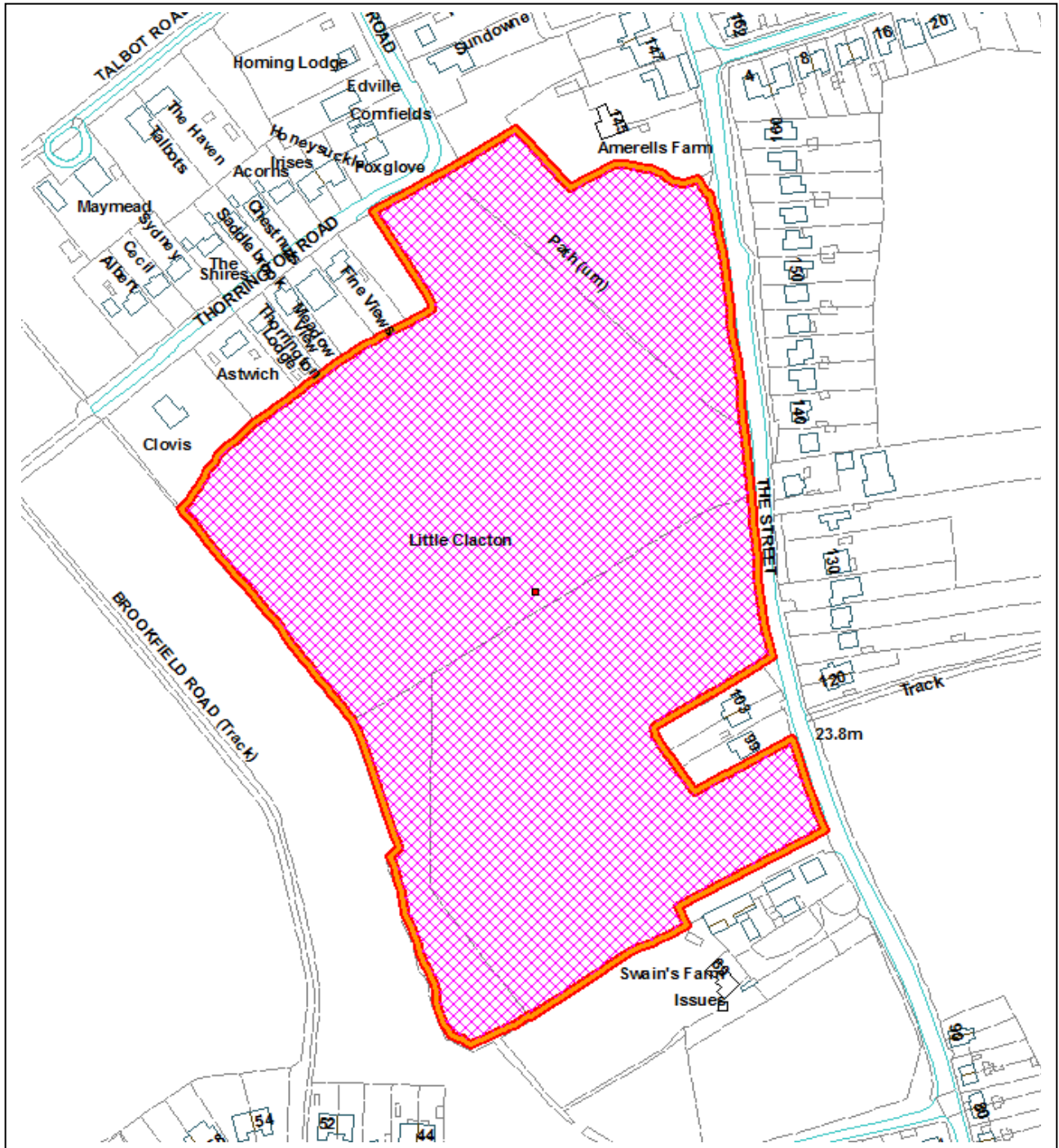


PLANNING COMMITTEE

18 MAY 2016

REPORT OF THE HEAD OF PLANNING

**A.3 PLANNING APPLICATION – 15/01550/OUT - LAND AT THE STREET, LITTLE CLACTON, CO16 9LT**



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<b>Application:</b>	15/01550/OUT	<b>Town / Parish:</b> Little Clacton
<b>Applicant:</b>	Mr. N & J Barrington Fuller & A & D Fuller	
<b>Address:</b>	Land at The Street, Little Clacton, CO16 9LT	
<b>Development:</b>	Residential development of up to 98 dwellings.	

## 1. Executive Summary

- 1.1 This The application was received on 7<sup>th</sup> October 2015 and was due for determination by 12<sup>th</sup> January 2016 but determination has been delayed whilst certain matters, mainly relating to surface water flooding, have been resolved. The application has attracted a considerable level of public interest with almost 500 individual objections, a petition signed by nearly 200 people, an objection from Little Clacton Parish Council and no representations of support.
- 1.2 As an outline application, approval is being sought only for the principle of developing up to 98 dwellings with associated open space and infrastructure, with all other matters reserved for approval through detailed applications at a later date. The applicant has however submitted an indicative site plan that demonstrates how a scheme of predominantly detached properties with some terraced alms houses and open spaces could potentially be laid out.
- 1.3 The site comprises 6.5 hectares of grade 3a agricultural farmland located between the two halves of Little Clacton on the western side of the Street. The site lies outside of the settlement development boundary in the adopted Local Plan and forms part of the designated 'Local Green Gap'. In the emerging Local Plan, the Local Green Gap designation has been provisionally removed from the site but it still remains predominantly outside of the settlement development boundaries. The proposal is therefore contrary to both the adopted and emerging Local Plans. For information purposes only, the Local Plan Committee proposes that this site be included for housing in the new Local Plan to be published for consultation later in the year.
- 1.4 Because both the adopted and current draft plans are deficient in respect of meeting projected housing needs and the Council is currently unable to identify a five-year supply of deliverable housing sites as required by national planning policy, the application has had to be considered on its merits in line with the government's 'presumption in favour of sustainable development'. This requires that applications be approved without delay unless the adverse impacts would significantly and demonstrably outweigh the benefits
- 1.5 The current application follows the refusal of an earlier and even more unpopular outline proposal for a scheme of 136 dwellings and a medical centre which was deemed by Officers to have an unacceptable impact on the character of the village and the setting of two listed buildings whilst offering no guarantees as to the deliverability of the proposed medical centre and failing to demonstrate how surface water flooding issues would be addressed. The earlier proposal also failed to address concerns about crime and anti-social behaviour.
- 1.6 Whilst Officers note the continued high level of public objection to the current proposal, it represents, in planning terms, a significant improvement to what was proposed before. The indicative layout and density is more appropriate for the location and the setting of the listed buildings. Open spaces in the locations shown would help to maintain separation between the two halves of the village whilst retaining a sense of openness along The Street with

links through to the open countryside beyond. The applicants have also now resolved, to the satisfaction of Essex County Council as the Lead Local Flood Authority, earlier in-principle concerns about surface water flooding.

- 1.7 In considering the proposal on its merits, your Officers, in line with national policy, have attached significant weight to the projected need for housing in Tendring and the shortage of available sites and consider that, on a balanced judgement, the adverse impacts of development are not significant and demonstrable enough to outweigh the social benefit of delivering up to 98 dwellings and associated economic and environmental gains.
- 1.8 In addition, Little Clacton is one of the district's 'Key Rural Service Centres' which is served by a reasonable range of shops, services, facilities and infrastructure, where a proportionate level of housing development can be reasonably accommodated, subject to addressing relevant technical matters such as highways, landscape and visual impact and infrastructure capacity. As set out in the main body of the report, Officers are of the view that these technical matters can be suitably addressed and there are no outstanding objections from any of the statutory consultees or other technical bodies.
- 1.9 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;
  - Play equipment, and;
  - Completion and transfer of public open space.
- 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) Layout and phasing plan/programme.
- 5) Development to be in general conformity with indicative layout plan.
- 6) Development to contain up to (but no more than) 98 dwellings.
- 7) Highways conditions (as recommended by the Highway Authority).
- 8) Foul water strategy.
- 9) Surface water drainage scheme.

- 10) Off-site drainage scheme during construction.
- 11) Maintenance and monitoring of Sustainable Drainage System.
- 12) Contamination report.
- 13) Hard and soft landscaping plan/implementation.
- 14) Ecological mitigation/tree protection measures.
- 15) Details of lighting, materials and refuse storage/collection points.
- 16) Provision of fire hydrants.
- 17) Broadband connection.

- 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 does not 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).

### 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.

### HG7: Residential Densities

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

COM1: Access For All

Requires developments and buildings within them to be accessible by a range of transport modes and by people of all abilities.

COM2: Community Safety

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

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.

