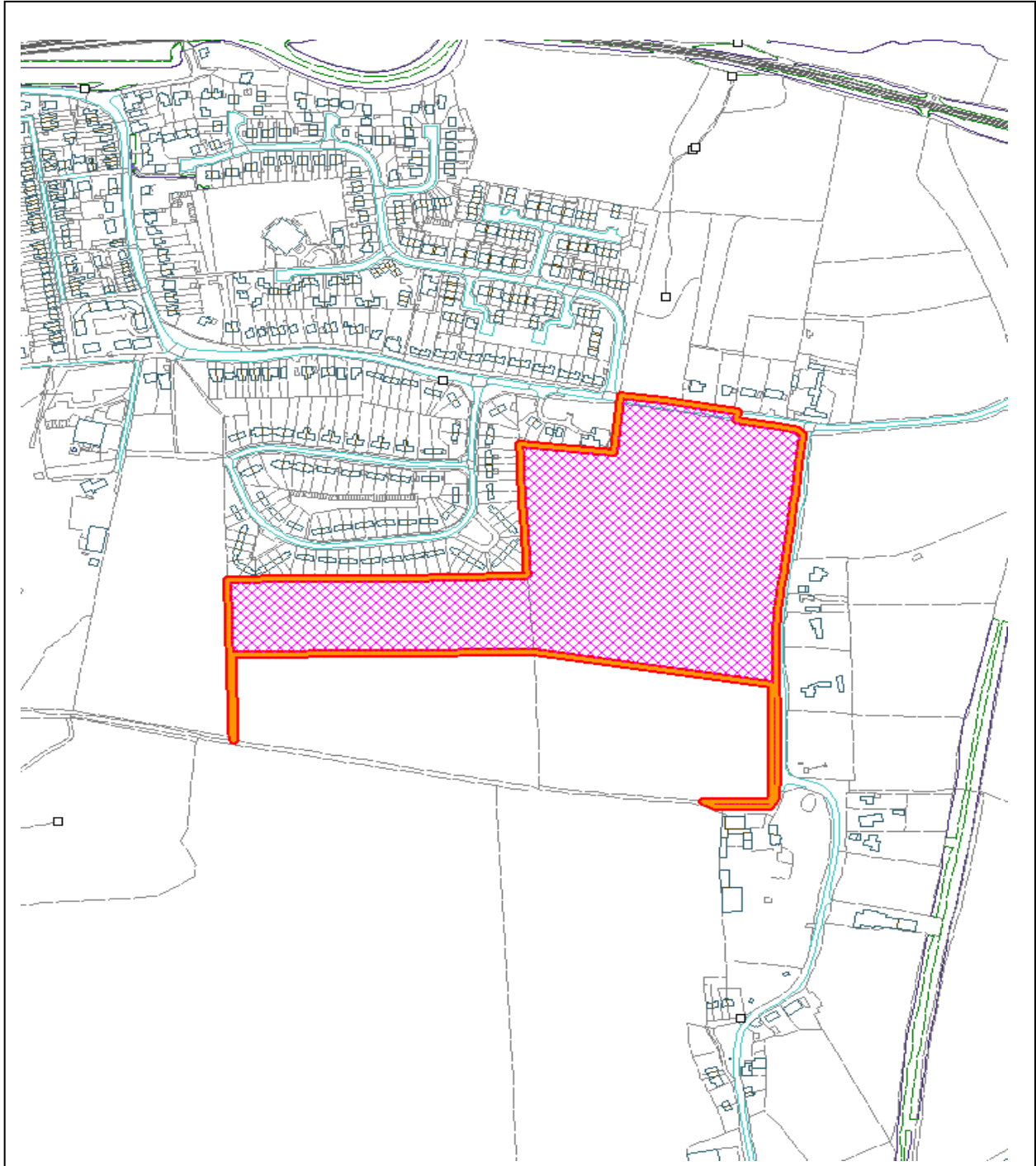


PLANNING COMMITTEE

19th APRIL 2016

REPORT OF THE HEAD OF PLANNING

A.3 PLANNING APPLICATION – 15/01520/OUT – LAND SOUTH OF HARWICH ROAD, MISTLEY, CO11 2DN



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Application:	15/01520/OUT	Town / Parish: Mistley
Applicant:	Welbeck Strategic Land II LLP, Mrs. K. Rose, Mr. P. Rose and Mrs. J. Dorrington.	
Address:	Land south of Harwich Road, Mistley, CO11 2DN	
Development:	The erection of up to 135 dwellings, including a flexible building for use as a healthcare facility (Class D1) and/or residential use (Class C3), together with access from Harwich Road; green infrastructure provision including allotments (about 1 hectare), children's play area, footways and structural landscaping; a sustainable drainage system including detention basin and swales and other related infrastructure and services including a footpath/cycleway parallel to Heath Road.	

1. Executive Summary

- 1.1 This is one of a number of major residential-led planning applications currently under consideration in the Manningtree, Lawford, Mistley and Brantham area. This particular application was received in September 2016 but determination has been delayed whilst Officers have been working with the applicants, Babergh District Council, Essex and Suffolk County Councils, the NHS and Anglian Water to ensure that in the absence of an up to date Local Plan, both the individual and cumulative impact of these major developments on infrastructure are properly understood and, through appropriate mitigation, can be adequately addressed.
- 1.2 The site comprises just under 9 hectares of greenfield agricultural land south of Harwich Road and west of Heath Road in Mistley. This is an outline application for which approval is sought for the principle of developing up to 135 dwellings with a 'flexible building' for use as either a healthcare facility and/or residential use with allotments, green space, landscaping and associated infrastructure. Approval is also sought for details of access but other matters design, layout, appearance and landscaping are reserved for approval through detailed applications at a later date. The applicant has however submitted supporting information to demonstrate how the proposed uses could reasonably be accommodated on the site.
- 1.3 Mistley Parish Council objects to the proposal and the Council has also received a fair number of objections from local residents. The main local concerns include conflict with the Local Plan, impact on local character, increased traffic, impact on local education and health services, loss of agricultural land and concern about the location and management arrangements for the proposed allotments.
- 1.4 Because the Council does not have an up to date Local Plan and is currently unable to identify a five-year supply of deliverable housing sites as required by government planning policy, this application has been considered in line with the government's 'presumption in favour of sustainable development'. Although the site lies outside of the settlement development boundaries of both the existing and emerging Local Plans, to comply with government requirements Officers have needed to approach the application with a view to positively addressing, as far as possible, technical issues and other matters raised by consultees and residents.
- 1.5 Because Mistley forms part of the wider Manningtree, Lawford and Mistley urban settlement as defined in the Local Plan, residential development in this location has the potential to be

sustainable with reasonable access to a range of local job opportunities, shops, services, facilities and public transport compared with more remote rural villages.

- 1.6 With a number of major applications under consideration in the same area, Officers have carefully considered both the individual and cumulative impacts to assist the Committee in making an informed judgement, particularly if minded to approve more than one of the applications. The most significant planning issue in this regard has been Highways and the potential impact of multiple developments on highway capacity and safety, in particular the A137 at the busy railway crossing at Manningtree Station. Following lengthy and careful consideration, Essex County Council as the Highways Authority has advised that this particular development will not add substantially to traffic at the railway crossing and that it is acceptable in highways terms, subject to conditions relating mainly to the access and footpath arrangements.
- 1.7 Officers recognise that the development would result in the loss of a large area of undeveloped and visually exposed agricultural land which lies within the 'coastal protection belt' as designated in the adopted Local Plan. It also lies adjacent to an area proposed for inclusion in the expanded Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB). However, with a suitable landscaping scheme, visual impacts can be mitigated and development can take place without having a detrimental impact on the character of undeveloped coast or on the wider AONB. When weighed against the significant need for housing in the Tendring area, it the Officers' balanced judgement that the adverse impacts do not significantly or demonstrably outweigh the benefits.
- 1.8 Ecological impacts have been carefully considered and Officers are satisfied that the development would not result in significant recreational disturbance to habitats at the internationally important Stour Estuary and locally important Furze Hill Wood due to the proposed recreational areas and connections with the countryside that the development would provide. The site itself is of limited value in ecological terms, but a number of measures are proposed that could significantly enhance the environment for a range of species within the locality.
- 1.9 Essex County Council as the Education Authority and NHS England have requested financial contributions towards addressing the impact of the development on local education and health services and Anglian Water has indicated that the development could be accommodated by the local sewage system. Ecological, flood risk and heritage impacts have been addressed to the satisfaction Officers and the indicative layout submitted by the applicant demonstrates that a scheme of 135 dwellings with a flexible building and allotments could be accommodated on the site in an appropriate manner.
- 1.10 In the absence of an up to date Local Plan and a five-year supply of deliverable housing sites, Officers consider that this development complies with the requirements of the National Planning Policy Framework and the recommendation is approval subject to a s106 agreement to secure affordable housing, open space and allotments, and financial contributions towards health and education.

Recommendation: Approval

That the Head of Planning be authorised to grant planning permission for the development subject to:-

- a) Within 6 (six) 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 relevant):

- On-site Council Housing/Affordable Housing;
- Education contribution;
- Health contribution; and
- Completion and transfer of public open space and allotments + maintenance contribution.

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. Standard 3 year time limit for submission of reserved matters application.
2. Standard 2 year limit for commencement of development following approval of reserved matters.
3. Details of appearance, access, layout, scale and landscaping (the reserved matters).
4. General conformity with the illustrative layout diagram.
5. Layout and phasing plan/programme.
6. Development to contain up to (but no more than) 135 dwellings.
7. Highways conditions (as recommended by the Highway Authority).
8. Archeologic trial trenching.
9. Ecological mitigation/enhancement plan.
10. Foul water strategy.
11. Surface water drainage scheme for construction and occupation phases.
12. SuDS maintenance/monitoring plan.
13. Hard and soft landscaping plan/implementation.
14. Details of lighting, materials and refuse storage/collection points.
15. National Grid approval for works affecting gas pipelines.
16. Broadband connection.
17. Local employment arrangements.

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 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

2. Planning Policy

National Planning Policy Framework (NPPF)

- 2.1 The National Planning Policy Framework (March 2012) sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.2 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:

- an economic role;
- a social role; and
- an environmental role.

- 2.3 These dimensions have to be considered together and not in isolation. The NPPF 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.
- 2.4 Section 6 of the NPPF relates to delivering a wide choice of quality new homes. It requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years worth of deliverable housing land against their projected housing requirements (plus a 5% or 20% buffer to ensure choice and competition in the market for land). If this is not possible, housing policies are to be considered out of date and the presumption in favour of sustainable development is engaged with applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.
- 2.5 Paragraph 187 of the NPPF states *“Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area”*.

Local Plan

- 2.6 Section 38(6) of the Planning Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the ‘development plan’ unless material considerations indicate otherwise. In the case of Tendring the development plan consist of the following:

Tendring District Local Plan (Adopted November 2007) – as ‘saved’ through a Direction from the Secretary of State. Relevant policies include:

QL1: Spatial Strategy

Directs most new development toward urban areas and seeks to concentrate development within settlement development boundaries.

