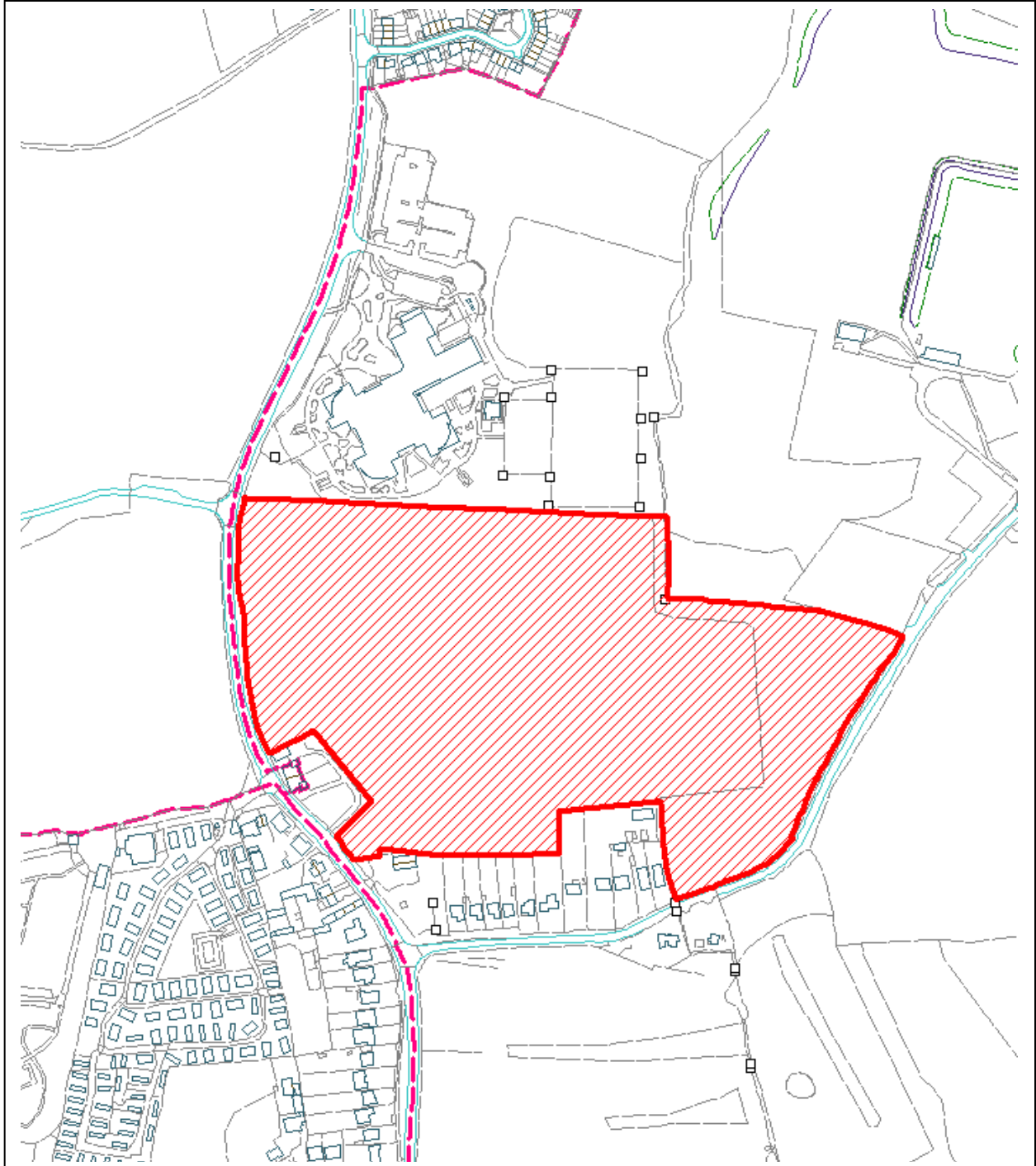


PLANNING COMMITTEE

14TH JUNE 2016

REPORT OF THE HEAD OF PLANNING

A.5 PLANNING APPLICATIONS - 16/00209/OUT - LAND NORTH OF RUSH GREEN ROAD, CLACTON-ON-SEA, CO16 8BQ



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Application:	16/00209/OUT	Town / Parish: Clacton Non Parished
Applicant:	Bloor Homes Eastern	
Address:	Land North of Rush Green Road, Clacton-on-Sea CO16 8BQ	
Development:	Outline planning application for up to 276 dwellings with areas of landscaping and open space and associated infrastructure.	

