the locality. On this basis, and given the inclusion of the site within the defined settlement boundary in the draft Local Plan, Officers consider that a more pragmatic approach is justified in this instance to development, as the development of this site can be achieved in keeping with the aims and objectives of National Planning Policy Framework.

### **Housing and Density**

- 6.28 The NPPF requires Councils to boost, significantly, the supply of housing to address objectively assessed needs and promote a wide choice of high quality housing. Paragraph 49 of the NPPF makes it clear that proposals for housing development should be considered positively in the context of the 'presumption of sustainable development' and Paragraph 47 requires Councils to identify, in any one year, a supply of five years' worth of developable housing land with a degree of flexibility to promote choice and competition in the market for land.
- 6.29 The Council's 2007 Adopted Local Plan was only intended to provide housing land up to 2011 and therefore the housing supply elements of that plan are now out of date and if the Council were to rely solely on that plan, it would not be possible to demonstrate a five year supply of housing land.
- 6.30 In the absence of a five year supply of deliverable housing sites, the Council is expected to comply with the NPPF's 'presumption in favour of sustainable development' and, where possible, support proposals for housing development. The application site has been identified for potential residential development in the draft Local Plan, with an indicative number of 20 residential units.
- 6.31 One of the key issues is whether the site can accommodate the level of development proposed in an acceptable manner and whether the density of the site is appropriate to the site and its surroundings. Policy PEO3 of the draft Local Plan requires new residential development to achieve an appropriate housing density that has regard to various factors, including the character of development in the immediate area. The density of this proposal equates to 20 dwellings per hectare. This is considered to be comparable to the character of the area.

- 6.32 Appendix 3 of the draft Local Plan places an indicative number of 20 units on this application site, although it makes it clear that these indicative numbers should not be treated as minimum targets or seen as the maximum limits. In reality the actual number of dwellings would be derived from careful consideration of the various policies in the draft Local Plan, including the policies on housing choice, space standards, density, layout and open space requirements.
- 6.33 Because the application site is the subject of an allocation in the draft 2012 Local Plan that has previously been approved by Full Council, there is already an acceptance that development in this location could be supported. The fact that the draft Local Plan has been published for consultation, and following comments received the allocation remains within the draft Local Plan through the Pre-Submission Focused Changes (2014), adds further weight to the argument that this application should be approved to ensure compliance with the NPPF and the presumption in favour of sustainable development.
- 6.34 Policy PEO7 of the draft Local Plan supports the objectives of the NPPF by promoting a mix of housing size, type and tenure on new development sites of 10 units or more, with a preferred mix being:
- 30% of aspirational housing with 4 or more bedrooms meeting larger standards of internal floor area and amenity space;
  - 40% of family housing with 3 or more bedrooms;
  - 25% of Council Housing to be delivered in the form of community housing managed by a local trust; and
  - 5% providing a mix of housing to be determined by the developer in addressing market demand.
- 6.35 As previously stated, the application as submitted proposes 1 x 2-bed unit, 13 x 3-bed units, 14 x 4-bed units, and 4 x 5-bed units. It is therefore clear that the intention is to supply mainly family and larger aspirational housing within this development, in line with the draft Local Plan policy.
- 6.36 Furthermore, Policy PEO10 of the draft Local Plan requires development proposals involving the development of 10 or more dwellings to provide 25% of the new dwellings as affordable units. In this instance no affordable homes are being provided within the site, and an off-site contribution is being offered in its place in accordance with the policy requirements, subject to viability considerations (see Other Material Considerations).
- 6.37 Given that the character of the area is mainly family housing, and the limited weight afforded to policy PEO7 of the draft Local Plan, it is considered that the proposed housing choice in this particular location is acceptable.
- 6.38 The applicants propose 32 residential units on the site which is more than the 20 units indicated in Appendix 3 of the draft Local Plan. However, given the comments above it is considered such a number can be integrated into the existing fabric whilst generally complying with other policies.

### **Layout, Scale and Design**

- 6.39 At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.
- 6.40 With regard to decision taking this means:

- approving development proposals that accord with the development plan without delay; and
- 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 this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.