QL2: Promoting Transport Choice

Requires developments to be located and designed to avoid reliance on the use of the private car.

QL3: Minimising and Managing Flood Risk

Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

QL9: Design of New Development

Provides general criteria against which the design of new development will be judged.

QL10: Designing New Development to Meet Functional Needs

Requires development to meet functional requirements relating to access, community safety and infrastructure provision.

QL11: Environmental Impacts

Requires new development to be compatible with its surrounding land uses and to minimise adverse environmental impacts.

QL12: Planning Obligations

States that the Council will use planning obligations to secure infrastructure to make developments acceptable, amongst other things.

HG1: Housing Provision

Sets out the strategy for delivering new homes to meet the need up to 2011 (which is now out of date and needs replacing through the new Local Plan).

HG3: Residential Development Within Defined Settlements

Supports appropriate residential developments within the settlement development boundaries of the district's towns and villages.

HG3a: Mixed Communities

Promotes a mix of housing types, sizes and tenures to meet the needs of all sectors of housing demand.

HG4: Affordable Housing in New Developments

Seeks up to 40% of dwellings on large housing sites to be secured as affordable housing for people who are unable to afford to buy or rent market housing.

HG6: Dwellings Size and Type

Requires a mix of housing types, sizes and tenures on developments of 10 or more dwellings.

HG7: Residential Densities

Requires residential developments to achieve an appropriate density. This policy refers to minimum densities from government guidance that have long since been superseded by the NPPF.

HG9: Private Amenity Space

Requires a minimum level of private amenity space (garden space) for new homes depending on how many bedrooms they have.

COM2: Community Safety

Requires developments to contribute toward a safe and secure environment and minimise the opportunities for crime and anti-social behaviour.

COM4: New Community Facilities (including Built Sports and Recreation Facilities)

Supports the creation of new community facilities where they are acceptable in terms of accessibility to local people, impact on local character, parking and traffic and other planning considerations.

COM6: Provision of Recreational Open Space for New Residential Developments

Requires residential developments on sites of 1.5 hectares or more to provide 10% of the site area as public open space.

COM9: Allotments

Safeguards against the loss of existing allotments.

COM21: Light Pollution

Requires external lighting for new development to avoid unacceptable impacts on the landscape, wildlife or highway and pedestrian safety.

COM23: General Pollution

States that permission will be refused for developments that have a significant adverse effect through the release of pollutants.

COM26: Contributions to Education Provision

Requires residential developments of 12 or more dwellings to make a financial contribution, if necessary, toward the provision of additional school places.

COM29: Utilities

Seeks to ensure that new development on large sites is or can be supported by the necessary infrastructure.

COM31a: Sewerage and Sewage Disposal

Seeks to ensure that new development is able to deal with waste water and effluent.

EN1: Landscape Character

Requires new developments to conserve key features of the landscape that contribute toward local distinctiveness.

EN3: Coastal Protection Belt

Resists development in the Coastal Protection Belt to safeguard the character of the undeveloped coast.

EN4: Protection of the Best and Most Versatile Agricultural Land

Seeks to ensure that where agricultural land is needed for development, poorer quality land is used as priority over higher quality land.

EN6: Biodiversity

Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

EN6a: Protected Species

Ensures protected species including badgers are not adversely impacted by new development.

EN6b: Habitat Creation

Encourages the creation of new wildlife habitats in new developments, subject to suitable management arrangements and public access.

EN11a: Protection of International Sites

Guards against development that would have an adverse impact on wildlife habitats of international importance which includes the Stour Estuary.

EN11b: Protection of National Sites

Guards against development that would have an adverse impact on wildlife habitats of national importance such as Sites of Scientific Interest (SSSI) and National Nature Reserves (NNR).

EN11c: Protection of Local Sites

Guards against development that would have an adverse impact on wildlife habitats of local importance including Local Wildlife Sites (LoWS).

EN12: Design and Access Statements

Requires Design and Access Statements to be submitted with most planning applications.

EN13: Sustainable Drainage Systems

Requires developments to incorporate sustainable drainage systems to manage surface water run-off.

EN23: Development within the Proximity of a Listed Building

Guards against developments that would have an adverse impact on the setting of Listed Buildings.

EN29: Archaeology

Requires the archaeological value of a location to be assessed, recorded and, if necessary, safeguarded when considering development proposals.

TR1a: Development Affecting Highways

Requires developments affecting highways to aim to reduce and prevent hazards and inconvenience to traffic.

TR3a: Provision for Walking

Seeks to maximise opportunities to link development with existing footpaths and rights of way and provide convenient, safe attractive and direct routes for walking.

TR4: Safeguarding and Improving Public Rights of Way

Encourages opportunities to expand the public right of way network. Requires that developments affecting an existing public right of way accommodate the definitive alignment of the path or, where necessary, seek a formal diversion.

TR5: Provision for Cycling

Requires all major developments to provide appropriate facilities for cyclists.

TR6: Provision for Public Transport Use

Requires developments to make provision for bus and/or rail where transport assessment identifies a need.

TR7: Vehicle Parking at New Development

Refers to the adopted Essex County Council parking standards which will be applied to all non-residential development.

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

Relevant policies include:

SD1: Presumption in Favour of Sustainable Development

Follows the Planning Inspectorate's standard wording to ensure compliance with the NPPF.

SD2: Urban Settlements

Identifies Manningtree, Lawford and Mistley together as a 'Urban Settlement' and one of the district's more sustainable locations for future growth.

SD5: Managing Growth

Seeks to direct new development to sites within settlement development boundaries.

SD7: Securing Facilities and Infrastructure

Requires developments to address their individual or cumulative infrastructure impacts and states that the Council will use planning obligations and/or CIL (when it is in place), where necessary, to ensure this happens.

SD8: Transport and Accessibility

Requires the transport implications of development to be considered and appropriately addressed.

SD9: Design of New Development

Sets out the criteria against which the design of new development will be judged.

SD10: Sustainable Construction

Requires development to maximise measures to reduce energy consumption and reduce carbon emissions and other forms of pollution both during construction and during use.

PRO1: Improving the Strategic Road Network

Sets out the Council's intention to work with partners to secure improvements to key sections of the district's road network, which includes the A137 and the railway crossing at Manningtree Station.

PRO2: Improving the Telecommunications Network

Requires new development to be served by a superfast broadband (fibre optic) connection installed on an open access basis and that can be directly accessed from the nearest British Telecom exchange and threaded through resistant tubing to enable easy access for future repair, replacement or upgrading.

PRO3: Improving Education and Skills

Requires applicants to enter into an Employment and Skills Charter or Local Labour Agreement to ensure local contractors are employed to implement the development and that any temporary or permanent employment vacancies (including apprenticeships) are advertised through agreed channels.

PEO1: Housing Supply

Sets out the proposed growth in new housing for the district, but is subject to considerable change to ensure compliance with the NPPF, as being overseen by the new Local Plan Committee.

PEO3: Housing Density

Policy requires the density of new housing development to reflect accessibility to local services, minimum floor space requirements, the need for a mix of housing, the character of surrounding development and on-site infrastructure requirements.

PEO4: Standards for New Housing

Sets out proposed minimum standards for the internal floor area and gardens for new homes. Internal floor standards have however now been superseded by national standards to be imposed through building regulations.

PEO5: Housing Layout in Tendring

Policy seeks to ensure large housing developments achieve a layout that, amongst other requirements, promotes health and wellbeing; minimises opportunities for crime and anti-social behaviour; ensures safe movement for large vehicles including emergency services and waste collection; and ensures sufficient off-street parking.

PEO7: Housing Choice

Promotes a range of house size, type and tenure on large housing developments to reflect the projected needs of the housing market.

PEO9: Family Housing

Promotes the construction of family homes within new housing developments.

PEO10: Council Housing

Requires up to 25% of new homes on large development sites to be made available to the Council, at a discounted price, for use as Council Housing.

PEO19: Green Infrastructure

Requires new developments to contribute, where possible, toward the district's green infrastructure network.

PEO20: Playing Pitches and Outdoor Sports Facilities

Requires new developments to contribute where possible to the district's provision of playing pitches and outdoor sports facilities.

PEO22: Green Infrastructure in New Residential Developments

Requires larger residential developments to provide a minimum 10% of land as open space with financial contributions toward off-site provision required from smaller sites.

PEO23: Children's Play Areas

Requires new children's play areas as an integral part of residential and mixed-use developments.

PLA1: Development and Flood Risk

Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

PLA3: Water Conservation, Drainage and Sewerage

Requires developments to incorporate sustainable drainage systems to manage surface water run-off and ensure that new development is able to deal with waste water and effluent.

PLA4: Nature Conservation and Geo-Diversity

Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

PLA5: The Countryside Landscape

Requires developments to conserve, where possible, key features that contribute toward the local distinctiveness of the landscape and include suitable measures for landscape conservation and enhancement. The policy includes reference to the Coastal Protection Belt and the proposed extension to the Suffolk Coast and Heaths Area of Outstanding Natural Beauty.

PLA6: The Historic Environment

Sets out the Council's approach to understanding, protecting and enhancing the district's historic environment, in line with the NPPF.

PLA8: Listed Buildings

Guards against developments that would have an adverse impact on Listed Buildings, including their setting.

Other Guidance

Essex County Council Car Parking Standards – Design and Good Practice

Essex Design Guide for Residential and Mixed-Use Areas.

3. Relevant Planning History

3.1 The site has the following planning history:

11/00037/FUL	Construction of 15 affordable rural dwellings with associated parking, carports, cycle stores, and new vehicular access.	27.10.2011
15/30121/PRE APP	EIA Screening Opinion for up to 170 dwellings together with appropriate green infrastructure, including new allotments.	27.05.2015
15/30146/PRE APP	Erection of up to 170 dwellings, with primary access from Harwich Road and secondary access from Heath Road, allotments, open space, SuDs and other infrastructure works.	04.08.2015
15/01520/OUT	The erection of up to 135 dwellings, including a flexible building for use as a healthcare facility (Class D1) and/or residential use (Class C3), together with access from Harwich Road; green infrastructure provision including allotments (about 1 hectare), children's play area, footways and structural landscaping; a sustainable drainage system including detention basin and swales and other related infrastructure and services including a footpath/cycleway parallel to Heath Road.	Current

4. Consultations

TDC Building Control No comments at this time pending more detailed drawings.

TDC Principal Tree & Landscape Officer The site is flat with an open character. The northern and eastern boundaries are marked by an established countryside hedgerow. It may be necessary to remove all or part of the hedgerow on the northern boundary to facilitate access but any harm caused by the removal of the hedgerow could be mitigated by new planting. The hedgerow on the eastern boundary forms the boundary to the part of the application site allocated proposed for use as allotments and the hedgerow can be retained and incorporated into the soft landscaping proposals for the land.

The main body of the land is in agricultural use and there are no trees or other significant vegetation situated on the land.

In terms of the impact of the development proposal on the character and appearance of the local landscape, it should be noted that any development of the application site has the potential to cause significant harm to the character of the countryside.