COM21: Light Pollution

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

COM22: Noise Pollution

Requires that 'noise sensitive' developments including housing are located away from sources of noise and that any noise pollution is mitigated wherever possible.

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.

EN2: Local Green Gaps

Seeks to keep areas designated as Local Green Gaps open and essentially free of development in order to prevent the coalescence of settlements and to protect their rural setting.

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 and bats 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.

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

States that proposals for development that would adversely affect the setting of a Listed Building, including group value and long distance views will not be permitted.

TR1a: Development Affecting Highways

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

TR1: Transport Assessment

Requires Transport Assessments to be undertaken for major developments and requires materially adverse impacts on the transport system to be reduced to an acceptable level.

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

Requires developments to incorporate the definitive alignment of public rights of way and encourages the improvement of existing routes and the creation of new links to the public network.

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.

RA4: Housing Development within Defined Villages

Lists Little Clacton as a 'Principle Defined Village' where proposals of 6 or more dwellings are permitted.

**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.

SD3: Key Rural Service Centres

Identifies Little Clacton as a 'Key Rural Service Centre' where a fair and proportionate increase in housing stock is proposed with no single housing development exceeding 50 dwellings.

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.

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 will however be superseded by national standards to be imposed through building regulations.

PEO5: Housing Layout in Tending

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.

PLA6: The Historic Environment

Highlights the importance of the historic environment in planning decisions, including Listed Buildings, in line with the NPPF.

PLA8: Listed Buildings

Sets out the circumstances in which developments affecting Listed Buildings (including their setting) will be permitted.

**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:

07/01044/TPO	1 No Horse Chestnut - crown lift to 4 metres over the road sign and prune branches to clear the sign by 1 metre at the sides	Approved	10.08.2007
12/00805/TPO	T1 - Oak - remove dead and dying branches, prune to clear telephone cable, crown lift over pavement to 3.5 metres. T2 - Horse Chestnut - crown lift over the road and verge on the southern side to achieve a clearance of 5 metres. T3 - Horse Chestnut - crown lift over the road to give a clearance of 5 metres, prune laterals to clear road sign by 1 metre.	Approved	23.08.2012
14/30216/PREAPP	Proposed residential development for 160 dwellings of mixed types including social housing, including open space and play areas, bus route and bus stop,	N/a	N/a

new medical centre, care home facility and a social area for community use.

15/00131/OUT To develop the land with up to 165 housing units including houses of various sizes, flats and almshouses together with a medical facility. Amended 20.04.2015

Revised to develop the land with up to 136 housing units including houses of various sizes, flats and almshouses together with a medical facility. Refused

3.2 Application 15/00131/OUT was refused by the Council, under Officers' delegated powers for the following (summarised) reasons:

- 1) The development, as shown in the indicative site layout drawings would be of a density and design out of character with the village and would have a harmful urbanising effect;
- 2) The development would cause substantial harm to the setting of two Listed Buildings which would not be outweighed by the benefits of the development;
- 3) There was a lack of evidence to demonstrate that the proposed medical centre was deliverable and no agreement from the applicant to pay the financial contribution requested by the NHS, and;
- 4) The applicant had failed to demonstrate, through their Flood Risk Assessment, that the development would not increase the risk of flooding elsewhere.

3.3 The application has chosen not to appeal against the refusal of planning permission and has instead submitted the current application. A key test for Officers in considering the current application was to ensure that each of the above reasons for refusal had been adequately addressed alongside other planning requirements.

#### 4. Consultations

##### **TDC Environmental Health**

The [reserved matters] application shall be accompanied by a detailed contamination investigation and risk assessment undertaken by competent persons. This submission to the planning authority is required to enable it to decide whether the [reserved matters] details have taken account of an acceptable risk from contamination with regards to proposed end users, property, controlled waters and ecological systems. This investigation shall be undertaken in accordance with the Essex Contaminated Land Consortiums Land Affected by Contamination: Technical Guidance for Applicants and Developers. It shall, where necessary, identify required remediation measures and programmes along with consequent impacts on development phasing.

##### **TDC Building Control**

Clarification required as to the provision of fire fighting access [see comments from Essex County Fire Authority below].

##### **TDC Principal Tree & Landscape Officer**

The land is affected by Tree Preservation Order TPO/15/03 which affords formal legal protection to 13 Individual trees and two groups of trees. The development proposal has the potential to adversely affect

established trees and hedgerows on the land.

The applicant has provided a detailed Tree Survey and Report that shows the extent of the constraint that trees and hedgerows are on the development of the land.

The site layout provided adequately demonstrates that the development of the land could take place without causing harm to any of the protected trees on the land and makes provision for the retention of the existing boundary hedgerow on the western boundary.

Should consent be likely to be granted then measures should be put in place to ensure that any amendment to the indicative site layout do not encroach into the Root Protection Areas of the tree covered by the TPO.

The tree report should be updated to remove references to the previous application.

Should consent be likely to be granted then the layout will need to include a detailed soft landscaping scheme that should include new tree planting.

#### **TDC Housing**

There is a high demand on the housing register for accommodation in Little Clacton. There are currently 281 households seeking a 1 bedroom property, 148 seeking a 2 bedroom property, 63 seeking a 3 bedroom property and 34 seeking a 4 bedroom property.

The Housing Department would like the affordable housing provision to be transferred to the Council. However due to future legislation, it is extremely unlikely that the Council or another registered provider will be able to purchase 25% of the provision at a discounted cost. Therefore, the Council would prefer to be gifted 6 properties [revised to 7 following clarification that the application is for up to 98 dwellings] at the site (this being 30% of the 25% provision set out in the emerging Local Plan).

#### **TDC Open Space and Play**

There is currently a deficit of 2.22 hectares of equipped play in Little Clacton but there is adequate formal open space to cope with some future development. There is one play area in Little Clacton which is located along London Road. This play area is designated as a Local Equipped Area for Play, but is limited in size.

The provision of suitable open space within the development is welcomed but it is noted that on the site plan small areas of open space are situated across the site. Whilst this will enhance the appearance of the development it will not provide larger open spaces for public use.

The layout does not include play provision which is considered necessary due to the distance from the existing play area and the large number of properties being developed on this site.

#### **Essex County Fire Authority**

Due to what would be considered an excessive distance to the nearest statutory fire hydrants, it is considered necessary that additional fire hydrants are installed within the curtilage of the

proposed site. Once the Council is in receipt of the proposed water mains scheme, I would be grateful if this information could be forward to us so that suitable locations for the siting of the fire hydrants can be identified.

Access for Fire Service purposes has been considered in accordance with the Essex Act 1986 – Section 13 and is satisfactory.

The installation of Automatic Water Suppression Systems (AWSS) can be effective in the rapid suppression of fires. We urge building owners and developers to consider the installation of AWSS, upon which we can advise.

## **ECC Highways**

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to planning conditions requiring the following:

1. The submission of a construction management plan containing details of wheel cleaning facilities and other measures to minimise impacts on the highway during construction.
2. The provision of a junction onto the street designed to specific dimensions;
3. The upgrading of four bus stops in The Street;
4. A 2 metre wide footway to be created along the site's frontage along The Street;
5. Provision of residential travel information packs to the new residents to encourage walking, cycling and the use of public transport; and
6. Vehicular access limited to The Street with no vehicular access off Thorrington Road or Homing Road.

## **ECC Schools**

A development of this size can be expected to generate the need for up to 8.3 Early Years and Childcare (EY&C) places, 28 primary school and 19 secondary school places.

According to the latest available information, there is sufficient EY&C provision within the ward and surrounding wards to accommodate children from this development.

The proposed development is located within the priority admissions area for Engaines Primary School. The school has a capacity of 266 places but is forecast to have a deficit of 6 places by the school year 2019-20. Based on a need for 28 additional places, a financial contribution of £339,599 (index linked to April 2015 costs) is requested to provide additional places at Engaines Primary School.

This proposed development is located within the priority admissions area for Tendring Technology College. This school has a capacity of 1,980 places but is forecast to have a surplus of 32 places by the school year 2019-20. 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 but the developer should ensure that safe and direct walking/cycling routes are available to the nearest schools.

Essex County Council requests that any permission for this

development is granted subject to a section 106 agreement to mitigate its impact on education. If minded to turn down the application, the lack of education provision in the area can be noted as an additional reason for refusal and that we are automatically consulted on any appeal or further application relating to the site.

#### **Anglian Water**

No comments received.

[Response to previous application 15/00131/OUT raised no objections in principle and requested conditions to secure a foul water strategy and a surface water management strategy if permission were to be granted].

#### **NHS England**

This development is likely to have an impact on the services of GP practices in the area. These GP practices do 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 practices and a developer contribution of £30,440 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**

Natural England's previous comments on the earlier application 15/00131/OUT apply equally to this revised application where no objection was raised. Should the proposal be amended in a way that significantly affects its impacts on the natural environment, Natural England should be consulted again. The previous comments are summarised as follows:

This application is in close proximity to the Weeleyhall Wood Site of Special Scientific Interest (SSSI). Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the site has been notified.