- 6.41 The NPPF in Chapter 6 sets out its commitment in terms of the provision of delivering a wide choice of high quality homes.
- 6.42 In support of the overarching aims and objectives of the NPPF the Tendring District Local Plan Proposed Submission Draft sets out the Council's commitment to sustainable development in Policies SD1, SD2 and SD5 while the requirements for good quality design are set out in Policy SD9.
- 6.43 The submitted details show that the development site covers an area of approximately 2.1 hectares. The development would therefore result in an average housing density of 20 dwellings per hectare, which is considered to be acceptable in this location, and would integrate the development into the grain of existing development.
- 6.44 The site's vehicular entrance is taken from Sturrick Lane, which has been framed by an appropriate street frontage to Sturrick Lane of opposing two-storey development with 50 degree roof angles that creates a 'gateway' into the site to emphasise the principle view through the site. The internal site layout creates a quality street scene and a hierarchy of streets and places appropriate to the location.
- 6.45 The proposed frontage to Sturrick Lane takes influence from existing building lines of neighbouring properties opposite, but also maintains the set back from the Bridleway distance common with this locality.
- 6.46 In terms of provision of private amenity space, Policy HG9 of the Tendring District Local Plan 2007 states that private amenity space for houses with three or more bedrooms shall have a minimum of 100 sqm whilst houses with two bedrooms shall have a minimum of 75 sqm. Policy PEO4 of the draft Local Plan requires development proposals for 2, 3 and 4 bedrooms houses to have private amenity space to be at least equal to the total internal floor area of the dwelling.
- 6.47 In this instance, all units would meet the policy requirements of policy HG9. However some units would fail the garden space requirements under policy PEO4. It is considered that given the status of the draft Local Plan, and limited weight can be applied to the policies contained within it, on balance the gardens sizes proposed are deemed to be acceptable, and the proposal creates an acceptable form of development to future users.
- 6.48 Paragraph 61 of the NPPF states that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations and therefore planning decisions should address the connections between people and the places and the integration of new development into the built environment. With regards to this application, two proposed pedestrian linkages are provided onto the existing footpath to the south of the development to provide permeability of the site, and greater connectivity to the surrounding built form, village green to the east, and wider countryside beyond via the bridleway to the west.
- 6.49 With regards to scale, the proposed development is mainly two-storey in height, with single-storey development closest to the southern boundary to protect neighbouring residential

amenity. The properties along Sturrick Lane are a mixture of dwelling types of differing size and heights, and the development immediately to the south in Larkfield Road are single-storey properties. Although the scheme needs to be in keeping in terms of scale and massing in relation to the neighbouring properties and local context, it also requires different height zones to ensure an appropriate rhythm and variety in roof forms to add interest throughout the development, and break up the rhythm of building heights along the street frontage. The proposed dwellings have been designed to maintain an overall similar scale but with varied eaves and ridge heights to create that visual interest.

- 6.50 With regards to design, the building form of the proposed dwellings have been designed in accordance with The Essex Design Guide, whereby the traditional buildings of Essex are normally made up of rectangular (not square) plan forms, with pitched roofs spanning the narrower plan dimension. The properties within the surrounding context also appear to have narrow rectangular building forms, and the building form of the proposed dwellings have been sympathetically designed in order to continue this local pattern.
- 6.51 Furthermore, the roof pitch of the 2-storey dwellings within the site are generally shown to be 45/40 degrees, as recommended within the Essex Design Guide. This results in a reduced overall scale of the proposed scheme, and is in keeping with that of the neighbouring properties.
- 6.52 The applicants have given a general indication of the likely appearance and use of materials in the construction of the development. The house types are varied by both design and size, but all follow an Essex Village orientated design approach with the use of natural materials commonly used in traditional Essex houses. This approach helps to demonstrate that the design is suitable within its immediate surroundings and local context.
- 6.53 The applicant has submitted a Strategic Landscape Proposal and Landscape Strategy which sets out the hard and soft landscaping strategy for the development site. This includes new tree and hedgerow planting as well as retained trees and hedgerows to help assimilate the development into its wider setting. Such proposals can be controlled by condition and specific details submitted at a later date.
- 6.54 Based on the land available for development and having regards to localised constraints (setting of listed building at Sturrick Farmhouse), it is considered that developing this site for 32 residential units with associated parking and private amenity spaces could be successfully achieved.