The application site is situated on the northernmost part of the Bromley Heaths Clay Plateau (LCA 7A) Landscape Character Area (LCA) as described in the Tendring District Council Landscape Character Assessment. Being situated on the edge of the LCA it overlooks the Stour Valley (LCA 6A) and The Stour Estuary Marshes (LCA 1E).

It is important to recognise that the application site is situated on the exposed and windswept plateau corresponding to the highest part of the district. Care needs to be taken when siting and designing new development. It is particularly important to take into account the potential

impact on the adjacent Stour Valley and Estuary LCAs as the valley slopes form the setting for, and views from the Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB). The LCA partner document Guidance for Built Development states that The northern plateau edges are particularly sensitive to development that would be visible from and intrude into the setting of the Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB).

In addition to this the guidance for the Stour Valley (LCA 6A) states that: The overall strategy should be to maintain the sparse settlement pattern of the rural valley slopes and the distinctive character of the historic ports. The area should continue to provide the rural backdrop and setting for the Suffolk Coast and Heaths AONB and deserves a high level of protection.

Whilst the proximity of the adjacent AONB and the current assessment of land by Natural England within the Tendring District to determine whether or not it merits inclusion within the AONB are clearly material considerations in the planning process it should be noted that AONB designation is not intended to prohibit development but to ensure that care is taken so that any development does not cause harm to the character, qualities and setting of the AONB.

It is also important to consider the potential impact of the development proposal on the Stour Estuary in terms of its value for both breeding and overwintering wildfowl and wading birds that is recognised by its designation as a Ramsar Site and a Special Area for Conservation.

If consent were likely to be granted the soft landscaping of the whole site would be crucial to the successful integration of the built development into the local environment. Special attention will need to be given to boundary treatments and trees shrubs and hedges will need to be an integral part of the design and layout of the development. The proposal may provide the opportunity to improve the juxtaposition of the built environment with the adjacent countryside by securing strong boundary landscaping.

The design of the dwellings and construction materials used will also be a key element of the proposed development.

In order to show the effects of the development on both landscape and views the applicant has submitted a Landscape and Visual Impact Assessment (LVIA). The document has been carried out in accordance with the Landscape Institute and Institute of Environmental Management and Assessment Guidance.

It should be noted that para 2.6 of the LVIA purports to describe the position of the boundary of the proposed extension to the AONB of the land within the Tendring District. This is not an accurate description of the current situation. A major part of the examination by Natural England of the quality of the Tendring Landscape will be to determine the position of any possible future AONB extension boundary. The assessment of the quality of the landscape will inform the process of determining where any future boundary should be.

The LVIA provides a reasonable reflection of the impact of the development of the land on the character and appearance of the countryside in terms of the initial change of use of the land, through

development to a time 15 years hence when soft landscaping will have matured.

Simply in terms of its impact on the countryside it would be desirable if the application to develop the land were to be refused. However by way of careful design and detailed and comprehensive soft landscaping it may be possible to mitigate some of the harm caused by the development.

TDC Housing There is a high demand for housing in Mistley on the housing register and there are currently 144 households seeking a 1 bedroom property, 65 seeking a 2 bedroom property, 28 seeking a 3 bedroom property and 9 seeking a 4 bedroom property.

The Housing Department is happy for the affordable units on this site to be transferred. However, due to proposed legislation, neither the Council nor another registered provider will be in a position to purchase the units at a discount. The application allows for 7 properties to be affordable housing but this only constitutes 5% of the provision on the site which is less than required in the emerging Local Plan. The Council would prefer to be gifted 9 properties as an alternative (this being 30% of the 25% affordable housing provision set out in the merging plan).

TDC Open Space and Play There is currently a deficit of 3.00 hectares of equipped play/formal open space in Mistley. It is noted that open space and the provision of new on-site play areas has been incorporated within the design. Should the developer wish to transfer the open space and play facilities to the Council upon completion, a commuted sum will be required for a ten year period.

ECC Highways From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to conditions in respect of the following:

- A construction management plan including details of wheel cleaning facilities;
- The creation of a junction off Harwich Road to provide access to the proposal site;
- A gateway feature to mark the change in speed limit to the east of the proposal site;
- Upgrading the two bus stops in Harwich to current Essex County Council specification;
- A minimum 3 metre wide footway/cycleway along Harwich Road between the proposal site access and existing footway to the west of the proposal site with the footway/cycleway to be immediately adjacent the Harwich Road carriageway;
- A minimum 3 metre wide footpath/cycleway west of Heath Road and south of Harwich Road;
- Improvements to the Public Right of Way between Rigby Avenue and the south blue line boundary and along the entire south blue line boundary to Heath Road (details shall be agreed with the Local Planning Authority prior to commencement of the development); and
- Residential Travel Information Packs.

ECC Schools A development of this size can be expected to generate the need for up to 12 Early Years and Childcare (EY&C) places and 41 primary school, and 27 secondary school places.

According to the latest information available to Essex County Council early years and childcare team, there is sufficient provision within the ward/surrounding wards to accommodate children from this development.

This proposed development is located within reasonable travelling distance of Mistley Norman CE Primary School, Bradfield Primary School, Highfields Primary School and Lawford CE Primary School. These schools have a combined overall capacity of 750 places. These schools overall are forecast to have a surplus of 29 places by the school year 2019-20.

This proposed development is located within the priority admissions area for Manningtree High School. The school has a capacity of 870 places. The school is forecast to have a surplus of 70 places by the school year 2019-20. The school could accommodate all of the pupils that would be generated by this development.

The County Council is aware that outline planning applications have also been submitted on Long Road (15/00761/OUT) for 300 dwellings (school places generated by the development – 90 primary 60 secondary); and Bromley Road (15/00876/OUT) for 360 dwellings (school places generated by the development 108 primary and 72 secondary).

If permission is granted on either of these sites prior to consideration of this application, there is likely to be a shortfall in the number of primary and secondary school places in the area. Under these circumstances it is requested that a contribution for additional primary and secondary school places to make up any shortfall should permission be granted. The cost per place at April 2015 (to be secured through a s106 legal agreement) is £12,172 for primary and £18,491 for secondary, index linked to April 2015 costs.

Having reviewed the proximity of the site to the nearest primary and secondary schools, Essex County Council will not be seeking a school transport contribution. However the developer should ensure that safe and direct walking/cycling routes are available to the nearest schools.

Anglian Water

Assets affected: Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.

Wastewater treatment: The foul drainage from this development is in the catchment of Manningtree Water Recycling Centre, which currently does not have capacity to treat the flows from the development site. Anglian Water is obligated to accept the foul flows from development with the benefit of planning consent and would therefore take the necessary steps to ensure that there is sufficient treatment capacity should the planning authority grant planning permission.

Foul Sewerage Network: The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection.

Surface Water Disposal: The preferred method of surface water disposal

would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and connection to a sewer. The surface water strategy/flood risk assessment submitted with the planning application relevant to Anglian Water is acceptable. We request that the agreed strategy is reflected in the planning approval.

Condition: Anglian Water recommends the following planning condition if the Council is minded to grant planning permission:

No hard-standing areas to be constructed until the works have been carried out in accordance with the surface water strategy so approved unless otherwise agreed in writing by the Local Planning Authority.

Reason – to prevent environmental and amenity problems arising from flooding.

National Grid

National Grid has identified that it has apparatus in the vicinity of the site which might be affected by the activities specified. National Grid should be informed, as soon as possible, of the decision your authority is likely to make on this application. The apparatus affected includes high or intermediate pressure gas pipelines and associated equipment as well as low or medium pressure gas pipes and associated equipment. The enquiry has therefore been referred to the Gas Distribution Pipelines Team.

No works should be undertaken in the vicinity of the gas pipeline and no heavy plant, machinery or vehicles should cross the route of the pipeline until detailed consultation has taken place. The requirements set out in more detail within National Grid's letter should be followed before carrying out any work.

Advice from the Pipelines Team: No objection to the proposal in principal, however there is a high pressure pipeline located in close proximity of the development. The provision of the cycle path (towards the remains of St. Mary's Church) will entail crossing the high pressure pipeline. National Grid requests full engagement with the landowner or contractor prior to any construction to ensure:

- Cycle path construction method is approved by National Grid prior to any construction commencement.
- The pipeline is marked out.
- The pipeline equipment is suitably fenced off so that no illegal crossings over the pipeline by construction traffic can be made.
- National Grid representative is in attendance at site during any construction activities close to the pipeline.

These requirements should be made a condition of any planning approval.

NHS England

This development is likely to have an impact on the services of the Riverside Health Centre in Manningtree. This GP practice does not have capacity for the additional growth as a result of this development. Therefore a Health Impact Assessment has been prepared by NHS England to provide the basis for a developer contribution toward capital funding to increase capacity within the GP Catchment Area.

There is a capacity deficit in the catchment practice and a developer contribution of £40,740 is required to mitigate the 'capital cost' to NHS England for the provision of additional healthcare services arising directly as a result of the development proposal. NHS England requests that this sum be secured through a planning obligation linked to any grant of planning permission, in the form of a Section 106 agreement.

Natural England The application site is close proximity to the Stour and Orwell Special Protection Area (SPA) which is also listed as a Ramsar site and a Site of Special Scientific Interest.

The Council, as the competent authority under the Habitat Regulations, should have regard to any potential impacts that the development might have. Based on the information provided, Natural England advises that the proposal is not necessary for the management of the European site and is unlikely to have a significant effect on any European site and can therefore be screened out from any requirement for further assessment.

Natural England requires a condition to ensure that the proposed footpaths, including those linking to the Essex Way to the south of site, are provided as shown on the Illustrative Masterplan submitted with the application.

We would expect the Council to assess other possible impacts on local sites (biodiversity and geodiversity), local landscape character and local or national biodiversity priority habitats and species.

The application may also provide opportunities to incorporate features into the design which are beneficial to wildlife and the Council should consider securing measures to enhance the biodiversity of the site if it is mindful to grant planning permission.

Historic England We have considered the information received and we do not wish to offer any comments on this occasion. The application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice. It is not necessary for us to be consulted again on this application.

RSPB We object to the application as it fails to fully address the in-combination recreational impact of the development and there is insufficient information to rule out an adverse effect on the integrity of the Stour and Orwell SPA.

The site is located 390m from the boundary of the Stour and Orwell SPA and Ramsar site at its closest point. The RSPB is concerned that the development could contribute to increased recreational disturbance to the internationally important bird populations present in the Stour and Orwell SPA. The application acknowledges the threat of the increased recreational disturbance and thus accepts that there is potential for a significant effect that might, in line with the Habitats Directive, require an Appropriate Assessment.

Although mitigations is outlined to limit effects relating to recreational impacts of the proposed development alone, the RSPB does not believe sufficient evidence has been presented to rule out the likelihood of an adverse effect from cumulative and in-combination effects from this development and other plans and projects. We consider that the

cumulative and in-combination effects have not been adequately assessed and need to be re-assessed [detailed reasons set out in RSPBs letter].

We agree with Natural England's comments that the proposed footpaths should be made a condition to planning permission being granted. We recommend that the Essex Wildlife Trust is consulted to discuss any mitigation measures for the Furze Wood Local Wildlife Site.