The development will contribute to some degree to recreational disturbance of birds associated with the European sites in the district (Colne Estuary SPA, Ramsar and Hamford Water SPA, Ramsar), caused by visitors travelling by car. As the Council's Habitats Regulation Assessment (HRA) for the Local Plan Local Plan already sets out mitigation requirements for developments of this type, no project-level HRA is required for the Little Clacton development.

Natural England has published Standing Advice on protected species which should apply as a material consideration in the determination of the application. If the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it

determines the application.

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application.

This application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits to the local community, for example through green space provision and access to and contact with nature.

#### **Historic England**

Our specialist staff 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.

#### **Essex County Council Flood Authority**

Following an initial holding objection, further information was submitted for the ECC's consideration and now the following planning conditions are requested:

- 1) No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented prior to occupation and should include but not be limited to:
  - Groundwater testing and infiltration testing in line with BRE 365. If infiltration is unviable on site, surface water run-off should be restricted to the 1 in 1 greenfield rate calculated from the impermeable area served by the drainage network.
  - Attenuation storage for the 1 in 100+30% critical storm event plus the effect of urban creep.
  - Detailed modelling of the whole drainage network on site including the outfall.
  - Further detail in regards to the watercourse adjacent to the western boundary of the site. It should be demonstrated that all properties are safe in a 1 in 100 inclusive of climate change storm event.
  - An appropriate amount of treatment in line with the CIRIA SuDS Manual C753.
  - A drainage plan highlighting final exceedance and conveyance routes, location and sizing of storage features, discharge rates and outfall/s from the site.
  
- 2) No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented. The scheme shall be implemented as approved.

- 3) No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.
- 4) The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

**Essex Bridleways Association**

We note that there is a public footpath to the north of the site running from The Street to the B1414 and we request that as part of the development this is upgraded to Bridleway status which will create a link between the existing Bridleway to the east of the Street and the Bridleway to the north of the site.

Looking at the map there are various tracks which would enable this this access to be created. We also request that equestrian access is created around the perimeter of the site which will create a circular route for leisure horse riders and cyclists, enabling them to access the network both east and north of the proposed development.

**5. Representations**

- 5.1 This application has attracted an extremely high level of public objection, as did the previous application for 136 dwellings and a medical centre that was refused. The previous application attracted 494 individual objections and 50 letters in support and there was a separate petition signed by 1,162 residents in opposition to the proposal. For the current application, a similar level of objection has been received once more with 493 individual objections and a further 183-name petition.
- 5.2 An identical letter submitted by 430 residents sets out the following principal concerns:
  - Local character and history  
The previous application for this site, 15/00131/OUT, was refused on the grounds of the adverse effect on the character and history of the area. Little has changed in this application, which would represent significant overdevelopment.
  - Listed buildings  
Two listed buildings, Swain's Farmhouse and Amerell's Farmhouse, are adjacent to this land. The harm caused to the setting of these two by the proposed development would FAR outweigh any benefit gained.
  - Green Gap  
The proposed development is in a Green Gap previously identified by TDC, which should be maintained to avoid the general urbanisation of the village.
  - Estate layout  
The estate layout is out of keeping with the existing character of the village, and would represent a harsh and dominant residential blot on the landscape.
  - Agricultural land



The land in question is quality agricultural land which has been used to grow food crops successfully for many, many years and should not be taken out of the production cycle.

- Infrastructure

The roads, schools and medical facilities are already struggling to cope with the numbers of inhabitants of the village – this development would not assist this situation in any way, indeed it would add to the problems.

- Flooding

Drainage in the area is currently insufficient to cope with the rainfall it is expected, and there are already problems in the area of The Street and Elm Road following a downpour. This proposed development would again exacerbate the situation.

- Settlement boundaries

This area has not been accepted by TDC or Little Clacton Parish Council in any of the recent documentation discussing future developments.

- Size and disproportion of development

The emerging Local Plan from TDC suggests that no developments exceeding 50 houses should take place. On its own, this proposed development would represent an increase of approximately 10% in the houses in the village – significantly out of proportion with the rest of the village and is unacceptable..

5.3 Officers have specifically addressed each of these key points in the assessment of the proposal later in this report.

5.4 A further 63 bespoke letters and e-mails have also been received which highlight the following additional concerns:

- Application is exploiting the Council's lack of an up to date Local Plan.
- It is a "get rich quick" scheme for the developer.
- Previous applications for development on the site have been rejected in the past.
- Site has never been allocated for development in the Local Plan.
- Fails to address any of the reasons why the earlier application was refused.
- Reduction from 136 to 93 dwellings makes no difference to the impact.
- Revised layout is of a similar density to the earlier refused proposal, just on a smaller footprint.
- Exceeds the 50-dwelling per site limit set out in the emerging Local Plan.
- The Parish Council has consistently opposed the development of this site.
- Previous planning decisions suggest Little Clacton is not a sustainable location for development.
- Development disproportionate for the size of the village.
- Smaller developments of 1-4 dwellings are more appropriate in Little Clacton.
- Would devalue the village and residents' way of life.
- Development will alienate and divide the community.
- High density development that will integrate poorly with the character of the village.
- Inappropriate urbanisation in this prominent village location.
- Impact on the setting of Listed Buildings will still be substantial.
- Listed Buildings might receive structure damage during the construction phase.
- Impact on local health services and an increase in waiting lists.
- No doctors surgery in the village.
- Strain on educational facilities will result in children getting poorer grades.
- Extension of local schools to meet increased needs will lead to a loss in playing field space.
- Essex County Council's calculations of the need for school places are flawed.
- No level of s106 financial contribution will make this development acceptable.

- Developing on green spaces will damage Tendring's tourism appeal.
- Will the undeveloped portion of the land be given to the community to be retained in perpetuity for leisure purposes?
- Significant increase in traffic and the risk of accidents.
- The bypass was built to relieve traffic, the development will bring traffic back.
- Existing roads and footpaths are in a poor state of repair.
- Poor bus services.
- A new town should be built with better road and rail links to London.
- Already many development proposals in the pipeline for Little Clacton and surrounding area.
- Only Tendring's larger conurbations such as Clacton, Holland, Frinton, Kirby Cross, Walton, Brightlingsea, Dovercourt and Manningtree should accommodate such large levels of growth.
- Housing development should be confined to a strip along main roads, all the way to Colchester if need be to minimise the loss of agricultural land.
- The Housing Department's figures of housing need are over-exaggerated.
- Questions over how the almshouses would be run.
- There are lots of properties for sale on the market so there is no need to build more.
- Tendring should not become an overflow for London.
- Not enough jobs in the Clacton area.
- Very few shops in the village.
- Paragraph 17 of the NPPF says Councils should recognise the intrinsic beauty of the countryside and support thriving communities within it.
- Loss of good arable farmland.
- Loss of land within the Local Green Gap.
- The Council's Local Plan Committee has already agreed that Local Green Gaps should continue to be protected through the new Local Plan.
- Destruction of important landscape between the two built up areas of the village.
- The protected trees will be severely affected by the development.
- Removal of existing mature trees and hedgerows.
- Site supports habitats of bats, newts and owls.
- Increase in localised flooding.
- Pollution into the brook could have an effect on Sites of Scientific Interest (SSSI).
- Impact on bats living in the protected trees.

5.5 Little Clacton Parish Council has objected to the application on the following grounds:

- 1) Despite reduction in numbers the application is not sustainable and fails to conform with the National Planning Policy Framework (NPPF).
- 2) It does not conform to the core principles of the NPPF as defined in the refusal of the earlier application.
- 3) The application is still of a size to be out of character with the village setting and looks to create urbanisation of the centre of the village.
- 4) The applicants suggest a sustainable infiltration drainage system to alleviate the flood risk but give an alternative if this proved infeasible, to use existing ditches.
- 5) The applicant has not in our view addressed enough changes to satisfy paragraph 134 of the NPPF in respect of the setting of the Listed Buildings.
- 6) Some ribbon development might be considered if it is in keeping with the village and the street scene.