### **Residential Amenity**

- 6.55 Policy QL11 of the Tendring District Local Plan (2007) and Policy SD9 of the Tendring District Local Plan Proposed Submission Draft (November 2012) states that new development will only be permitted if, amongst other things, the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.56 The main issues to be addressed are the effects of the development upon the residential amenity of occupiers of adjoining properties and within close vicinity of the site. Objection has been raised to the scheme in relation to overlooking leading to a loss of privacy as a result of the fenestration layout, and loss of light as a result of the scale and mass of the buildings.
- 6.57 At present the site is vacant and it has not been occupied as residential development in the past. Existing properties, particularly those to the south of the site, have been afforded a greater degree of privacy than might be expected of other existing dwellings in a developed location.

- 6.58 The layout drawing submitted with the application indicates Plots 6, 7, 12 and 13 are closest in proximity to the southern boundary, and therefore closest to the existing residential properties. These plots are proposed to be single-storey dwellings. As a result, no overlooking of existing properties will occur.
- 6.59 With regards to two-storey properties, Plot 1 is located adjacent to an existing bungalow called 'Treadwheel', Sturrick Lane. However, there is considered to be sufficient separation distance between the two properties, and it is noted that Plot 1 has no side elevation windows at first floor level with views into the garden of this neighbouring property. In addition a large tree within the curtilage of this property in any event provides a degree of screening from the proposed dwelling at Plot 1.
- 6.60 It is noted that bedrooms and living rooms are deemed to be habitable rooms by the Essex Design Guide, and therefore great care is required to ensure new developments do not impinge adversely on existing amenities by requiring the careful placement of such new windows. In this instance, the layout submitted indicates Plots 2 and 3 to be located a minimum of 15 metres away from the boundary with existing residential properties, and a minimum of 42 metres back to back distance. The Essex Design Guide states that for the rear-facing habitable rooms, the rear faces of opposite houses where approximately parallel, a minimum of 25 metres between the backs of houses is usually acceptable, and usually 15 metres away from the boundary of adjacent properties.
- 6.61 In this instance the minimum back to back distance on the layout drawing is 42 metres, whilst the distance to boundary is 15 metres. It is therefore considered by Officers that the development would not result in any adverse impact upon existing residential amenity by way of overlooking.

### **Highway and Parking Issues**

- 6.62 Paragraph 4 of the NPPF sets out the criteria for promoting sustainable transport and in this regard stipulates in Paragraphs 34 to 36 how this should be approached. The overall aims and objectives of the NPPF are supported by Policies contained within Chapter 7 of the Tendring District Local Plan (2007) as well as by Policies SD8 and PEO4 of the draft Local Plan.
- 6.63 Paragraph 34 indicates that decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.
- 6.64 Paragraph 35 further requires that plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, developments should be located and designed where practical to:
- accommodate the efficient delivery of goods and supplies;
  - give priority to pedestrian and cycle movements, and have access to high quality public transport facilities;
  - create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones;
  - incorporate facilities for charging plug-in and other ultra-low emission vehicles; and,
  - consider the needs of people with disabilities by all modes of transport.
- 6.65 Paragraph 37 stipulates that there should be a balance of land uses within the area so that people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities.