Suffolk Coast
and Heaths
AONB

It should be noted that Natural England is assessing the landscape in relation to a proposed boundary review for the Suffolk Coast and Heaths AONB. This work will inform which areas are proposed for inclusion in a revised boundary. Developments proposed within this area should seek to avoid any negative effects on landscape character and special qualities of the AONB and its setting, including the area being considered for boundary review.

The Council should also consider the impacts on Stour and Orwell Special Protection Area (SPA), Stour Estuary SSSI and Stour and Orwell Ramsar site, including recreation disturbance.

It is hoped that collaboration between neighbouring Local Planning and Highway Authorities can assess the needs and opportunities for improved cycle/pedestrian infrastructure as a result of this and other nearby proposed housing developments in order to secure appropriate provision.

There may also be opportunities to secure and improve the Public Rights of Way network within and surrounding the development. It is important that the network provides good connectivity through the development to local facilities. Where new paths are proposed, opportunities should also be taken to improve ecological networks and enhance local landscape character.

Essex County
Council Flood
Authority

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application [which follows revisions made in response to an earlier holding objection], we do not object to the granting of planning permission subject to conditions relating to the following:

- a detailed surface water drainage scheme;
- a scheme for minimising offsite flooding during construction works;
- a maintenance plan for the surface water drainage scheme; and
- keeping an on-going log of maintenance.

Essex
Bridleways
Association

We request that the proposed footway/cycleway is designated as a Bridleway which will enable its use by all vulnerable road users – pedestrians, cyclists and equestrians. We also request that as part of the green infrastructure that the public right of way running north/south is upgraded to Bridleway status to enable its use by pedestrians, cyclists and equestrians.

Essex Police

We do not object to this application but would raise an issue relating to possible future approval. Within the Design and Access Statement, the applicant states that they will build to the principles of Secured by Design. This of course could mean doing everything or nothing and we would therefore require that outline approval is given with the condition that

when full approval is sought Secured by Design certification will have to be achieved. Considering the proposed layout and Approved Document Q Security-Dwellings 2015 having to be attained the Secured by Design should not cause a problem or a cost implication.

5. Representations

5.1 The Council has received 23 objections to the proposal from residents including some lengthy and very well articulated letters raising the following concerns:

Conflicts with policy

- The development is clearly contrary to many policies and statements within both the Council's adopted and emerging Local Plans.
- The site has not been considered favourably in any of the Council's site assessments in support of the emerging Local Plan.
- The site is outside of the settlement development boundary/village envelope where there should be a presumption against development.
- Approving development outside the settlement boundary will set a dangerous precedent.
- Local Plan policies seek to enhance the character and openness of the countryside, not destroy it.
- The Council is suggesting accepting a lower number of properties for affordable housing than the Local Plan policies require.
- The development represents a far higher increase in housing in Mistley than the moderate or proportionate 6% increase suggested in the emerging Local Plan.

Impact on character and appearance

- Further development will detract from the village character.
- The development will lead to the coalescence of Mistley with the nearby hamlet of Mistley Heath.
- Development would take the form of a mass of housing along with Lawford and Manningtree.
- Being located adjacent to the proposed Area of Outstanding Natural Beauty (AONB), this development would have a significant detrimental impact on the AONB's character.
- The quantum and density of the proposed development is out of keeping with existing housing in Heath Road and Harwich Road.
- The development would result in loss of attractive views over the River Stour from the Essex Way, damaging the area's tourism credentials.
- The Council's Local Plan Committee has already stated that it supports the protection of green spaces between settlements.
- The development will not make a positive contribution to the quality of the local environment and will cause urban sprawl.

Impact on traffic and congestion

- Council policy requires that additional vehicle movements must be accommodated within the capacity of the highway.
- The development will lead to an increase in traffic and congestion, particular when considered alongside other major development proposals under consideration in the Manningtree, Lawford and Mistley area.
- Most of the new residents will work away from the village, adding to traffic.
- There is a particular problem with congestion at Manningtree Station and the A137 underpass.

- The proposal should not be assessed in isolation; the cumulative effects of the developments proposed in Lawford, Manningtree, Mistley, Brantham and East Bergholt should be properly considered.
- Mistley railway station is unmanned, has no ticket office and offers only limited parking.
- Residential travel packs being offered by the applicants are not guaranteed and are not enforceable.
- There are big concerns about commuter parking in the area which would be exacerbated by additional development.
- Mistley has very limited jobs, shops, facilities and services and cannot be considered a sustainable location for growth.
- Nearby roads struggle to accommodate double decker buses and cars.
- The train services at Manningtree railway station are at full capacity and there are regular problems with people parking in surrounding streets due to a lack of parking space.
- Heath Road is used as a cut-through to the A120 and struggles to with current vehicular movements due to its lack of width.

Impact on health and education services

- The schools and surgeries in the area are unable to cope with an increase in population.
- Even the Council recognises that most primary schools are operating at or close to full capacity.
- A Health Impact Assessment needs to be undertaken for this development.
- Residents have to travel over 10 miles to other villages for doctors, dentists and schools because there is insufficient capacity in the Manningtree, Lawford and Mistley area.
- The revision to include a flexible building for health provision is pure tokenism and does not address any of the existing local concerns.
- The lack of health provision should have been recognised at the outset and have still not been adequately resolved with the relevant bodies.
- The contribution requested by NHS England will only cover capital costs.

Economic Impacts

- The economic benefits of the development are over-stated by the applicants.
- The applicants' estimations of increased household expenditure and increased revenue to the District and Parish Councils through tax receipts are estimated approximations based on optimistic assumptions and are therefore speculative with no guarantees.
- A larger than average proportion of Tendring residents earn below the living wage.
- Most business in the area only employ up to 9 people and the area has a low wage economy.
- The cost of the new properties are likely to be outside the range of local people and are likely to encourage incomers and commuters.
- Whilst development will bring temporary employment opportunities and help keep some existing jobs secure, it will not bring an increase in permanent jobs.
- The Council needs to ensure a balance of homes and jobs.
- Development in this location would be far lower value than that being built in Cox's Hill.

The proposed allotments

- The proposed allotments are located as far from the village as possible with access through the estate and no parking.

- The 'possible' provision of allotments does not come with sufficient guarantees to ensure their protection in perpetuity.
- The suggested location of the allotments was the least favoured out of three options presented to the Parish Council.
- The location of the allotments could actually be harmful to local residents by accommodating a mess of unattractive sheds and have regular bonfires.

Loss of agricultural land

- There should be a preference for developing previously developed land.
- This site is well cropped agricultural land that should be retained for that use.
- The Railex site in Lawford would be a better location for housing development as it is a brownfield site within walking distance of Manningtree Town Centre.
- The uncultivated land rear of the Stourview estate is a more suitable site for development to meet the needs of Mistley.
- The grading of this land should be double checked because although it is thought to be Grade 3b, crops are grown that are characteristic of higher-grade agricultural land.

Concerns about public consultation

- In preparing the Local Plan, the Council has said it will take into account the views of local people and their communities – that principle should also apply to this development.
- The applicants gave very short notice of their consultation event, precluding many local residents from attending.
- Many residents only found out about the applicants' consultation event by accident as it was poorly publicised.

Other concerns

- The greatest need for housing in Tendring is expected to be in and around Clacton. There are already enough homes either with planning permission or under construction in the Manningtree, Lawford and Mistley area to meet the needs of this part of Tendring.
- The wider area suffers with flooding during periods of heavy rain and a development would exacerbate this problem without significant improvement and investment in drainage.
- From the Council's own research in support of the Local Plan, the local sewage system has been running at near capacity for many years and would require investment to cope with a large population increase.
- There will be a detrimental effect on wildlife and nature.
- There will be an increase in pollution and associated health and ecological damage resulting from vehicle emissions and allotment bonfires.
- There is no provision for terraced houses which might be more affordable for younger people.
- Given the applicants pre-application discussions with the Council, it might appear that the approval of planning permission is a foregone conclusion and that local opposition is a waste of time.
- The applicants appear to have no history of property development so it is likely the site will be sold on to another developer with the benefit of planning permission.
- There are errors in the applicants' submissions that refer to the incorrect development which raise concerns about the accuracy and robustness of their work.
- One developer is profiteering at the expense of local people's quality of life.
- A development of 30-50 dwellings might be more appropriate in this location.
- Development will cause disruption and inconvenience to local residents during the suggested three-year construction period.
- The proposed cycle way would exit out onto a dangerous bend in Heath Road.

5.2 Mistley Parish Council has also objected to the application with the following concerns:

- 1) Planning Policies – This site is outside the previous Local Plan’s development boundary and also outside the development boundary in the later Draft Local Plan. The proposed site would mean a loss of good quality agricultural land. It would also involve closing the separation of the between Mistley and Mistley heath communities, so the only green gap would be the allotments. With regard to planning numbers the Mistley, Manningtree and Lawford area has sufficient sites to meet its commitments to Tendring growth for the coming Local Plan period. Many homes in Mistley itself have already been given approval, such as Thorn Quay and the former Secret Bunker site. Lawford has significant developments too. If more land is needed then the land off Stourview Avenue for 60 homes that was proposed in the Draft Local Plan has already been accepted as suitable for housing by the local community. The development of 135 homes (with an unknown housing mix) is thus unnecessary and excessive.
- 2) Highway Safety – Impact of significantly increased volume of vehicles and subsequent traffic to Heath Road, Harwich Road, High Street, New Road and the Walls. Increase of the likelihood of traffic accidents along Heath Road. There could also be an increase in parking along Harwich Road where there is none at the moment due to the land being an open field.
- 3) Cumulative Impact – deleterious impact on the local health services, schools, transport and shops. The impact on schools locally may not be too bad at primary level but serious consideration must be given to the impact at secondary level and also sixth form provision which is outside the area and relies on the students travelling long distances to Colchester, which is also growing and this provision may cease.

5.3 The Parish Council also listed some of the issues raised by 37 residents that attended a public meeting on 23rd November 2015 which include many of the local comments above.

5.4 The applicants held their own public exhibition on 5th June 2015 and have provided details in their public consultation statement of some of the changes made to their proposal at pre-application stage, in response to residents’ comments. It is noted that there is some criticism of the applicant’s approach amongst some of the objectors to the application.

6. Assessment

The Site

6.1 The application site comprises just under 9 hectares of undeveloped greenfield agricultural land across two fields at the very eastern end of Mistley located to the south of Harwich Road, to the west of Heath Road and extending around the existing post-war housing development at Rigby Avenue (backing onto numbers 3 to 79) and the more recent and modern-style affordable housing development at Heathfields.

6.2 There is a public right of way crossing part of the site that provides a link between Rigby Avenue and the Essex Way which follows the field’s southern boundary. Following a similar alignment to the public right of way is an overhead line and there is also an overhead line which follows part of the site’s eastern boundary.

6.3 Harwich Road passes through Mistley and a low-hedge row runs along the edge of the site. Heath Road is a much narrower road that is very rural in its character with three very large detached properties set well back from the highway on its eastern side along with the

remains of St. Mary's Church which is designated as a scheduled ancient monument. Again, a low hedrow runs along the eastern edge of the site.