5.6 There is also a petition signed by 183 residents which states:

*"We the undersigned wish to object to the application 15/01550/OUT for 93 dwellings and 8 almshouses [revised to 98 dwellings following changes to the application] on land West of The Street, Little Clacton, and for the avoidance of doubt, to any future significant developments of this kind on the site. The basic nature of this application has not changed*

*from that of application 15/00131/OUT, which was refused by Tendring District Council. The size, scale and appearance of the development are unacceptable, as is the loss of the 'Green Gap' arable land. The effect on the character of the village and the setting of two Listed Buildings adjacent are equally unacceptable."*

## **6. Assessment**

### **The Site**

- 6.1 The application site comprises 6.5 hectares of undeveloped greenfield land located on the western side of The Street in the northern part of Little Clacton between the two separate built-up areas of the village. With the exception of approximately 0.4 hectares of land in its very south-western corner which is laid to grass and which contains a cluster of mature trees, the land is predominately and actively in arable agricultural use. The site is relatively flat across its north and eastern parts but falls, gently but noticeably, into the south western 'grassy' area of the site and to the brook that forms the western boundary. Views back toward The Street from these low-lying points and from the rear of properties in Elm Road demonstrate, very clearly, the extent to which the land rises toward the high-ground and the established residential areas.
- 6.2 The western boundary of the site is formed by a brook. The brook is accompanied by medium-height hedges and trees along its southern half with a much lower hedge along the northern part and a single mature tree. When viewed from the bridleway along Brookfield Road, lying some 40 to 50 metres west and running parallel to the site, it can clearly be seen that the brook marks a low point, effectively forming a valley in the landscape from which the land rises either side, both west and east. The brook extends beyond the site over a kilometre to Rectory Road, Weeley Heath to the north and into a network of ditches around Swain's Farm before flowing beneath Elm Road, along St. Osyth Road and beyond Progress Way into Picker's Ditch which eventually flows into Holland Brook and the North Sea. By tracing its source and destination, the Brook on the site's western boundary is an important watercourse within the context of the wider Tendring area. A secondary ditch which was again holding on the day of the site visit, runs from west to east through the centre of the site from the brook effectively dividing the site into two areas of almost equal size. The grassy area in the south western part of the site, to the east of the brook, and the grassy area between the rear boundaries of properties in Elm Road and the edge of the site, to the west and south of the brook, was generally wet and boggy under-foot on the day of the Officer's site visit. A public footpath runs diagonally through the site from The Street through to Thorrington Road.
- 6.3 The site contains a number of mature trees both within and along its boundaries. There is a single mature oak tree close to the site's central ditch which virtually occupies the very central point of the site, some 100 metres from both the western and eastern boundaries and 140 and 150 metres from the northern and southern boundaries, respectively. Another mature oak tree is located in the north-eastern part of the northern field approximately 20 metres from the eastern boundaries onto The Street and 90 metres to the south of the boundary with Amerell's Farm House. A mature oak is located on the edge of the grassy area some 30 metres from the western boundary in the southern field but in the south western 'grassy' corner of the site there is a collection of mature trees which together create an area of pleasant and sedate seclusion. On 30<sup>th</sup> March 2015, the Council served Tree Preservation Orders on a number of Oak and Alder Trees occupying the site.
- 6.4 Long distance views across the site from the west offer glimpses of the traffic, particularly high-sided lorries, travelling along the A133 some 500 metres beyond the eastern boundary of the site and the Earls Hall Wind Turbines which are more prominent from views across the site from the north and north west, some 1.5 kilometres away. Long distance views to the north are blocked by the prominent rear elevations of properties in Thorrington Road

and to the east by the front elevations of properties east of The Street although there is a narrow vista across open countryside to the east of the Street from the site in the gap between 99 The Street and the Swain's farm Business Park although the land is flat and of limited landscape sensitivity. Some glimpse views are available from the A133, through the roadside vegetation, over the site and of the properties surrounding the site.

- 6.5 The site lies immediately to the rear and to either side of a row of three existing dwellings west of The Street comprising a single detached bungalow and a pair of semi-detached houses (Nos. 99, 101 and 103) – properties understood to once form part of the farm holding. On the opposite side of The Street are some 21 residential properties (Nos. 120 to 180) fronting the road comprising predominantly inter-war detached bungalows with some detached and semi-detached houses of varying styles and periods. Along its northern edge, the site backs onto the rear gardens of large detached bungalows and chalets in Thorrington Road and Amerell's Farm House, a Grade II Listed Building, beyond which a development of eight houses was, at the time of the visit, under construction to the north of Thorrington Road, clearly visible from The Street and the public footpath up to Thorrington Road. The southern (rear) elevation of properties south of Thorrington Road, in particular the most eastern property 'Clovis', are very prominent in the landscape particularly when viewed from the south, east and west and these properties have reasonably sized gardens with a variety of hedging and fencing on their rear boundaries.
- 6.6 To the south, the site adjoins Swain's Farm Business Park which includes a range of businesses within black weather-boarded and red-tiled 'barn-style' buildings occupied, on the day of the site visit, by a mortgage company, an estate agent and an accountancy and secretarial firm. Beyond that is Swain's Farm House, another Grade II Listed Building, the curtilage of which contains a number of Poplars which filter views into the site from Elm Road and back towards the Farm House from the wider site.
- 6.7 At its very south-westerly corner, the site lies within 30 metres of the rear boundary of properties on the northern side of Elm Road which comprise predominantly detached and semi-detached bungalows. Properties along the southern side of Elm Road are predominantly detached bungalows and some detached houses.
- 6.8 The general character of Little Clacton is dominated by inter-war and post-war 'ribbon' development extending out in fingers or branches along the main roads with a very high representation of detached and semi-detached bungalows. In recent years most of Little Clacton's development has been on infill plots fronting established roads and the only notable examples of post-war 'estate' development are in the southern part of the village in Leys Drive, Sunnyside Way and Hazlewood Crescent; and in Clapgate Drive, Peartree Way and Barrington Close, comprising almost exclusively bungalows. A development of eight houses has recently been completed immediately to the north of the site in Thorrington Road.

### **The Proposal**

- 6.9 The outline planning application seeks the approval for the principle of up to 98 dwellings. Originally when the application was submitted, the proposal was for 93 dwellings with 8 almshouses (101 dwellings in total) but the proposal has since been revised down to 98 dwellings in total. Whilst all matters are reserved for later consideration, a Design and Access Statement and indicative drawings have been submitted which demonstrate how such a development could potentially be achieved within the application site.
- 6.10 The indicative site layout shows a scheme of predominantly detached properties with rear gardens and dedicated parking spaces, many with garages and front gardens set back from the highway. Two terraces of four almshouse properties are shown in the centre of the site overlooking an area of public open space set around one of the site's protected oak trees

with a parking court to the rear. As well as the central open space, the scheme shows an area of open space fronting The Street which adjoins and partly incorporates the public footpath to Thorington Road and helps to maintain openness to the setting of the listed Amerell's Farmhouse.

- 6.11 Around the south and western parts of the site and significant area of open space is shown to be retained between the business units and the listed Swain's Farmhouse and No. 99 The Street which maintains the existing separation between those properties and incorporates the more environmentally sensitive tree-laden south-western corner of the site with a green corridor and new public footpath along the western edge of the site.
- 6.12 One point of vehicular access is shown from The Street opposite No. 132 and the properties shown fronting The Street are set well back from the site frontage following on from the building line of Nos. 99 to 103. The indicative layout generally adopts a traditional gridiron approach with branches of development extending westward from the main road.

### **Architectural Drawings**

- 1654 02 Site Location Plan
- GEO/TSLC/01A Existing Ground Level Survey Overview
- 1264 10 Rev A Amended Site Plan (Indicative)

### **Reports and Technical Information**

- 1654 Design and Access Statement with Heritage Statement
- Transport Assessment
- Flood Risk Assessment
- Ecological Appraisal
- Bat Survey
- Arboricultural Assessment

### **Main Planning Considerations**

- 6.13 The main planning considerations include the specific issues raised by local residents in their objections and other material planning factors. These are:
- Status of the Local Plan;
  - Settlement development boundaries;
  - Housing need and sustainability;
  - Size and proportion of development;
  - Local character and history;
  - General landscape and visual impacts;
  - Green gap;
  - Estate layout;
  - Listed Buildings;
  - Agricultural Land;
  - Flooding;
  - Infrastructure;
  - Ecology and Trees;
  - Open space, and;
  - Overall planning balance.

### **Status of the Local Plan**

- 6.14 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.
- 6.15 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.
- 6.16 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 summer 2016.
- 6.17 On 12<sup>th</sup> April 2016, the Local Plan Committee considered a report containing Officers' recommendations for sites to include in the new version of the Local Plan for housing and mixed-use development. It was resolved to agree the recommended sites which included land at The Street (the application site) with an indicative capacity of 98 dwellings. Whilst this resolution carries very limited weight as a material planning consideration at this time, it does indicate the intention for this site to form part of the new consultation draft of the Local Plan.