- 6.66 In this regard and in support of the application, the applicants have submitted a Transport Assessment (TA) produced by The Highway Traffic & Transport Consultancy Ltd, which identifies that the site is in a location suitable for development in accordance with national and local planning policy. It is within walking and cycling distance of local bus stops served by routes providing links to surrounding towns, and of Great Bentley railway station on the National Express East Anglia line. The TA can be reviewed in full by members on the planning pages of the Council's website.
- 6.67 The TA has examined the existing highway conditions, the accident data over the last 25 years, and the proposed site access arrangements and junction visibility in the locality, including the junctions at Sturrick Lane/Thorrington Road, and De Vere Estate Road/Thorrington Road to the south of the site.
- 6.68 The TA concludes that:-
- The existing nearby highway network, and the junctions serving the site have a good, long term accident record, and adequate junction visibility and stopping sight distance (SSD) can be provided at both locations, in line with Manual for Streets guidance.
  - There will not be any material increase in vehicle flows along the local network, including the junctions serving the site.
  - Adequate parking and turning can be provided within the application site for all vehicles regularly visiting the site. The design vehicle (large refuse vehicle) can be accommodated.
  - The site is well located in accessibility term.
  - The residual cumulative impacts of development will not be severe.
- 6.69 On this basis, the TA states the proposal is acceptable in highway, traffic and transport terms.
- 6.70 Furthermore, Essex County Council as the Highway Authority has been consulted on the proposed development, and they raise no objection subject to standard conditions as outlined above.
- 6.71 With regards to these conditions, the HA have suggested a condition which requires the resurfacing of the footpath to the south of the site with compacted recycled road planings or a similar material and all obstructing vegetation removed from the site to provide a minimum clear width of 2 metres. Given the existing width of the footpath, such a condition is considered to be onerous, and a 2 metre width would result in a large amount of vegetation being cleared, which would be detrimental to the assimilation of the development into its edge of settlement location. It is considered by officers that such a condition is merited, but the condition should require such details to be agreed in writing at a later date via a discharge of condition, and then the exact width of the road planings can be assessed at a later date.
- 6.72 Concerns have been raised with regards to vehicular movement over Sturrick Lane Bridleway (BR2), given that the new vehicular access into the site is to be located directly off this Bridleway. Drawings submitted with the application submission indicate that this Bridleway route is to be maintained and linked to the new road, and therefore unhindered and remains available for use. The HA has confirmed they have no objection to the proposed means of access provided it is undertaken in complete accordance with the details shown on the submitted drawing. As a result, the presence of the Bridleway is not a reason to withhold the granting of planning permission.
- 6.73 With regards to parking, the adopted 2009 parking standards require residential units with one bedroom to be provided with at least one parking space, whilst residential units with 2 bedrooms or more, to be provided with at least two parking spaces. Furthermore,

development sites should provide unallocated visitor spaces at 0.25 spaces per residential unit. These standards can be reduced in sustainable locations.

- 6.74 In this instance, the proposed level of car parking is considered to be appropriate for the intended development mix in this sustainable location.
- 6.75 Based on the above it is considered that the application site would comply with the aims and objectives of the NPPF as well as Local Plan Policies with regard to highway safety and parking requirements.

### **Impact on Heritage Assets**

- 6.76 The enduring physical presence of the historic environment contributes significantly to the character and 'sense of place' of rural and urban environments. Some of this resource lies hidden and often unrecognised beneath the ground in the form of archaeological deposits, but other heritage assets are more visible.
- 6.77 Policy PLA6 of the draft Local Plan states that the Council will work with its partners to understand, protect and enhance the district's historic environment by, amongst other things, requiring archaeological evaluation to be undertaken for schemes affecting sites that do or might contain archaeological remains. Furthermore, Policy PLA8 of the draft Local Plan states development affecting a listed building or its setting will only be permitted where it, amongst other things, does not have an unacceptable effect on the special architectural or historic character and appearance of the building or its setting. These sentiments are echoed in policies EN23 and EN29 of the 2007 Local Plan.
- 6.78 The NPPF is clear that when determining applications, Local Planning Authorities (LPA's) should require the applicant to describe the significance of a heritage asset affected, including any contribution made by their setting. The level of detail should be proportionate to the asset's importance and no more than is sufficient to understand the potential impact of the proposal on their significance.
- 6.79 The NPPF further states that where a site includes or has the potential to include heritage assets with archaeological interest, LPA's should require developers to submit an appropriate desk-based assessment and where necessary a field evaluation. In this instance the applicant has submitted a desk based assessment of the archaeological remains around Sturrick Farm.
- 6.80 With regards to the archaeological consequences of this proposed development, the report concludes that there are no archaeological sites or other heritage assets within the proposed site, although there are 14 heritage assets identified within a search area of approx 800m. These include five listed buildings groups, a standing monument, an excavated and surveyed archaeological site, five cropmark sites, a windmill site, and an area of alder carr woodland. The nearest heritage asset to the site is Sturrick Farmhouse itself, which is a Grade II listed building of 17th century origin timber-framed with later additions.
- 6.81 The report states that none of these heritage assets will be affected by the proposed development. Officers are in agreement. The setting of the listed building will not be adversely affected by the proposal, given that the proposed built development will be approx. 50 metres away from the listed building, and the mature vegetative setting of the listed building will be unaffected by the development, given the imposition of a tree protection condition.
- 6.82 The report further concludes that Sturrick Farm is in a rich archaeological landscape, and therefore it is likely that archaeological work will be required prior to development, but it is