- 6.4 The properties in Rigby Avenue are post-war semi-detached and terraced houses and bungalows typical of local authority estate development of that era. Most of the properties have relatively long rear gardens, but for some plots the gardens are notable smaller, especially for the bungalows located in the south west and south eastern corners of the estate.
- 6.5 The site is irregular in shape and whilst the owners of the site control both of the fields in question, not all of the land is included with the red line subject of this application. The main bulk of the 'red line' site extends some 270 metres south of Harwich Road and approximately 80 metres south of the properties in Rigby Avenue leaving around a 100 metre gap to the fields' southern boundary which is formed by a track. Two strips of land at the western and eastern extremities of the site have been included in the red line site to provide for pedestrian access to the Essex Way at the south of the site.

The Proposal

- 6.6 This outline planning application with all matters reserved seeks approval for the principle of up to 135 dwellings with access of Harwich Road along with the following:
- green infrastructure including allotments (about 1 hectare);
 - children's play area;
 - footways and structural landscaping;
 - a sustainable drainage system including detention basin and swales; and
 - other related infrastructure and services including a footpath/cycleway parallel to Heath Road.
- 6.7 Access from Harwich Road is also a matter for which the applicant is seeking approval.
- 6.8 Whilst other are reserved for later consideration, a Design and Access Statement and indicative drawings have been submitted which demonstrate, indicatively, how such a development could be achieved within the application site. These show a open space and a water feature in the north-eastern corner of the site at the junction of Harwich Road and Heath Road with allotments extending along the Heath Road frontage. To the west of these features, 104 dwellings are shown on the middle part of the site east of Rigby Avenue and south of Harwich Road. Then there is a break formed by the children's play area and an area of amenity open space planted with trees before a further 31 dwellings on the land south of Rigby Avenue are shown arranged to face out toward the open countryside and interspersed by six cul-de-sacs each containing no more than four properties. A significant area of landscaping/planting is shown at the very western end of the site. The indicative scheme also shows footpath/cycleways through the development which connect with the track to the south.

Architectural Drawings

- 04677.00008.16.024.2 Location Plan
- 05677.00003.16.017.3 Illustration of Proposed Layout
- 04677.00008.16.014.4 Illustrative Master Plan
- 5076.001 Proposed Access Arrangements
- 5076.002 Proposed Shared Footway/Cycleway

Reports and Technical Information

- Planning Statement

- Design and Access Statement
- Sustainability Report
- Landscape and Visual Impact Assessment
- Transport Statement
- Heritage Assessment
- Flood Risk Assessment
- Ecological Assessment and Habitat Regulation Assessment
- Arboricultural Assessment
- Community Consultation Statement

Main Planning Considerations

6.9 The main planning considerations are:

- The principle of development;
- Other developments under consideration in the area;
- Highways, transport and accessibility;
- Coastal Protection Belt;
- Area of Outstanding Natural Beauty;
- Landscape, visual impact and trees;
- Flood risk and drainage;
- Ecology;
- Heritage;
- Education provision;
- Healthcare provision;
- Utilities;
- Open space and allotments;
- Council Housing/Affordable Housing;
- Indicative layout and connections;
- Overall planning balance.

Principle of development

- 6.10 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a material consideration in this regard.
- 6.11 The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. The 2012 Local Plan: Proposed Submission Draft, as amended by the 2014 Local Plan: Pre-Submission Focussed Changes, is the Council's 'emerging' Local Plan.
- 6.12 On 25th March 2014, the Council decided that further substantial revisions to the emerging plan will be required before it is submitted to the Secretary of State to be examined by a Planning Inspector. These revisions will aim to ensure conformity with both the NPPF and the legal 'duty to cooperate' relating mainly to issues around housing supply. The separate Local Plan Committee is overseeing this work with a view to a new version of the plan being published for consultation in 2016.

- 6.13 The site is not allocated for housing or mixed use development in either the adopted or emerging Local Plans. The allocation of sites for housing development will have been an item of discussion at the Local Plan Committee's meeting of 12th April 2016. The site also lies completely outside of the 'settlement development boundary' in both the adopted and emerging Local Plans but adjoins that boundary. In the emerging Local Plan the settlement development boundary was extended to include the Heathlands affordable housing development site and a separate settlement development boundary was drawn around the hamlet of Mistley Heath, incorporating the properties east of Heath Road, the remains of St. Mary's Church and further properties to the south.
- 6.14 In the adopted Local Plan, the whole site falls within the 'Coastal Protection Belt'. In the emerging Local Plan however, the coverage of the Coastal Protection Belt (which had not been reviewed since 1984) was reduced, resulting in the application site being excluded. The relevance of the Coastal Protection Belt is explained later in this report.
- 6.15 No part of the site is designated as a Local or Strategic Green Gap, although the separate land to the west does fall within that designated in the adopted Local Plan. The site also falls entirely outside of the area proposed for inclusion in the extended Suffolk Coast and Heaths Area of Outstanding Natural Beauty although that boundary includes land north of Harwich Road, east of Heath Road and land close to the south western corner of the site. The site is not within Manningtree and Mistley Conservation Area.
- 6.16 Because the site lies outside of the settlement development boundary and falls within the Coastal Protection Belt as defined in the adopted Local Plan, it is technically contrary to local policy. However the adopted and emerging Local Plans fall significantly short in identifying sufficient land to meet the 'objectively assessed' future need for housing which is a key requirement of the NPPF. As a result, the Council is also currently unable to identify a five-year supply of deliverable housing sites, plus a 5-20% buffer, as required by paragraph 47 of the NPPF.
- 6.17 Based on the evidence contained within the 'Objectively Assessed Housing Needs Study (July 2015) for Braintree, Chelmsford, Colchester and Tendring, the projected need for housing in Tendring is 550 dwellings per annum. Whilst this figure is still the subject of continued scrutiny by the Local Plan Committee and could change, it currently provides the most up to date evidence on which to base the calculation of housing land supply. In applying the requirements of NPPF paragraph 47 to this requirement, the Council is currently only able to identify an approximate 3.4 year supply. In line with paragraph 49 of the NPPF, housing policies must therefore be considered 'out-of-date' and the government's 'presumption in favour of sustainable development' is engaged. To comply with national planning policy, the Council would not, at this time, be justified in refusing this planning application purely on the basis that it lies outside of the settlement development boundary, falls within the Coastal Protection Belt and is not allocated for development in either the adopted and emerging Local Plan.
- 6.18 'Sustainable Development', as far as the NPPF is concerned, is development that contributes positively to the economy, society and the environment and under the 'presumption in favour of sustainable development', authorities are expected to grant 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.
- 6.19 One of the NPPF's core planning principles is to "*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*". With this in mind, the emerging Local Plan includes a 'settlement hierarchy' aimed at categorising the district's

towns and villages and providing a framework for directing development toward the most sustainable locations.

- 6.20 In both adopted and emerging plans, Manningtree, Lawford and Mistley are together categorised as a 'town' or 'urban settlement' in recognition of their collective size and range of services and facilities and as a location where sustainable development on a larger scale can be achieved. In comparison, 'villages', 'key rural service centres' and 'smaller rural settlements' are considered to offer lesser sustainable locations for major development.

Other developments under consideration in the area

- 6.21 This application is one of many major residential-led developments proposals either approved, under construction or still under consideration in the Manningtree, Lawford, Mistley and wider Brantham (Babergh District Council) area for which both the individual and cumulative impacts need to be considered. These applications include:

- A) B/15/00263 - Brantham Industrial Estate, Factory Lane, Brantham, Suffolk:** 320 dwellings and 55,000 sqm of commercial floor space (application to be determined by Babergh District Council).
- B) 15/00876/OUT – Land East of Bromley Road, Lawford, Essex:** 360 dwellings and community facilities (application still under consideration).
- C) 15/00761/OUT – Land South of Long Road and West of Clacton Road, Mistley, Essex: 300 dwellings and 2 hectares of employment land** (subject to an appeal against non-determination with provisional Public Inquiry date for December 2016).
- D) 14/01050/DETAIL – Land at Dale Hall, Cocks Hill, Lawford, Essex (Summers Park):** 150 dwellings and 700 sqm of business use (under construction).
- E) 15/01520/OUT – Land South of Harwich Road, Mistley, Essex:** 135 dwellings including flexible building and allotments (this application).
- F) 11/00532/OUT – Land off Trinity Road, Mistley, Essex: 75 dwellings** (application yet to be determined with further information from the applicants expected).
- G) 15/01810/OUT – Land North of Stourview Avenue, Mistley, Essex:** 70 dwellings (application still under consideration).
- H) 12/00427/FUL – Thorn Quay Warehouse, High Street, Mistley, Essex:** 45 dwellings, quay level warehouse floorspace, office floorspace and car parking provision (permission granted in 2014).
- I) 12/00109/FUL – Crown Building, Former Secret Bunker, Shrubland Road, Mistley, Essex:** 31 dwellings (permission granted in 2013).
- J) 15/01787/FUL - Site to South of Pound Corner, Harwich Road, Mistley, Essex:** 25 dwellings (application subject of separate report).
- K) 11/00530/OUT - Land off Colchester Road, Lawford, Essex: 15 dwellings** (application yet to be determined with further information from the applicants expected).

- 6.22 In total, these applications have the potential to deliver more than 1,500 dwellings. The development in Babergh is expected to be approved by Babergh District Council in line with its already adopted Local Plan. In a report to the Tendring Local Plan Committee meeting of 12th April 2016, it is recommended that the sites at Bromley Road, Lawford; Harwich Road,

Mistley (the application site); and Land South of Pound Corner be included in the new version of the Local Plan.

Highways, transport and accessibility

- 6.23 Paragraph 32 of the NPPF relates to transport and requires Councils, when making decisions, to take account of whether:
- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
 - safe a suitable access to the site can be achieved for all people; and
 - improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.24 Policy QL2 in the adopted Local Plan and Policy SD8 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport. The application site is within 500 metres walking distance of Mistley Norman Primary School, within 700 metres of Mistley Village Hall, within 200 metres of a local convenience shop, within 1 kilometre of Mistley railway station and Mistley High Street. The site is also within 200 metres of a bus stop on a bus route with services between Colchester and Harwich and to and from Clacton. The site offers a reasonable level of accessibility which is reflected in Manningtree, Lawford and Mistley's categorisation as an urban settlement in the emerging Local Plan.
- 6.25 Policy TRA1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. Policy SD8 in the emerging Local Plan states that developments will only be acceptable if the additional vehicular movements likely to result from the development can be accommodated within the capacity of the existing or improved highway network or would not lead to an unacceptable increase in congestion.
- 6.26 Highway capacity is a significant matter in the Manningtree, Lawford and Mistley (and Brantham) area and the A137 in particular is known to be the subject of regular queuing and congestion during peak periods, as highlighted by many residents that had objected to this planning application. Queuing at the railway crossing is a known problem in the area which is identified in Policy PRO1 in the Council's emerging Local Plan as a key priority for action. In support of the planning application, the applicant submitted a Transport Assessment that sought to demonstrate how the additional vehicular movements resulting from the development could be accommodated on the highway network. However, because this is one of a number of planning applications for major development under consideration in the area, the cumulative impacts have required further collaborative assessment under the direction of Essex and Suffolk County Council as the relevant local Highway Authorities. This additional assessment has led to a delay in determining this application.
- 6.27 Having considered the applicant's transport assessment and the potential cumulative impacts on traffic, the Highway Authority has concluded that this particular development will not have a severe impact on highway capacity and safety and that no mitigation towards improvements at the A137 railway crossing will be requested from this development. It is however expected that mitigation measures will be required of some of the larger developments proposed on land further west closer to the railway crossing, including the major developments in Brantham and Lawford.