### **Settlement Development Boundaries**

- 6.18 One of the principal concerns raised by the majority of objectors to the application relates to the site's location outside of the Local Plan's settlement development boundary and the fact that the area has not been included by the Council within the revised boundaries of the emerging Local Plan. It is also noted that such a change has not been suggested nor supported by Little Clacton Parish Council.
- 6.19 It is correct that the site is not allocated for housing or mixed use development in either the Council's adopted or emerging Local Plans (the status of which is explained above) and the site lies completely outside of the 'settlement development boundary' as shown in the adopted Local Plan and mostly outside of the equivalent boundary as shown in the emerging Local Plan (with a small part of the site fronting Thorrington Road included). Because the site lies predominantly outside of the settlement development boundary and is not allocated for development in either the adopted or emerging Local Plans, this proposal for residential development is clearly contrary to local planning policy. However, as stated above, the Local Plan Committee has resolved that the site is to be allocated for development in the new version of the Local Plan to be published for consultation later in the year.
- 6.20 Policy QL1 in the adopted Local Plan states that development will be concentrated within settlement development boundaries and outside of these, only development which is consistent with countryside policies will be permitted. Policy SD5 in the emerging Local Plan states that outside of settlement development boundaries the Council will refuse planning permission unless the site is specifically allocated for a particular form of development or the applicant or developer can demonstrate that the proposed development meets a set of exceptional criteria.

- 6.21 However, paragraph 47 of the National Planning Policy Framework (NPPF) requires Councils to ensure their Local Plan meets the full, objectively assessed needs for market and affordable housing and both adopted and emerging Local Plans currently fall significantly short of this requirement. Paragraph 47 of the NPPF also requires local planning authorities to boost significantly the supply of housing by identifying and updating annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements. In areas where there has been persistent under delivery of housing, an additional 20% 'buffer' is also required to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.
- 6.22 For Tendring, the housing requirement is 550 dwellings per annum, as based on the evidence contained within the 'Objectively Assessed Housing Needs Study' (July 2015) and supplementary evidence that was presented to the Local Plan Committee on 21<sup>st</sup> January 2015. This represents a rate of development is significantly higher than what has been achieved in the district in recent years. At the time of writing, it was only able to identify an approximate 3.6 year supply and thus there still remains considerable shortfall. Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered 'up to date' if it is not possible to demonstrate a five year supply of deliverable housing sites and, in such cases, the 'presumption in favour of sustainable development' set out in paragraph 14 of the NPPF is engaged.
- 6.23 '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.
- 6.24 Due to the lack of a five-year supply of housing sites and the subsequent engagement of the presumption in favour of sustainable development, the Council would not be justified in refusing planning permission purely on the basis of the application site being outside of the settlement development boundaries and not being allocated for development, notwithstanding the matters of principle raised by objectors to the proposal.

### **Housing need and sustainability**

- 6.25 A number of objectors to the application have suggested that the new homes are not needed and would be unaffordable and that there are plenty of other sites where housing would be better located including brownfield sites and land on the edge of towns.
- 6.26 As explained above, the Council is required to boost the supply of housing to meet objectively assessed need and the requirement for Tendring, based on the latest evidence, is 550 dwellings per annum. The comments from the Council's Housing Department, whilst questioned by some objectors, also demonstrate that there is a considerable immediate need for affordable housing with a large number of families looking for accommodation in the Little Clacton area. This evidence demonstrates both a district-wide and more local need for housing toward which a development containing 98 dwellings would clearly make a positive contribution. Officers could not therefore recommend the refusal of planning permission on the basis of there being no need.
- 6.27 The indicative layout submitted with the application indicates the provision of 8 alms houses which, in the applicant's view, would be the development's contribution toward affordable housing. The advice from the Council's Housing Department is that whilst Policy PEO10 in the emerging Local Plan seeks 25% of properties to be provided, at discounted value, for

the provision of Council Housing or affordable housing, a lower level (7 dwellings as suggested) would be acceptable if the properties were effectively gifted to the Council (or an appropriate nominated body) to manage as affordable housing. At the time of writing, no details had been provided as to how the alms houses would be provided or managed. If the Committee was minded to approve the application, this would need to be resolved through a s106 legal agreement.

- 6.28 Some objectors argue that that other locations would be more suitable for housing development, however because the Local Plan is out of date and the Council cannot identify a five year supply of deliverable housing sites in line with paragraph 47 of the NPPF, the application has had to be considered on its own merits against the 'presumption in favour of sustainable development'. One of the NPPF's core planning principles in this regard 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".
- 6.29 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. Little Clacton is categorised in emerging Policy SD3, along with six other villages, as a 'Key Rural Service Centre' in recognition of its size and reasonable range of services and facilities, particularly when compared against many of the district's smaller rural villages. Key Rural Service Centres are the second most sustainable category of settlement following 'urban settlements' which are to be the primary focus for development. Therefore, a proportionate level of housing development for Little Clacton could have the potential to be considered sustainable so long as detailed matters such as infrastructure provision and environmental impacts can be addressed. Officers again note that the Local Plan Committee has given provisional agreement to the inclusion of the application site within the new version of the Local Plan to be published for consultation later in the year.

### **Size and Proportion of Development**

- 6.30 Many residents have expressed the view that a development of 98 dwellings would represent a disproportionate level of growth for the village of Little Clacton.
- 6.31 Based on a requirement of 550 dwellings per annum for the whole district over the proposed period of the next Local Plan and taking the last two years' under-provision into account, approximately 10,000 new homes are expected to be required between now and 2032; an increase in the Tendring's housing stock of approximately 15%. This proposed development of up to 98 dwellings would only represent 1% of what is required in Tendring for that period, but for Little Clacton village (settlement as opposed to a parish) it would represent a 10% increase in dwelling stock which is significant, but not disproportionate in the context of the district's overall needs. Even if added to the 6% increase in housing stock that the proposals in the emerging Local Plan already seek to deliver (on sites of Springfield Meadows and north-west of the Montana roundabout), a total 16% increase in housing stock whilst exceeding 15%, would not be particularly excessive in the context of what it is projected to be needed across the district up to 2032.
- 6.32 Policy SD3 in the emerging Local Plan seeks to limit new residential developments in Key Rural Service Centres like Little Clacton to no more than 50 dwellings as a means of limiting the urbanising effect, but as explained above, this emerging policy can only be given limited weight at this time and has to be weighed up against the significant housing land shortfall.
- 6.33 Officers note that the Committee, in recent months, has resolved to refuse planning permission for a number of developments for exceeding the 50 dwelling limit set out in Policy SD3 of the emerging Local Plan for sites in Key Rural Service Centres. These



applications include 14/01750/OUT for 150 dwellings at Station Field, Great Bentley; 14/01823/OUT (now subject of an appeal) for 145 dwellings south of Cockaynes Lane, Alresford (for which an appeal decision is imminent); 15/00120/OUT for 60 dwellings north of Cockaynes Lane, Alresford; and 15/00682/OUT for 75 dwellings at Admiral's Farm, Great Bentley.

- 6.34 Officers however also note a recent appeal decision for application 14/01371/OUT for up to 49 dwellings off Tokely Road, Frating where, despite representing a 27% increase in dwelling stock for Frating and a development almost five times larger than the maximum 10 dwellings recommended in Policy SD4 of the emerging Local Plan for smaller rural settlements with very limited services and facilities, the Inspector allowed the appeal on the basis that the adverse impacts would not significantly and demonstrably outweigh the benefits.
- 6.35 In conclusion, Officers consider that the size and proportion of the proposed development is not excessive for a village of the size of Little Clacton and given the above appeal decision and the limited weight that can be afforded to Policy SD3 in the emerging Local Plan when weighed against the requirements of the NPPF, it would be difficult to uphold this as a reason for refusal if the application went to appeal.

### **Local Character and History**

- 6.36 One of the principal concerns raised by the majority of objectors relates to the potential impact of the development on local character and history. Objectors correctly highlight the fact that the previous application for the site (15/00131/OUT) was refused on the grounds of the adverse effect on the character of the area and furthermore suggest that little has changed with the current application to address that concern. Objectors suggest that the development would still represent significant overdevelopment.
- 6.37 Compared with some villages, the rural character of Little Clacton is difficult to define. There is no prevailing style of property and in terms of a historic core, the village offers very little in comparison with some of the district's other large villages such as St. Osyth, Thorpe-le-Soken or Ardleigh. In consideration of the earlier application 15/00131/OUT, Officers identified three main areas of concern highlighted by local residents. These were:
- 1) that the separation of Little Clacton into two parts is an essential part of its character and that seeking to join the two parts of the village together by filling in the countryside gap would spoil this;
  - 2) that the general urbanisation of Little Clacton will result in it looking and feeling more like a town than a village, and;
  - 3) the layout, density and style of the new homes proposed for the site would be out of keeping with the existing character of the village.
- 6.38 One of the core principles of the planning system, as set out under Paragraph 17 of the NPPF is to recognise the intrinsic character and beauty of the countryside and to support thriving rural communities within it. Paragraph 58 of the NPPF requires Councils, when making decisions, to ensure that developments respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation. Paragraph 61 of the NPPF requires Councils to address the connections between people and places and the integration of new development into the natural, built and historic environment. These elements of government planning policy demonstrate that local character and distinctiveness are important considerations in the determination of planning applications.