very unlikely that any archaeological sites or finds would be a constraint on development, with the exception of the requirement for trial-trenching and excavation at the applicants cost.

- 6.83 With regards to these points, the Senior Historic Environment Consultant at Essex County Council has been consulted and has advised a programme of trial trenching followed by open area excavation to be imposed as a condition if planning permission is granted.
- 6.84 Based on the above it is considered that the development of this site can be achieved without harm to heritage assets, in keeping with the aims and objectives of National and Local Plan Policies as set out above.

### **Biodiversity**

- 6.85 Policies within Chapter 6 of the Tendring District Local Plan (2007) and Policy PLA 4 of the Tendring District Local Plan Proposed Submission Draft (2012) seek to ensure that where development is likely to harm nature conservation or geo-diversity interests, planning permission will only be granted in exceptional circumstances, where the benefits of the development clearly outweigh the harm caused and where appropriate mitigation measures must be incorporated into the development to the satisfaction of Natural England and other appropriate authorities.
- 6.86 No part of the development site or any land that it abuts has any type of statutory or non-statutory conservation designations.
- 6.87 In support of the application an Ecological Assessment prepared by Eco-Planning UK has been submitted. The report concluded:
- No part of the development site or any adjacent area has any statutory or non-statutory conservation designation or status.
  - Around both flank and the rear boundaries is a continuous hedge line with individual mature trees. This linear habitat feature has conservation value and must be retained as part of the proposed development.
  - Bat foraging/dispersal occurs along the retained hedge lines. However the stable blocks within the proposed development area do not contain any species of bat or any type of bat roost. The building can be removed without any further bat related survey works.
  - There is no reptile presence or any indicative reptile sign in any part of the proposed development site.
  - Recent badger foraging has taken place in two localised areas within the grazed pastures. However there is no active badger sett of any type within or adjacent to any part of the proposed development area.
  - With the garden area of Sturrick Farm house is an ornamental pond a short distance from the proposed development sites left flank boundary. The pond has some amphibian potential. A Great Crested Newt presence or absence survey is to begin in March 2014.
  - The on-site ecological assessments completed/planned faunal surveys along with this report will meet in full ecological/conservation related issues that could require consideration as part of the planning application process for this site.
  - Furthermore the potential developer has been made aware of all his legal wildlife responsibilities and requirements in relation to due diligence as part of the planning application process.
- 6.88 During the course of the application the Great Crested Newt presence or absence survey was completed and submitted as part of the application submission. This confirmed a GCN

absence in the surveyed pond, and therefore is no amphibian constraint to the proposed development on the area of land adjacent to the pond survey site.

- 6.89 The Ecological Assessment concluded there were no reptiles of any species within any part of the proposed development area, and that no further reptile surveys were required. However, as part of the Officers site inspection a Slow Worm was located within the outer skirts of the hedgerow to the northern boundary of the site. It is accepted that the reptile survey works undertaken followed the survey guidelines described by Natural England, and that 7 separate visits were undertaken to the site within the correct season.
- 6.90 The majority of the surrounding site is intensely farmed agricultural fields, and residential back gardens, and the majority of the site is grazed paddock land. This one Slow Worm is likely to have been a solidarity figure, or there is a small population within the hedgerow habitats surrounding the site. With appropriate mitigation conditions to protect the boundary hedgerow habitats (such as erection of reptile netting), it is considered that the development of this site in the manner proposed can be achieved without significant harm to nature conservation or biodiversity interests in keeping with the aims and objectives of National and Local Plan Policies as set out above.
- 6.91 Furthermore, Natural England has been consulted on the application, and has no objection to the application.
- 6.92 However, given the site's edge of village location in proximity to the wider countryside, and in accordance with paragraph 118 of the NPPF, this application provides 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. Such ecological enhancement opportunities could be secured by condition.