- 6.28 The Highway Authority is satisfied that this development in Mistley can be supported, subject to some specific conditions relating mainly to the vehicular access arrangements, construction traffic, footpath/cycleways and public rights of way.
- 6.29 In conclusion, the site is reasonably accessible, by foot and cycle, to local services and facilities and public transport and the vehicular access and highways matters have been considered and deemed acceptable by the Highway Authority. The transport impacts of the development are not considered to be severe and, from this perspective, Officers consider the proposal to be acceptable.

Coastal Protection Belt

- 6.30 The whole application site falls within the Coastal Protection Belt as shown in the adopted Local Plan. The purpose of the Coastal Protection Belt, as set out in paragraph 6.14 in support of Policy EN3 in the adopted Local Plan, is to protect the unique and irreplaceable character of the Essex coastline from inappropriate forms of development. It goes on to say that open coastal areas are particularly vulnerable to visual intrusion due to the high visibility of any development on the foreshore, on the skyline and affecting vistas along the stretches of undeveloped coast.
- 6.31 The Coastal Protection Belt was originally drawn in 1984 and was a key strategic policy in Essex County Council's 2001 Replacement Structure Plan which was superseded by the East of England Plan in 2008 and subsequently abolished in 2012 with the introduction of the NPPF. The NPPF does however state, in paragraph 114 that local planning authorities should maintain the character of the undeveloped coast, protecting and enhancing its distinctive landscapes, particularly in areas defined as Heritage Coast, and improve public access to and enjoyment of the coast.
- 6.32 Policy EN3 states that new development which does not have a compelling functional need to be located in the Coastal Protection Belt will not be permitted. It requires applicants to demonstrate such a need by showing that by reason of its critical operational requirements of the development cannot be located outside of the designated area. Then, even if the compelling need is demonstrated, the policy requires that significant harm to the landscape character and quality of the undeveloped coastline should be avoided.
- 6.33 However, in the emerging Local Plan, following the abolition of the Coastal Protection Belt Policy at county and regional level, the Council decided that the designation should be kept but that the boundary be rationalised to ensure it relates only to areas that are genuinely coastal and where development is likely to have a genuine impact on the character and appearance of the coastline. Included in the numerous amendments to the designation was the removal of the application site and other land south of Harwich Road.
- 6.34 The status to be given to local 'countryside protection' policies such as Coastal Protection Belt and Local Green Gaps has been clarified recently by a decision of the Court of Appeal (Cheshire East Borough Council v Secretary of State for Communities and Local Government & Anr. Case Number: C1/2015/0894) in which three judges overturned an earlier High Court decision which had determined that such countryside protection policies are not housing policies and should not be considered out of date if a Council cannot identify a sufficient supply of housing land. In overturning the High Court's decision, the Court of Appeal judges concluded that the concept of 'policies for the supply of housing' should not be confined to policies in the development plan that provide positively for the delivery of new housing in terms of numbers and distribution or the allocation of sites. They concluded that this concept extends to policies whose effect it is to influence the supply of housing land by restricting the locations where new housing may be developed – including, for example, policies for the green belt, policies for the general protection of the countryside, policies for conserving the landscape of Areas of Outstanding Natural Beauty

and National Parks, policies for the conservation of wildlife or cultural heritage, and various policies whose purpose is to protect the local environment in one way or another by preventing or limiting development.

- 6.35 Whilst the emerging Local Plan only carries limited weight, the abolition of the Coastal Protection Belt policy at county, regional or national level also limits the amount of weight that can be applied to the adopted policy. The site is separated from the exposed undeveloped coast by the existing development in Mistley, including at Rigby Avenue and the properties north of Harwich Road. On the basis that development in this location and on this site is unlikely to have a detrimental impact, Officers have applied limited weight to the Coastal Protection Belt policy and consider that refusing planning permission against this policy would be difficult to defend on appeal.

Areas of Outstanding Natural Beauty

- 6.36 The proposed area of extension to the Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB) runs along the edge of the site, but the site itself is not currently included in the prop. Policy EN5a in the adopted Local Plan seeks to ensure that, in determining planning applications, the natural beauty of the landscape within the area, and views towards it are protected – having regard to the Suffolk Coast and Heaths Strategy.
- 6.37 The Suffolk Coast and Heaths Partnership which is promoting the extension of the AONB has made representations in response to this application which advise the Council that Natural England is considering changes to the boundary of the proposed AONB area and that any development should seek to avoid negative effects on the landscape character and special qualities. Whilst there is a possibility of the boundary of the AONB being extended to include all or part of the application site, until anything is confirmed it would not be reasonable to refuse planning permission for this reason. Natural England itself has not made any specific comments about the application in respect of impact on the AONB.
- 6.38 The Council's Principal Trees and Landscapes Officer has commented on the application to highlight the importance of the Suffolk Coast and Heaths Area of Outstanding Natural Beauty and the need to ensure that its setting is appropriately safeguarded. He has also made it clear however that AONB designation is not intended to prohibit development but to ensure that care is taken so that any development does not cause harm to the character, qualities and setting of the AONB.
- 6.39 Because the Local Plan is out of date and the Council cannot identify sufficient land to meet projected housing needs, Officers must refer back to the NPPF. Paragraph 115 states that great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. Paragraph 116 goes to state that planning permission should be refused for major development in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Because the application site is not within a formally designated AONB, refusal purely on a point of principle would not be justified and landscape and visual impacts need to be weighed up alongside the benefits of development.

Landscape, visual impact and trees

- 6.40 Whilst Officers have concluded that the site's location within the Coastal Protection Belt and adjacent to the proposed extension to the Suffolk Coast and Heaths AONB cannot justify the refusal of planning permission on a matter of principle, Policy QL9 in the adopted Local Plan and Policy SD9 in the emerging Local Plan still requires developments to respect and enhance views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Policy EN1 of the adopted Local Plan and Policy PLA5 in the emerging

Local Plan seek to protect and, wherever possible, enhance the quality of the district's landscape; requiring developments to conserve natural and man-made features that contribute toward local distinctiveness and, where necessary, requiring suitable measures for landscape conservation and enhancement. Policies QL9 and SD9 also require developments to incorporate important existing site features of landscape, ecological or amenity value such as trees, hedges, water features, buffer zones, walls and buildings.

- 6.41 The Council's Principal Trees and Landscapes Officer identifies that the site is situated on the exposed and windswept plateau corresponding to the highest part of the district, so care needs to be taken when siting and designing new development. The Council's own Landscape Character Assessment highlights the importance of the valley slopes around the Stour Valley and Estuary with the northern plateau edges being particularly sensitive to development. It is also noted that the Landscape Character Assessment recommends the maintenance of the sparse settlement pattern of the rural valley slopes and the rural backdrop of the AONB.
- 6.42 The applicant has undertaken a Landscape and Visual Impact Assessment which considers important elements of the landscape and the potential visual impact of the proposed development from different viewpoints around the site, including from the north of the Stour Estuary. The assessment then takes the value of the particular view, its sensitivity to change and the likely impact of development to measure the severity of any landscape and visual impacts. The assessment concludes that there would be a major adverse impact on particular views around the site including from the Essex Way east of Heath Road looking west of the site; but from most view points, including longer distance views, the impact would be either moderate, slight or negligible.
- 6.43 The Council's Principal Trees and Landscapes Officer advises that if consent were to be granted, the soft landscaping of the whole site would be crucial to the successful integration of the built development into the local environment. Special attention will need to be given to boundary treatments and trees shrubs and hedges will need to be an integral part of the design and layout of the development. The proposal may provide the opportunity to improve the juxtaposition of the built environment with the adjacent countryside by securing strong boundary landscaping.
- 6.44 The illustrative masterplan accompanying the application shows that significant use of open space and landscaping is intended for the outward facing edges of the development with the creation of allotments and open spaces around the eastern and southern boundaries of particular note. If the Committee is minded to approve this application, conditions would be imposed to ensure that the development takes place in general conformity with this illustrative layout and that a detailed landscaping scheme is submitted to the Council for its approval prior to any development taking place.
- 6.45 The key test for the Council is whether or not the adverse impacts would significantly and demonstrably outweigh the benefits of the development and whether the impact could be reduced or mitigated through landscaping and careful design. On the basis that adverse landscape impacts on the immediate area are generally unavoidable when it comes to greenfield settlement expansion, important views from the wider area including the AONB are not likely to be affected in a significant adverse manner, and landscaping and good design has the potential to reduce and mitigate most impacts, Officers consider that the adverse impacts would not outweigh the benefits of development and a recommendation of refusal in this instance would not be justified.
- 6.46 Because this is a matter that has required balanced judgement, if the Committee chooses to take a contrary view, landscape and visual impact is at least a material planning consideration that could be argued as a reason for refusal, if necessary, at appeal – but

your Officers' advice is that the harm is not significant and demonstrably enough to justify the refusal of this application given the significant housing land shortfall.

- 6.47 In terms of impact on any trees, the Principal Trees and Landscapes Officer confirms that the main body of the land is in agricultural use and there no trees or other significant vegetation situated on the land. Whilst it may be necessary to remove all or part of the hedgerow on the northern boundary to facilitate access, any harm caused by the removal of the hedgerow could be mitigated by new planting. The hedgerow on the eastern boundary forms the boundary to the part of the application site allocated proposed for use as allotments and the hedgerow can be retained and incorporated into the soft landscaping proposals for the land.

Flood risk and drainage

- 6.48 Paragraph 103 of the NPPF requires Councils, when determining planning applications, to ensure flood risk is not increased elsewhere. Although the site is in Flood Zone 1 (low risk), the NPPF, Policy QL3 in the adopted Local Plan and Policy PLA1 in the emerging Local Plan still require any development proposal on site larger than 1 hectare to be accompanied by a site-specific Flood Risk Assessment (FRA). This is to assess the potential risk of all potential sources of flooding, including surface water flooding, that might arise as a result of development.
- 6.49 The applicant has submitted a Flood Risk Assessment which has been considered by Essex County Council as the authority for sustainable drainage. Initially, ECC issued a 'holding objection' and required further work to be undertaken to ensure compliance with the guidelines set out in the relevant National Planning Practice Guidance. The applicant responded to the objection with further information requested and the objection has now been addressed. ECC now supports the grant of outline planning permission subject to conditions relating to the submission and subsequent approval of a detailed Surface Water Drainage Scheme before development can take place.
- 6.50 In conclusion, the applicant has demonstrated through their Flood Risk Assessment and supplementary information that development can, in principle, be achieved without increasing flood risk elsewhere. With the planning condition suggested by ECC, the scheme should comply with the NPPF and Policies QL3 and PLA1 of the adopted and emerging Local Plans (respectively) and therefore addresses the flood risk element of the environmental dimension of sustainable development.