- 6.39 The earlier application 15/00131/OUT failed, in Officers' opinion, to address these requirements of national policy and the concerns about local character raised by residents. For the current application, these matters are re-assessed in more detail below.

### **General Landscape and Visual Impacts**

- 6.40 In terms of general landscape and visual impacts, Policy QL9 in the adopted Local Plan and Policy SD9 in the emerging Local Plan 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 Because the site is bounded by existing development on two sides with development not far from its southern boundary and the A133 being located further west, the site enjoys a degree of containment which means that impacts on the wider countryside would be minimal. However, being a prominent site in the centre of the village, any development would be very visible for people passing along The Street.
- 6.42 The Council's own Landscape Impact Assessment of potential areas of Development (2009) assessed the sensitivity of this site along with others across the district to inform the preparation of the (then) Local Development Framework. That assessment concluded that development in this area would indeed change the character of the village and also views from the B1441 and from a visual sensitivity perspective, the site is of medium sensitivity. In respect of anticipated landscape effects, the assessment concluded that the development would have a adverse effect on the character of the village by filling in the countryside gap. The assessment also noted that while it would be possible to maintain a gap of some kind by developing the northern part of the area only, it would be preferable to maintain the full extent of the gap, which is important to the character and rural setting of the village.
- 6.43 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 and there is a substantial need for housing on greenfield sites, 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.
- 6.44 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' view is that the harm is not significant and demonstrable enough to justify the refusal of this application given the significant housing land shortfall.

### **Green Gap**

- 6.45 Objectors to the proposal have correctly highlighted that the site falls within a 'Local Green Gap' as identified in the Council's adopted Local Plan which, in their view, should be maintained to avoid the general urbanisation of the village. The objective of this specific green gap, as set out in the text of the Local Plan, is to:

- Preserve the remaining views into open countryside existing between the main built-up areas of the village;
- Prevent incremental coalescence or further ribbon development between the physically separate neighbourhoods of the village which would result in an inappropriate over-extended form of settlement pattern in the countryside; and
- Safeguard locally important visual breaks, existing village character and settlement form.

- 6.46 Policy EN2 of the adopted Local Plan aims to keep Local Green Gaps essentially free of development within the plan period which, for the adopted Local Plan, was up to 2011. Whilst the adopted Local Plan is now out of date, particularly in respect of housing supply, the designation of this area as a Local Green Gap clearly supports the view that the separation of the village was considered to be a valued element of Little Clacton's character, in particular the views into open countryside and important visual breaks.
- 6.47 With the need for additional land for housing to meet longer-term requirements, there is an acceptance that it might not be possible to carry forward Local Green Gaps in all parts of the district into the next version of the Local Plan. So in the current version of the emerging Local Plan, many of the Local Green Gaps, including this one, are proposed to be removed following a review of the policy. The removal of the Local Green Gap from this part of Little Clacton did not attract any notable objections when the emerging plan was published for consultation in 2012 and in 2014, but it is clearly a matter of concern amongst local residents now.
- 6.48 For the earlier application 15/00131/OUT, Officers concluded that the Local Green Gap policy should only be given limited weight in the determination of the application and that refusing permission against this policy would not, in itself, have been justified. It was recognised however that the attributes and features of this area that supported its designation as a Local Green Gap are still an important consideration in assessing the impact of development on the landscape and on the character of the village.
- 6.49 Since the earlier decision, the Planning Committee has resolved to refuse a number of planning applications for being contrary to adopted Local Green Gap policy including 15/01234/OUT for 240 dwellings off Halstead Road, Kirby Cross; 15/00904/OUT for 240 dwellings off Rush Green Road, Clacton; 15/00964/OUT for 71 dwellings off Mayes Lane, Ramsey; and 15/01710/OUT for 110 dwellings off Thorpe Road, Kirby Cross. Two of these sites (namely Rush Green Road and Mayes Lane) are specifically allocated for housing in the emerging Local Plan.
- 6.50 The Council has also now received two appeal decisions for Local Green Gap sites. The first relates to an outline planning application for up to 60 dwellings on land north of Harwich Road, Little Oakley (Ref: 14/00995/OUT) and the second relates to an outline application for up to 75 dwellings on land east of Halstead Road, Kirby-le-Soken (Ref: 15/00928/OUT). Both appeals were dismissed with both Planning Inspectors concluded that the emerging Local Plan should carry only limited weight and that, critically, Policy EN2 in the adopted Local Plan is not a housing policy and should carry 'full weight'. The Inspector stated "*this policy aims to keep Local Green Gaps open and free of development, to prevent the coalescence of settlements and to protect their rural settings. This is compatible with the aim of the Framework, as set out in paragraph 17, to recognise the intrinsic character and beauty of the countryside and to protect valued landscapes. Consequently I have attached full weight to LP Policy EN2 in determining this appeal*".
- 6.51 However, there has since been a decision by 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 green gap 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.

- 6.52 Notwithstanding the appeal decisions at Little Oakley and Kirby-le-Soken, the implication of this legal ruling is that the Council cannot simply refuse planning permission for development within Local Green Gaps on the basis that the Local Green Gap policy should carry 'full weight'. Instead, the Council must apply the key test within the NPPF to determine whether or not the adverse impacts of development would significantly and demonstrably outweigh the benefits – weighing up the presence of the Local Green Gap policy in the overall planning balance.
- 6.53 Following recent Committee decisions, the above appeal decision and the recent Appeal Court ruling, Officers have given greater weight to the value of the Local Green Gap designation in the consideration of the current application than was given in the refusal of the earlier application 15/00131/OUT, but not 'full weight'.
- 6.54 Officers agree with residents that the loss of a large area of the Local Green Gap represents an adverse impact, but one that needs to be weighed against the benefits of development in delivering up to 98 dwellings towards meeting a significant projected need. In determining whether or not the impact is 'significant and demonstrable' the fact that 1) the Local Green Gap designation in this location can no longer carry 'full weight', 2) the designation is proposed for removal altogether in the emerging Local Plan, 3) the Council is still unable to identify a 5-year supply of deliverable housing sites, 4) the site is proposed for inclusion in the next version of the Local Plan for residential development; and 5) the earlier application 15/00131/OUT did not cite the Local Green Gap as a reason for refusal suggests, in Officers' opinion, that a recommendation of refusal would not be justified in this instance.
- 6.55 That said, because the weight to be given to the Local Green Gap designation alongside the benefit of the development is a matter of judgement, if the Committee was to take an alternative view to Officers and concludes that the adverse impact of losing the Local Green Gap significantly and demonstrably outweighs all economic, social and environmental benefits of the development, refusal against Policy EN2 of the adopted Local Plan would at least be a legitimate and defensible reason for refusal. A resolution to refuse this application for being within the Local Green Gap would require the Local Plan Committee to reconsider the inclusion of this site for housing in the new Local Plan, with possible implications for other sites in the district.

### **Estate Layout**

- 6.56 Objectors to the application have suggested that the 'estate layout' shown on the indicative site plan is out of keeping with the existing character of the village and would represent a harsh and dominant residential blot on the landscape.
- 6.57 Design and layout are reserved matters for future consideration through a detailed application so the Council would not be justified in refusing this outline planning application in response to any specific element of the indicative drawing that have been submitted by

the applicants. However, because the Council is being asked to agree the principle of up to 98 dwellings on the site, Officers have needed to consider whether or not this maximum number of dwellings can reasonably be achieved in an appropriate manner.