### **Arboriculture/Landscaping**

- 6.93 The proposals have been assessed by the Council's Tree and Landscape Officer who offers the following comments:
- 6.94 The main body of the land is set to grass The applicant has submitted a full tree survey and report that has been carried out in accordance with BS5837: 2012 Trees in relation to design, demolition and construction: Recommendations. The information provided by the applicant demonstrates that the development proposal can be implemented without causing harm to the boundary hedgerow and the tree contained therein. The tree report identifies two small areas that will need to be constructed using 'no dig' construction techniques and two others that will require temporary ground protection during the construction phase of any development for which consent may be granted. A condition should be attached to any consent that may be granted to ensure that the requirements of the tree report are fully complied with. Should consent be likely to be granted then a condition should be attached to secure soft landscaping in areas that will enhance the public realm.
- 6.95 Based on the above it is considered that the development of this site in the manner proposed can be achieved without significant harm to established existing trees and hedgerows around the site, including those which are protected outside but in close proximity the site, in keeping with the aims and objectives of National and Local Plan Policies as set out above.

### **Drainage and Flood Risk**

- 6.96 The NPPF makes it clear that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, it should be made safe without increasing flood risk elsewhere.

Accordingly, Policy QL3 of the Tendring District Local Plan (2007) and PLA1 of the Tendring District Local Plan Proposed Submission Draft (2012) have been informed by these national policy requirements, the findings of Strategic Flood Risk Assessments (SFRA) and advice from the Environment Agency.

- 6.97 The applicants have submitted a Flood Risk and Drainage Assessment (including an Infiltration Drainage Strategy Summary) as part of the application which highlights the fact that with reference to the Environment Agency Flood Maps the site is located entirely within Zone 1 – at low risk of flooding.
- 6.98 With regards to the information submitted within the FRA, the Environment Agency had issued a holding objection. However, following the submission of further information the EA have removed their objection to the proposal subject to a condition being imposed upon the planning permission requiring details of infiltration storage features, modelling of the pipe network to demonstrate that the pipe network will not flood, and details of who will adopt and maintain the surface water system for the lifetime of the development along with a maintenance schedule.
- 6.99 In addition, Anglian Water has commented upon the application, and confirm the foul drainage from the development is in the catchment of Thorrington Water Recycling Centre that will have available capacity for these flows. Furthermore, the sewerage system at present has available capacity for these flows.
- 6.100 Based on the details contained within the FRA and Drainage Report, it is considered that the application site could be developed in the manner proposed without any risk of flooding from or to the proposed development compliant with the aims and objectives of the NPPF as well as Local Plan Policies set out above.

### **Site Contamination**

- 6.101 The applicants have submitted a Geo-Environmental desk study report, and Geotechnical site investigation report with the application submission. The results conclude that no potential sources of contamination were found, the review of historical maps and the industrial setting did not identify any significant sources of contamination, and no potentially active pollution linkages were identified. As a result of the findings, the report has no recommendations to make.
- 6.102 The Council's Public Experience dept (Environmental Health) have reviewed the reports and have accepted the recommendations.
- 6.103 The site is therefore considered to be safe to develop in accordance with the submitted plans, and does not pose a danger to the environment, occupiers of nearby properties, construction workers, or future residents during or after the construction phases.

### **Other Material Considerations (including Section 106 Obligations)**

- 6.104 Policy COM6 of the Adopted Tendring District Local Plan (2007) states that residential development below 1.5 hectares in size, where existing public open space facilities are inadequate, shall provide a financial contribution towards the provision of new or improved off-site facilities to meet the projected needs of the future occupiers of the development. This requirement is also set out in Policy PEO22 of the draft Local Plan.
- 6.105 With regards to public open space contributions, the Public Experience dept has confirmed there is a deficiency of 1.73 hectares of equipped play in Great Bentley, and any further development in Great Bentley will increase demand on already stretched play facilities.

However it is noted that there is more than adequate provision in terms of formal open space in Great Bentley. As a result, a contribution towards equipped play space is justified.