Ecology

- 6.51 Paragraph 118 of the NPPF requires Councils, when determining planning applications, to aim to conserve and enhance biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission.
- 6.52 Policy EN6 of the adopted Local Plan and Policy PLA4 of the emerging Local Plan give special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for.
- 6.53 Under Regulations 61 and 62 of the Habitats Regulations, local planning authorities as the 'competent authority' must have regard for any potential impact that a plan or project might have on European designated sites. The application site is not, itself, designated as site of international, national or local importance to nature conservation but the urban area of Manningtree, Lawford and Mistley does abut the Stour Estuary which is designated as a Special Protection Area (SPA), a Ramsar Site and a Site of Special Scientific Interest

(SSSI). Whilst the application site is located more than 400 metres from the Stour Estuary and separated by the railway line which prevents any direct disturbance, consideration still needs to be given to potential indirect effects on the designated area that might result from the proposed development.

- 6.54 Natural England has written to remind the Council of its statutory duty and to highlight specific concerns about the potential for 'recreational disturbance' to the protected habitat that might arise from the development and the associated increase in population and activity. Recreational disturbance is a significant problem for such habitats and can have a disastrous effect, in particular, on rare populations of breeding and nesting birds. Notable concerns include increased marine activity (boating, jet skiing etc) and people walking their dogs either within or close to the protected areas. Both activities can easily frighten birds that are breeding and nesting and can have an extremely detrimental impact on their numbers.
- 6.55 Importantly, paragraph 119 of the NPPF states very clearly that the presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined. The applicant has undertaken a Habitat Regulation Assessment and Natural England has advised that the assessments provided with the application and the fact that a considerable amount of recreational and informal open space is proposed as part of the development along with new and improve footpath connections provides suitable assurances that there would be no detrimental impact on the designated areas. However, the RSPB (Royal Society for the Protection of Birds) does not share Natural England's position and remains concerned that insufficient information has been provided to the Council to demonstrate that there would not be a significant effect, particularly when considered 'in combination' with other plans and projects in the area.
- 6.56 Mindful that it is Natural England and not the RSPB that is a statutory body and that the judgement of whether or not development requires an appropriate assessment lies with the Council, this matter has been given careful consideration. It is Officers' view that appropriate assessment in this instance is not required given the position of the site, the limited opportunities to access the Estuary due to the barrier provided by the railway line, the level of open space and footpath improvements that are proposed and the existing separation of the site to the Estuary by a significant area of existing built development, and the fact that the in-combination effects resulting from other developments in the area (including the large Bromley Road and Long Road applications) are being carefully considered by Natural England and Officers.
- 6.57 Potential recreational disturbance to the Local Wildlife Site (LoWS) at Furze Hill Wood to the west of the site has also been considered and whilst RSPB has suggested more mitigation, Officers are content that the provision of open space, improved access to the countryside and the range of mitigation/enhancement measures for protected species set out below are adequate to allay concerns about any significant adverse impacts. The applicant's ecological assessment suggests that the impact on Furze Hill Wood would be negligible.
- 6.58 The applicant has prepared and submitted a Phase 1 Ecological Assessment to assess the ecological value of the site and immediate area itself and the potential impact of the development. Being in predominantly agricultural use, the ecological value of the site was expected to be low but consideration still needs to be given to any habitats potentially occupying the boundaries of the site.
- 6.59 The assessment looked at a range of flora and fauna and the findings are summarised below:

- 6.60 Hedgerows: The hedgerow along the boundaries of the site contain over 80% native species but none meet the criteria to be classified as 'important' under the Hedgerow Regulations 1997 but are assessed to have 'moderate' nature conservation value. Any hedgerows lost through the development should be replaced within the scheme to ensure no net loss in biodiversity value on the site, avoiding the bird nesting season for any removal.
- 6.61 Badgers: A well –used 'badger latrine' was identified along the eastern boundary of the site but no setts were identified within the site or within 30m of the surrounding habitat. Overall the site is of minimal value to the local badger population and development is likely to have a negligible impact. The site and surrounding area should however be re-assessed prior to the commencement of construction and during construction, any pipes or trenches should be covered or capped to avoid them being entered by badgers. The new open space area and new hedgerows and planting should result in a net improvement to conditions for the badger population.
- 6.62 Bats: In the phase 1 assessment, no trees were identified within the site boundary as containing any bat roosting potential and no buildings with the possibility of bat roosts were present on site. Further activity transect surveys and static detector surveys were undertaken throughout April, May, June and July of 2015 to assess the presence of bats which spotted a number of bats commuting and foraging across the site. To enhance conditions for the local bat population, the assessment recommends 'gapping up' the hedgerow on the eastern boundary of the site with native species to strengthen the hedgerow and improve the corridor for foraging bats. The creation of species-rich grassland within the open space will also provide an increased and improved foraging area for bats. The careful use of lighting during both the construction and occupation phase of the development and the inclusion of bat boxes and/or 'bat bricks' should also be incorporated into the development. Overall, the development has the potential to provide significant positive benefits for the local bat population.
- 6.63 Great Crested Newts: No waterbodies were identified on the site but a number of ponds were identified within 500 metres of the site boundary. The loss of habitat resulting from the development is unlikely to result in killing, injury or loss of rest/shelter places to any Great Crested Newts and the impact is considered to be negligible. To minimise any potential risks, the assessment recommends measures to avoid disturbance during the construction phase and native tree planting and new species-rich grassland along with log piles within the open space which could all lead to a positive enhancement of the local population.
- 6.64 Reptiles: The field margins of the site were identified as offering a suitable habitat for reptile species and a good population of common lizard were identified through April, May and June 2015. A method statement to ensure reptile populations are not destroyed is required which will ensure new habitat is put in place and species are relocated to those areas before existing habitats are lost.
- 6.65 Stag Beetles: No suitable habitat was identified for stag beetles but the provision of log piles within the area of open space could provide a future habitat for this species.
- 6.66 Nesting Birds: A number of disused birds nest were noted within some hedgerows and trees. The assessment recommends avoiding site clearance during the bird breeding season of February to September. The open space should also increase nesting and foraging for birds through the inclusion of bird nesting boxes, tree planting and increasing native species diversity across the site.
- 6.67 Other species: Common Toad and Smooth Newts were identified in surrounding ponds and it is recommended that the proposed planting and creation of species-rich grassland will provide additional foraging habitat for these species.

- 6.68 **Conclusions:** The survey concludes that the dominant habitat type across the site is intensively-managed arable offering limited diversity and value to biodiversity and that any loss of habitat is unlikely to result in a significant impact to local biodiversity and there is certainly no statutory ecological constraint to development. The field margins offer a habit for a variety of wildlife including small mammals, invertebrates and plant life but any loss of the field margin along the norther edge of the site could be mitigated through the creation of new hedgerows, species-rich grassland and tree planting within the proposed area of open space. Trees and hedges should be retained and/or replaced within the scheme to ensure no net loss of habitat and potential for a significant environmental gain.
- 6.69 Officers concur with the findings of the report and welcome the potential to deliver an enhanced wildlife habitat in the location off the back of the development. The recommended mitigation measures/enhancement measures can be secured through a planning condition requiring an ecological plan to be agreed by the Council prior to the commencement of the development.

Heritage

- 6.70 The application site lies outside of the Manningtree and Mistley Conservation Area and there are no listed structures on the site that would be affected directly by the development however consideration still needs to be given to the potential impact on the setting of any designated heritage assets. The Planning (Listed Buildings and Conservation Areas) Act 1990 S. 66 imposes a general duty as respects listed buildings in the exercise of planning functions:
- (1) In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 6.71 Paragraph 128 in the NPPF requires applicants to describe the significance of any heritage asset affected by their development including any contribution made by their setting, with the level of detail being proportionate to the asset's importance and no more than is sufficient to understand the potential impact of the proposal on their significance. Paragraph 134 determines that where a development proposal will lead to 'less than substantial harm' to a heritage asset (which could include harm to its setting), this harm should be weighed against the public benefits of the proposal. Policy EN23 in the adopted Local Plan states that development that would adversely affect the setting of a Listing Building, including group value and long distance views will not be permitted. Policy PLA8 in the emerging Local Plan only allows development affecting a listed building or its setting where it meets a set of criteria.
- 6.72 For this application, the most significant and most directly affected heritage asset, as identified in the applicants' Heritage Assessment, is the ruined remnants of St. Mary's Church, east of Heath Road which is scheduled ancient monument and Grade II listed. The church was demolished in 1735 and was excavated in 1923 and again in 1961. The Heritage Assessment indicates that there would be slight harm to the setting of the monument resulting from the development, a conclusion with which Officers concur. The intention to locate open space, allotments and landscaping on the eastern parts of the site would soften any visual impacts.
- 6.73 In Officers' view the impact would be 'less than substantial' and in weighing harm against public benefits in line with paragraph 134 of the NPPF, the development would be acceptable in heritage terms.

- 6.74 The applicants have also considered the archaeological value of the site and there is evidence that some archaeological remains of historical significance could potentially be beneath the soil. In line with the recommendation within the applicants' assessment and the general approach advocated by Essex County Council's Archaeologist, a condition will be applied if the Committee is minded to approve, to ensure trial trenching and recording is undertaken prior to any development to ascertain, in more detail, what archaeological remains might be present.

Education provision

- 6.75 Policy QL12 in the adopted Local Plan and Policy SD7 in the emerging Local Plan require that new development is supported by the necessary infrastructure which includes education provision. A large number of local residents have expressed concern that local schools will not be able to cope with the expected increase in population arising from the 135 new homes, particularly when considered alongside other proposals for major residential development under consideration in the wider area.
- 6.76 Essex County Council as the Local Education Authority has been consulted on the planning application and has made representations. ECC's initial advice was submitted in response to this application in isolation however the cumulative effect of other potential developments has also been taken into account. ECC has advised that if either application 15/00761/OUT for up to 300 dwellings off Long Road or application 15/00876/OUT for up to 360 dwellings off Bromley Road were approved prior to this application being determined, then financial contributions of £12,172 toward primary school places and £18,491 toward secondary school places will need to be secured through a s106 legal agreement.
- 6.77 Whilst we know that the Long Road application will now be determined by the Planning Inspectorate on appeal against non-determination, the position with regard to the Bromley Road development is yet to be determined. Notwithstanding this, the advice from ECC is that the additional pupils that would arise as a result of the Harwich Road development could be accommodated by local schools, even if it means securing financial contributions towards new places. The applicant has indicated that they would be willing to pay the requested contribution, through s106 agreement, if the Committee is minded to approve the application.