- 6.58 Policy QL9 in the adopted Local Plan and Policy SD9 in the emerging Local Plan require new developments to be well designed and to maintain or enhance local character and distinctiveness. The policies also require developments to relate well to their site and surroundings and for them to respect or enhance views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Policy EN1 in the adopted Local Plan and Policy PLA5 in the emerging Local Plan specifically seek to conserve natural and man-made features which contribute to local distinctiveness which include the setting and character of settlements.
- 6.59 Policy PEO3 in the emerging Local Plan sets out the factors that should be taking into account when assessing the density of a residential scheme. These are:
- a) accessibility to local services;
  - b) Minimum internal floor area and private amenity space standards (as set out in emerging Policy PEO4);
  - c) The required mix of housing;
  - d) The character of development in the immediate area; and
  - e) On-site infrastructure requirements (such as green infrastructure and highways).
- 6.60 A development of 98 dwellings on a 6.5 hectare would represent a gross development density of 15 dwellings per hectare however if land is left undeveloped in the locations shown on the indicative layout drawing, the net density of residential development on around 4.5 hectares of the site would be approximately 22 dwellings per hectare. The general density of housing in this part of Little Clacton is around 16 dwellings per hectare which suggests that the new development would be of a higher overall density, albeit not excessively higher, with scope for lower-density plots to be located in more prominent or sensitive parts of the site.
- 6.61 The previous application 15/00131/OUT failed because its indicative layout drawings showed a scheme of 136 dwellings and a medical centre laid out across the majority of the site in an very urban manner that was entirely inappropriate for a rural location, it performed poorly against established secured by design principles and it contained features such as numerous communal parking squares that are very much urban in the character. As a result, Officers had serious doubts over the ability of the site to accommodate, in an acceptable way, the scale of development for which approval was originally being sought.
- 6.62 In contrast, the current proposal is supported by a new indicative layout drawing that, in Officers' opinion, presents a far more acceptable proposal that addresses the previous concerns. Most properties are shown with their own parking spaces and front and rear gardens; properties are generally orientated 'front to front' and 'back to back' to address secured by design principles; open spaces are shown in locations that would assist in maintaining the setting of the location's two listed buildings and retaining a sense of openness in this location; the road layout reflects, very broadly, the pattern of development in the wider area (i.e. 'branching off' from the main road in a traditional gridiron arrangement that avoids the use of cul-de-sacs); and allows for visual glimpses through the development and within the development toward the open countryside beyond, with properties on the along the western edge facing out onto the countryside.
- 6.63 Whilst the indicative layout is by no means perfect and could be improved further through negotiation at reserved matters stage, it provides sufficient detail for Officers to be satisfied that up to 98 dwellings could be accommodated on the site in an appropriate way, if development is deemed to be acceptable in principle.

## Listed Buildings

- 6.64 As correctly pointed out by local objectors, the development proposed would affect the setting of two Grade II listed buildings, namely Swaine's Farm and Amerell's Farm. Historic England (formerly English Heritage) have been consulted on the application and have raised no specific objections, simply requesting that the proposal be judged by the Council against national and local planning policies.
- 6.65 Notwithstanding the consultee comment received from Historic England, 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.
- 6.66 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.
- 6.67 Unlike the previous application which failed to even acknowledge the importance of the two listed buildings concerned, the material in support of the current application includes a heritage statement that identifies the two buildings and assesses their significance as heritage assets and the likely impact of the proposed development. The heritage statement identifies that Swains Farmhouse was listed in 1985 and is a two storey house dating from the late 15<sup>th</sup> and early 16<sup>th</sup> Centuries with later alterations and additions. It is timber framed and plastered with a red plain tile roof. The list description includes details as follows:-
- “Central range with right and left crosswings, that to left jettied. Off centre right red brick chimney stack. 2 storeys. 1:1:1 window range of various small paned casements and vertically sliding sashes, louvre to ground floor left dairy. C20 gabled porch. Panelled door with top lights. Rear stair turret. interior. Many features obscured by C19/C20 decorations. The central hall with halved and bridled top plate scarf originally continued north beyond the huge inserted chimney stack and brace mortices are visible in the tie beam and jowled storey posts. The north (right) crosswing of early C16 build. Rear stair turret possibly of C16. Jowled storey posts visible in left crosswing, the ground floor front was used and is still a Victorian dairy with brick floor and original settling shelf. Vertically boarded doors, chamfered bridging joists and other brick floors visible at time of re-survey.”*
- 6.68 The statement identifies that Amerells Farmhouse to the north was listed in 1986 and comprises a later building dating from the 17<sup>th</sup> Century with a 19<sup>th</sup> century front range. The list description states:-
- “Front range plastered brick, dentilled eaves. Red plain tiled roof. Right and left red brick chimney stacks. 2 storeys. 3 vertically sliding sash windows to first floor and central recessed door. A continuous grey slate porch on brackets covers the bays and doorway.*

*Rear range timber framed and plastered. End chimney stack. Chamfered bridging joists and some frame visible internally.”*

- 6.69 In both cases, the former farm houses are no longer directly associated with the surrounding farm land. The heritage statement identifies that Swains farm has undergone considerable change and that the setting of Amerells farmhouse has reduced as residential development has taken place around it. Notwithstanding this, it is still recognised that both properties retain vestiges of their agricultural past and in themselves are important features in this location. The heritage statement goes on to assess the relative significance of the proposed development in relation to these properties. It concludes, having regard to the history of development within the locality, the building’s list description and the Essex Historic Environment Record, that the development would have a limited effect of low significance on Swain’s Farmhouse and a moderate effect of low significance on Amerell’s Farmhouse.
- 6.70 The previous application 15/00131/OUT failed because, based on the indicative drawings submitted, Officers considered that the impact of the development on the open rural character and setting of the listed buildings would be substantial, thus justifying refusal. The new indicative site layout has greater regard for the listed buildings and shows a considerable area of open space around the southern part of the site funnelling out to the open countryside to the west with some larger dwellings looking out over that space. In taking this approach, the impact upon the setting of Swain’s Farmhouse will be minimised, with the potential for it to be reduced further if the open area is suitably formalised and landscaped and the new properties are designed in a sympathetic manner.
- 6.71 For Amerell’s Farmhouse, which is more contained within its own landscaped boundary, an area of open space along the Street is shown which, to an extent, will reduce the potential impact of urbanisation on its setting. Three properties were removed from the proposal, by the applicant, to allow for this additional breathing space around Amerell’s Farmhouse which represents a significant improvement on the earlier application.
- 6.72 In conclusion, Officers consider that there will be an adverse impact on the setting of the two listed buildings concerned but the impact will be ‘less than substantial’ and if the development is undertaken in general conformity with the latest indicative drawings, the adverse impact could be minimised. In applying the key test in paragraph 134 of the NPPF, which requires harm to be weighed up against public benefits, Officers consider that the benefit of delivering up to 98 dwellings toward meeting a significant projected need outweighs the adverse impact on the setting of the listed buildings and a recommendation of refusal is not justified this time round.
- 6.73 As with the Local Green Gap issue, Officers have exercised judgement in weighing harm against benefits and if the Committee was to take an alternative view to Officers and concludes that the adverse impact on the setting of the listed buildings, on balance, outweighs all economic, social and environmental benefits of the development, refusal against paragraph 134 of the NPPF and Policy EN23 of the adopted Local Plan would at least be a legitimate and defensible reason for refusal.

### **Agricultural Land**

- 6.74 Some residents have objected to the loss of agricultural land as a result of the proposed development and the affect that this could have on future food production. The applicant has had the quality of the land independently assessed which suggests that the land is Grade 3a – ‘Good Quality’ which is at the lower end of what is considered to be the ‘best and most versatile’. The need for agricultural land has to be weighed alongside the projected need for housing and it is inevitable that the agricultural land will be lost to make way for housing, whether it is on this site or anywhere else in the district. The Local Plan

Committee's deliberations over sites for potential inclusion in the new Local Plan demonstrate the strong reliance on greenfield land to meet future housing needs and this now includes the site in question. For this reason it would not be justified to refuse the application on a point of principle simply because it would result in the loss of agricultural land.

### **Flooding**

- 6.75 Many residents have raised concern about the potential increase in surface water flooding that might arise as a result of the proposed development. It has been highlighted that when there are high levels of rainfall, roads close to the site are regularly flooded and the drainage system struggles to take the water away. On visiting the site, Officers noted that parts of the site, particularly to the south and south-west were boggy under foot and were struggling to drain.
- 6.76 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.
- 6.77 The applicant had submitted a Flood Risk Assessment which was 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 failure of the applicant to address concerns relating to flood risk was one of the reasons that the previous application for up to 136 dwellings and a medical centre was refused. This time however, the applicant has responded to ECC's initial objection by producing a new Flood Risk Assessment and by responding to ECC with further information as requested. ECC's holding objection has now been addressed and it now suggests planning conditions relating to the submission and subsequent approval of a detailed Surface Water Drainage Scheme and details of future maintenance and monitoring before development can take place.
- 6.78 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 conditions 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 address the flood risk element of the environmental dimension of sustainable development. With this in mind, an Officer recommendation to refuse this outline planning application on flood risk grounds would no longer be justified.

### **Infrastructure**

- 6.79 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. Objectors have raised concern about the impact of the cumulative impact of additional homes on local infrastructure including local schools, healthcare provision, emergency services and transport. These matters are addressed below.

### **Education**

- 6.80 Essex County Council as the Local Education Authority has been consulted on the planning application and has made representations. ECC advises that early years and childcare



facilities and secondary schools in the catchment should be able to accommodate the number of children expected to be generated from the development. For primary provision however, Engains Primary School is forecast to have a deficit in places and therefore, in its current state, would not be able to accommodate the additional pupils expected to arise from the development. A financial contribution of £339,599 has been requested by ECC to mitigate this impact by providing additional places at Engaines Primary School and the applicant has indicated a willingness to pay such moneys, through a s106 legal agreement, if the Committee is minded to approve this application. For secondary school provision, ECC predicts that sufficient spaces will be available at Tendring Technology College.