- 6.106 Policy PEO10 of the draft Local Plan requires for developments of 10 or more dwellings, the Council will expect 25% of new dwellings to be made available to Tendring District Council to acquire at a discounted value for use as Council Housing, or as an alternative, the Council will accept a minimum 10% of new dwellings to be made available to the Council alongside a financial contribution toward the construction or acquisition of property for use as Council Housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 25% requirement. In this instance the Council's Housing dept has confirmed that there are 54 council properties in the village as well as 12 registered providers. Accordingly, and having regard to demand and existing stock levels, a full off-site contribution is considered appropriate in this instance.
- 6.107 Essex County Council Education Services have confirmed the need for a financial contribution towards education provision. ECC confirm that there are sufficient early years and childcare and secondary school places to serve the needs of the development. However, ECC forecasts indicate a deficiency in primary school spaces. It is also advised that the secondary school is in excess of the statutory walking distance from the proposed development. ECC are obliged to provide free transport to the school, and therefore the development would result in long term costs to ECC. On this basis, ECC have also requested financial contributions towards the provision of school transport.
- 6.108 The applicant has indicated a willingness to enter into a planning agreement to secure any financial contributions required by the development, and these discussions are ongoing. Members are therefore requested that if there is a resolution to grant planning permission, that the Head of Planning (or equivalent authorised officer) be authorised to grant planning permission for the development subject to within 6 months of the date of the Committee's resolution, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the matters of off-site affordable housing provision; education provision; and off-site public play space provision.

### **Other Issues**

- 6.109 Concerns have been raised with regards to impact on over-subscribed local amenities, such as schools and doctors surgeries. With regards to schools, Essex County Council has acknowledged a forecasted short fall in primary school places, and subject to viability testing, a financial contribution towards education provision will be sought.
- 6.110 With regards to doctor surgeries, the lack of such facilities are not considered to warrant a refusal of planning permission. The development proposal is not overly large in the number of proposed residential units, and the requirement of such facilities is not considered to met the CIL regulations in terms of making this particular development acceptable in planning terms. The requirement of any new doctors surgeries in this particular instance should be left to market conditions.
- 6.111 With regards to section 106 monies sought by SusTrans and Essex Bridleways Association in upgrading the Bridleway (BR2), and Footpath No.3, Policy SD7 of the draft Local Plan states planning permission will not be granted for new development unless the individual or cumulative impacts of development on infrastructure can be addressed, at the developer's cost, either on-site or through financial contributions towards off-site improvements.
- 6.112 In this regard the Council will use appropriate legal agreements or apply CIL to secure one or more of the following, which includes increased capacity for schools, green infrastructure and improvements to the transport network including environmental improvements to pedestrian spaces.

- 6.113 However to secure these the tests of CIL have to be applied. The legal tests for when you can use a s106 agreement are set out in regulation 122 and 123 of the Community Infrastructure Levy Regulations 2010 as amended. The tests are:
1. Necessary to make the development acceptable in planning terms
  2. Directly related to the development; and
  3. Fairly and reasonably related in scale and kind to the development.
- 6.114 It is considered in this instance the requirement for upgrading the existing footpath to a bridleway, and improvements to the existing bridleway does not meet the 3 tests.
- 6.115 With regards to comments received from Essex Police Service, they have objected on the grounds of permeability, security and safety due to the footpath that runs to the rear of several properties to the south of the site, and offers very little natural surveillance or lighting. Essex Police go on to question the need for this footpath and what functional link does it require to address. Firstly, the functional link is addressed in the body of the report above, and secondly the footpath is an existing footpath, therefore it would be wrong to question the need for the footpath as it does not form part of the proposed development but acts as an opportunity to provide greater permeability through the site. The layout of the development in these areas that link to the existing footpath have been based on side road clusters which terminate in the pedestrian links to the existing footpath to the south of the site, allowing greater natural policing of the existing footpath and the links to it, as can be seen on the layout plan which indicates Plots 6 and 7, and 12 and 13 all face onto the footpath links. With an appropriate lighting strategy, which can be secured by condition, these footpath links are not considered to warrant a refusal of planning permission.

#### Background Papers

None.