Health provision

- 6.78 The requirement of the NPPF to promote the creation of high quality environments with accessible local services that reflect the community's needs also extends to health provision, another matter of considerable concern amongst local residents. Again through Policy QL12 in adopted Local Plan and Policy SD7 in the emerging Local Plan, new development needs to be supported by the necessary infrastructure, including health provision.
- 6.79 As this the case across most parts of the district, local health services are operating either at, close to or above capacity in catering for the needs of the current population. One of the roles of the Local Plan is to ensure that major residential developments are planned alongside agreed investment in an area's infrastructure to accommodate anticipated increases in population. For health provision, this could mean the expansion of existing facilities or through the provision of new ones.
- 6.80 However, because the Council's Local Plan is out of date and it cannot identify sufficient land to meet projected housing needs, applications must be considered on their merits against the government's presumption in favour of sustainable development and Officers have needed to liaise with NHS England (with a strategic overview of health provision in our

area) to calculate what investment will be required to mitigate the impact of this development and others proposed in the Manningtree, Lawford and Mistley area. Through adopted Policy QL12 and emerging Policy SD7, the Council can require developers to address infrastructure requirements likely to arise from their developments by either building new facilities or making financial contributions towards the creation of additional capacity. It is noted that there is local scepticism about how this will work in practice, but in the absence of an up to date Local Plan, this is an approach that has been accepted by Planning Inspectors.

- 6.81 As with highways and education, Officers have considered both the individual impact of this development on health provision as well as the cumulative impact that might arise if the other major developments are to be allowed. In terms of secondary hospital provision, the NHS is responsible for investment that will ensure the growing population is properly served. The Council cannot refuse planning permission for major residential developments in response to local concerns about facilities at Colchester General Hospital, particularly as house building is a key government objective alongside the modernisation of the NHS.
- 6.82 For local primary healthcare provision however, the Council working with NHS England can, through the planning system, put measures in place to mitigate the impact of population growth arising from major residential developments on local infrastructure. Whilst it is the NHS' responsibility to ensure that health centres and local surgeries are adequately resourced and staffed, the Council can secure either new buildings or financial contributions towards expanding existing buildings to ensure there is at least sufficient space for additional doctors, nurses and other medical professions to provide their services.
- 6.83 The Manningtree, Lawford and Mistley area is served by two doctors surgeries, the Riverside Health Centre in Station Road and Lawford Surgery in Colchester Road. NHS England has identified that the proposed developments are likely to have an impact on the NHS funding programme for the delivery of primary healthcare provision within this area and specifically within the health catchment of the development. NHS England would therefore expect these impacts to be fully assessed and mitigated by way of a developer contribution secured through a s106 agreement.
- 6.84 NHS England has undertaken a Health Impact Assessment of the development proposal and has identified that the local surgeries will not have the capacity to serve the additional residents that would result from the development. A developer contribution of £40,740 is requested to mitigate the capital cost to the NHS for the provision of additional healthcare services. NHS England has confirmed that there are already plans in the pipeline to expand the Riverside Health Centre and that such moneys could be used to help fund this investment, or future expansion at Lawford Surgery.
- 6.85 The applicant has indicated that they would be willing to either make the requested contribution through a s106 legal agreement. In response to local concerns about health provision, the applicants revised their application to make alternative provision for a 'flexible building' that could be used as a medical centre, if needed. Officers believe it unlikely that NHS England would be interested in taking on such a facility, but the application does allow for it.

Utilities

- 6.86 With regard to sewage capacity, Anglian Water has advised that there is sufficient capacity in the foul sewerage network to deal with the levels of effluent expected from this scheme of and has made no objections to the proposal subject to conditions to require a surface water management strategy and a foul water strategy being submitted and agreed. Officers have requested information from Anglian Water to comment on the potential cumulative effects of

development (if more than one proposal were to be approved) on sewage treatment capacity.

- 6.87 The National Grid has commented on the application to say that there is a gas pipeline crossing part of the site where a cycle path is proposed (indicatively) to be located. It advises that if permission is to be granted, the landowner/developer engages with National Grid to ensure the pipeline is not affected or damaged by the development.

Open Space and Allotments

- 6.88 Policy COM6 in the adopted Local Plan and Policy PEO22 of the emerging Local Plan require large residential developments to provide at least 10% of land as public open space or otherwise make financial contributions toward off-site provision. The indicative drawings in support of the planning application show the provision of a small area of open space with a water feature in the north-eastern corner of the site with a more substantial area of land to the south of this area laid over to allotments. The drawing also shows the provision of landscaped green corridors and planted areas around the southern periphery of the site linking with the proposed open space. To comply with Policies COM6 and PEO22, approximately 0.9ha of the land needs to be provided as green infrastructure and from the indicative drawings, the scheme demonstrates the potential to achieve this requirement – the detailed dimensions of which would be confirmed at reserved matters stage.
- 6.89 The Council's Open Space and Bereavement Service Manager has commented on the application and has identified a deficiency of open space in the Mistley area and has advised that if the on-site open space is to be transferred to Tendring District Council for future maintenance, an additional financial contribution towards maintenance will also need to be secured through a s106 legal agreement. If the Committee is minded to approve this application, Officers will engage in negotiations with the applicant to agree the necessary contribution in line with the guidance contained within the Council's Supplementary Planning Document on Open Space.
- 6.90 For the proposed allotments, there are some local concerns that they are not located in the best position on the site to serve the community and could bring about concerns about visual harm on the surrounding countryside and setting of the ancient monument through the uncontrolled erection of sheds and other allotment buildings. There are also local concerns that the allotments will not be secured in perpetuity and are served by insufficient parking. Officers are mindful that the exact position and extent of allotments will be a reserved matter for later consideration and the applicants considered a number of options for where they should be positioned. There is scope within the site to position the allotments elsewhere if necessary and to provide additional parking, but what is shown in the indicative drawings demonstrates, to Officers' satisfaction, that they can be located appropriately on the site and the indicative position shows the applicant's attempt to soften the impact of development on the countryside, avoid physical coalescence with Mistley Heath and respect the setting of the proposed AONB.
- 6.91 To secure the allotments in perpetuity, a s106 legal agreement will ensure the transfer of the land to the Council who could then either rent out allotments itself or lease to the Parish Council or other body for the provision of allotments.

Council Housing/Affordable Housing

- 6.92 Policy HG4 in the adopted Local Plan requires large residential developments to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy PEO10 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 25% of new dwellings on large sites to be made available to the Council to acquire at a discounted value for use as Council Housing.

The policy does allow flexibility to accept as low as 10% of dwellings on site, with 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.

- 6.93 The Council's Housing Needs team has commented on the application and advised that there is a significant need for affordable housing in the Mistley area based on evidence from the local housing resister. It has been suggested that, as an alternative to transferring 25% of properties to the Council (up to 33 dwellings) at a discounted value, the Council would be prepared to accept 9 properties 'gifted' (i.e. transferred to the Council or a nominated partner or trust at zero cost).
- 6.94 Whilst the applicants are currently indicating the transfer of 7 properties, the s106 agreement will seek to achieve either 25% on-site provision, up to 9 gifted units (depending on the final number of dwellings proposed at reserved matters stage, which could be lower than 135) or equivalent financial contributions – unless viability evidence suggests otherwise. There has been no suggestion from the applicants to date that there are any viability issues with this proposal.
- 6.95 If the Committee is minded to approve this application, Officers will negotiate and agree an appropriate level of Council Housing to be secured through a s106 legal agreement.

Indicative layout and connections

- 6.96 As an outline planning application, detailed design and layout is a reserved matter for future consideration but the Council needs to be satisfied that an appropriate scheme of up to 135 dwellings, a flexible building with associated open space, allotments and infrastructure can be accommodated on the site in an appropriate manner. The indicative material submitted in support of the application, including the indicative layout and elevation drawings and Design and Access Statement demonstrate that there is a reasonable prospect of an acceptable scheme being achievable on the site.
- 6.97 The suggested layout of the properties comply with general urban design and secured-by-design principles which promote properties being positioned 'front to front' and 'back to back' and show how the dwellings could relate well to neighbouring dwellings, the proposed open space and allotments. The drawings show a scheme of predominantly detached and semi-detached properties, all with their own private amenity areas that appear to comply with Council size requirements.
- 6.98 The density of the residential development would be approximately 15 dwellings per hectare gross and around 19 dwellings per hectare net (deducting the areas of land indicatively shown as open space and allotments). The general density of development in Rigby Avenue is in excess of 25 dwellings per hectare so the proposed density of development would be appropriate in this location.
- 6.99 The drawing shows footpath connections from the development to the Essex Way to the south which would ensure general compliance with Policy TRA in the adopted Local Plan which encourages opportunities to expand the public right of way network. This aspect of the scheme is also supported by Natural England and the RSPB as a means of encouraging the public access to the countryside whilst providing a recreational alternative to the sensitive Stour Estuary. Essex County Council Highways requires the upgrading of the public right of way and the proposed connections and improvements will be secured through condition if the Committee is minded to approve.
- 6.100 The request from the Essex Bridleways Association to designate the proposed footway/cycleway to Bridleway status to enable use by horse riders. Whilst this is not

currently a formal requirement of planning policy, the request is noted and can be explored with the applicants and the County Council as the proposal is drawn up in more detail, if of course the proposal is approved.

Overall Planning Balance

- 6.101 Because the Council's Local Plan is out of date and a five-year supply of deliverable housing sites cannot currently be identified, the National Planning Policy Framework (NPPF) requires that development be approved unless the adverse impacts would significantly and demonstrably outweigh the benefits, or if specific policies within the NPPF suggest development should be refused. The NPPF in this regard applies a 'presumption in favour of sustainable development' for which sustainable development addresses economic, social and environmental considerations.
- 6.102 Economic: Whilst, with the exception of the possible 'flexible building, the scheme is predominantly residential with no commercial premises provided, up to 135 dwellings would generate additional expenditure in the local economy which has to be classed as an economic benefit. There will also be temporary jobs in construction whilst the homes are being built.
- 6.103 Social: The provision of up to 135 dwellings toward meeting projected housing need, at a time when the Council is unable to identify a five-year supply, is a significant social benefit which carries a high level of weight in the overall planning balance – particularly as government policy is to boost housing supply. Additional social benefits include the proposed open spaces, allotments and footpath connections to the wider countryside. The impacts of health and schools provision will be mitigated through financial contributions to be secured through a s106 agreement, if the application is approved.
- 6.104 Environmental: The environmental impacts of the proposal have required very careful consideration. The site is visually exposed and the landscape and visual impact will be adverse, however not the extent that it would outweigh economic and social benefits – particularly as a good landscaping scheme will soften and mitigate impacts. The potential for increased recreational disturbance to the Stour Estuary and Furze Hill Wood have been given careful consideration and it is considered that the impact would be negligible, particularly as new recreational space and connections to the wider countryside will be delivered as part of the development. The impact on the setting of nearby listed buildings and scheduled monuments is expected to be low. The ecological impact of development on the site and surrounding area itself has the potential to be positive with a raft of recommended mitigation and enhancement measures that should improve conditions for a range of protected species.
- 6.105 In the overall planning balance, Officers consider that the adverse impacts do not significantly and demonstrably outweigh the benefits and the application is therefore recommended for approval subject to a s106 legal agreement and a range of planning conditions.

Background Papers

None.