- 6.81 Some objectors question ECC's calculations because in response to the earlier application for 136 dwellings, financial contributions toward early year and childcare facilities, primary school facilities and secondary school facilities was requested along with a contribution of toward school transport. Officers have queried this with ECC and it has confirmed that the latest request is based on more up to date information on school places and that no corrections are required.

### Health

- 6.82 For health, many residents are concerned that additional housing and the associated population increase will put unacceptable strain on already overstretched health facilities, pointing out that Little Clacton itself does not have a doctors surgery. As part of the earlier refused application, a new medical facility had been proposed although this attracted objections in its own right with some residents suggesting that existing medical provision in the area is very good and that a new centre is was not needed.
- 6.83 Whilst the Council supports proposals for new medical centres in principle, the proposal did not have the backing of the NHS which, ultimately, is responsible for ensuring health services are provided in the most effective for the population as a whole. NHS England was consulted on the earlier application and advised that Little Clacton is not currently a priority for new primary care and premises and that business case approval would be required. Instead the NHS is looking to establish a larger facility to accommodate more than one practice in the area. The proposed medical facility could have potentially jeopardised that long-term objective, was unlikely to be delivered and represented a unrealistic public benefit. The earlier application was refused for this reason.
- 6.84 For this application, NHS England has requested a financial contribution of £30,440 towards the provision of healthcare in the wider area and the applicant has indicated a willingness to enter into a s106 legal agreement to secure this sum if the Committee is minded to approve.

### Emergency Services

- 6.85 Like any development for residential use, an increase in properties and population will increase pressure on emergency services and this is a matter best addressed through the Local Plan in consultation with the relevant service providers e.g. Police, Fire, Ambulance etc who can plan their resources accordingly. The Council would not therefore be justified in refusing planning permission over general concerns about emergency services, particularly when it is government policy to boost the supply of housing. Specific comments from the fire authority requiring additional hydrant points are noted and could be secured through condition.

### Transport

- 6.86 On transport, Paragraph 32 of the NPPF 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.

- 6.87 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 400 metres walking distance of the convenience store in Harwich Road and 600 of the store further south in the Street. The Plough Road and London Road village halls are within 400 and 900 metres respectively and Engaines Primary School is similarly within 900 metres. The Blacksmith's Arms Pub is within 700 metres. The site is also within 200 metres of a bus stop on a bus route with services between Colchester and Clacton and between Clacton and Mistley. Whilst Little Clacton itself is not served my rail, Thorpe-le-Soken station is approximately 2.5 kilometres away. For a rural location, the site offers a reasonable level of accessibility which is reflected in Little Clacton's categorisation as a Key Rural Service Centre in the emerging Local Plan.
- 6.88 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.
- 6.89 Essex County Council, in its capacity as the Local Highways Authority, has considered the proposal and concluded that it would be acceptable from a highways perspective subject to a number of conditions. Whilst a number of local people are concerned about an increase in traffic resulting from the development, Officers note that The Street, Little Clacton used to be the main A133 route into Clacton for all resident, tourist and commercial traffic before the bypass was built in the mid-1990s. The increase in traffic expected from this level of development is negligible in comparison with what has gone before and in applying the key test of the NPPF of only refusing applications when the transport impacts are severe, Officers consider that a refusal on transport grounds would not be justified.
- 6.90 In conclusion, for a village location, 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.

### **Ecology and Trees**

- 6.91 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. 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 minimises, mitigated or compensated for. Policy EN6b in the adopted Local Plan and PLA4 in the emerging Local Plan support the creation of new habitats within developments subject to appropriate management and public access

arrangements. Policy EN6a in the adopted Local Plan refers specifically to protected species including bats and badgers.

- 6.92 The application site is not designated as site of international, national or local importance to nature conservation and Natural England has offered no objection, in principle, to the proposed development, referring the Council to its standing advice for assessing the ecological impact of developments. Objectors to both the earlier and current applications have stated that the site offers a habitat for a range of species including bats, dormice, badgers, great crested newts, stag beetles, harvest mice, pipistrelle bats, foxes, deer, partridges, pheasants, grouse, woodpeckers, brown hares, hedgehogs, squirrels, bugs, bees, barn owls, kestrels and many other wild birds. Whilst Officers have no reason to doubt that some of the species frequent the site from time to time, given that the land is predominantly in intensive arable use, the prospect of any significant ecological value on most of the site is limited. There were however areas of the site around the edges that did appear, from the Officer's site visit, to have the potential for wildlife habitats.
- 6.93 The applicant prepared and submitted a Phase 1 Ecological Report for the earlier application that concluded that there are features of the site which may provide foraging, breeding and roosting habitat for protected species. This includes the site's trees and hedges, some of which are considered suitable for roosting and foraging bats and a nesting habitat for breeding birds. The report also concluded that the area of semi-improved grassland in the south west of the site is unlikely to be able to support a viable population of reptiles and that there were no signs of Badger, Water Voles, Otters or Dormice. The site was not considered suitable for those protected species.
- 6.94 The most significant conclusion from the Phase 1 Ecological Report was the potential for bats and it recommended a minimum of three activity surveys visits to be undertaken at either dusk or dawn to monitor bat activity. The Phase 1 report also recommended that any vegetation clearance by undertaken outside of the bird nesting season (or otherwise have the vegetation checked by a qualified ecologist prior to removal) and ensuring regular maintenance of the grassland area to a low sward height to enable a suitable environment for reptiles. The report also recommends that, to achieve a biodiversity enhancement, any plants considered within the final development should ideally be native and considered beneficial to wildlife, including fruit/berry producing trees to provide a local food source for birds. The report also recommends various measures for creating habitats for invertebrates, bees and insects and hedgehogs along with the use 'bat bricks' within the properties or bat boxes to be placed on trees. Such measures can be secured through a condition that will require a detailed ecological mitigation plan to be submitted to and approved by the Council.
- 6.95 In line with the recommendations of the above report, a Phase 2 Bat Survey was undertaken in April 2015 and this confirmed bat roosts in some of the trees on the site and recommended that if such trees are removed or altered in any way, the development would pose a significant risk of harm, disturbance and damage to bats roosts. However, if the development can retain all of the trees in question, then the development would pose no significant risk, so long as a suitable lighting mitigation and end enhancements are provided in detail through a bat mitigation plan for the site, which the Council would secure through condition.
- 6.96 The trees in question are T1, T7, T8 and T10 which include the large mature Oak tree located on the site closest to the site's eastern boundary with The Street along with one Oak and two Alders located in the south western corner of the site. All of these trees are covered by the Tree Preservation Order that was serviced on 30<sup>th</sup> March 2015 following the submission of the earlier application. Based on the latest indicative layout drawings, all the protected trees can be retained within the scheme and the bat roost trees will all be surrounded by open space, minimising the impact of development.

- 6.97 In conclusion, whilst most of the site is of limited ecological value, the site contains a number of important trees that are worthy of protection in their own right and, in some cases, contain bat roosts. If the development is carried out in line with the suggested indicative plans, these trees and important habitats can be retained and through appropriate planning conditions, a mitigation plan can be secured that will enhance the ecological value of the site. If the Committee is minded to approve this application, such conditions will be used to ensure the development is acceptable in ecological terms.

### **Open space**

- 6.98 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 substantially more than 10% of the site area being provided as open space which is in response to the need to maintain a physical gap to preserve the setting of the village, the need to respect the setting of the two listed buildings and the need to protect and enhance the site's ecological features.
- 6.99 The Council's Open Space and Bereavement Service Manager has commented on the application and has identified a deficiency of equipped play in the Little Clacton area but adequate provision of formal open space. They welcome the provision of green space within the site but observe that the function of these areas are more likely to enhance the appearance of the development rather than provide space for regular public use. They request the provision of play equipment within the scheme to serve the new residents and while this is currently not shown on the indicative drawings, the applicant has agreed to make such provision, with the details to be agreed through a s106 agreement.
- 6.100 To secure the open spaces and play equipment in perpetuity, a s106 legal agreement will ensure the transfer of the land to the Council, Parish or an appropriate alternative management firm.

### **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 the scheme is predominantly residential with no commercial premises provided, up to 98 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 98 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. 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 designated as a Local Green Gap in the adopted Local Plan,

development would affect the setting of two listed buildings and parts of the site have some ecological value. The loss of land to development within the Local Green Gap is an adverse impact that has needed to be weighed against the significant need for housing having regard to recent Committee decisions, appeal decisions and appeal court judgements. The impact on the setting of the two listed buildings is considered to be less than substantial and comfortably outweighed by the need for housing and the ecological impact of development on the site and surrounding area itself has the potential to be neutral or positive with mitigation and enhancement measures that will potential improve conditions for a range of species including bats.

- 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.