1. Executive Summary

- 1.1 This application has been referred to Planning Committee by Officers as it represents a departure from the Adopted Development Plan being located outside the settlement development boundary and at the request of Councillor Everett.
- 1.2 This application seeks outline planning permission for the erection of up to 276 dwellings with areas of landscaping, open space and associated infrastructure on land north of Rush Green Road and south of Tendring Enterprise Studio School. Details of access form part of this application; however matters such as appearance, landscaping, layout and scale are reserved for a future application.
- 1.3 The application site is approx. 9.79 hectares in size; most of the site is in agricultural use and is predominately flat with a gentle fall north to south. The eastern corner of the site is uncultivated and characterised by natural vegetation including self-seeded shrubs and grasses.
- 1.4 To the north of the site is the Tendring Enterprise Studio School (also known as Clacton Coastal Academy) and to the south of the site is the existing residential development of Rush Green Road. To the north east of the site is Rush Green Road Household Recycling Centre. Rush Green Road also forms the eastern boundary of the site. Jaywick Lane forms the western boundary of the site.
- 1.5 The site was subject to a previous application for up to 240 dwellings which was refused by Planning Committee on 20th October 2015 for the following reasons: development within Local Green Gap; insufficient early year and children and primary school places in the locality; insufficient healthcare provision in the locality and that fact that with limited public transport in the locality there would be an unacceptable reliance on the private car.
- 1.6 The application site is situated outside of the defined settlement development boundary as set out in the Tendring District Local Plan (2007). It had been identified within the Tendring District Local Plan Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014) as supporting an urban extension to the town. However, following the refusal of the previous application the allocation is proposed to be removed from the new Local Plan to be published for consultation later in the year.
- 1.7 The National Planning Policy Framework however sets out that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 1.8 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers considered that Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF and as a result the proposed development cannot be refused solely on the basis that a site is outside the

development boundary. On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight.

- 1.9 The application site is also located within a 'Local Green Gap' as defined within the 2007 adopted Plan. Following a recent appeal court judgement, the impact upon a defined gap must be weighted up against the significant lack of housing land within the District, emerging policy and the potential benefits such a scheme could deliver.
- 1.10 The site is considered to be located in a socially sustainable location and would meet the economic strand of sustainability. In respect of the environmental impact, it is considered that any adverse impact on the Green Gap would not significantly and demonstrably outweigh the benefits of the development. Subject to the detailed design being acceptable, it is considered that the site could be developed without raising any objections in respect of; the character and appearance of the area, residential amenity, highway safety and biodiversity considerations.

Recommendation: Approve

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/unilateral undertaking under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):

- Affordable Housing (20 gifted units)
- Education (financial contributions towards early years and childcare and primary)
- Healthcare (financial contribution)
- Open Space (provision and future maintenance of on-site open space and play area)

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 in their discretion considers appropriate).

Conditions:

1. Time Limit – Outline
2. Time Limit – Submission of Reserved Matters
3. No Development until Reserved Matters (appearance, layout, landscaping and scale) submitted
4. No occupation of the development shall take place until the following have been provided or completed:
 - a) A traffic signal controlled junction off Jaywick Lane to provide access to the proposal site and an emergency/pedestrian/cycle only access off Rush Green Road as shown in principle on the planning application drawings
 - b) Upgrade to current Essex County Council specification the two bus stops in Jaywick Lane adjacent the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development)
 - c) A minimum 3 metre wide shared footway/cycleway along the length of the proposal site's Jaywick Lane frontage and to the toucan crossing outside Tendring Enterprise Studio School
 - d) A minimum 2 metre wide footway along the length of the proposal site's Rush Green Road frontage
 - e) A pedestrian refuge in Jaywick Lane in the vicinity of the proposal site and the southbound bus stop
 - f) Residential Travel Information Packs
5. Submission of hard/soft landscaping scheme

6. Implementation of landscaping scheme
7. Submission of Contamination Land Survey
8. Programme of archaeological trial digs
9. Archaeological field work
10. Archaeological post excavation assessment
11. A detailed drainage strategy to be submitted and approved.
12. A scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works to be submitted and approved.
13. A maintenance plan detailing the maintenance arrangements for the surface water drainage system to be submitted and approved.
14. Yearly maintenance logs to be kept in accordance with the approved maintenance plan.
15. Construction Method Statement to include:
 - i) the parking of vehicles of site operatives and visitors
 - ii) loading and unloading of plant and materials
 - iii) storage of plant and materials used in constructing the development
 - iv) wheel and under-body washing facilities
 - v) Hours of construction
 - vi) Noise mitigation measures
 - vii) Vehicle movement plans
 - viii) Waste management methods
 - ix) Details of dust suppression
16. Ground level condition
17. Notwithstanding the tree survey; the development carried out in accordance with the recommendations as set out in the letter from Practical Ecology dated 11th May 2016.

c) That the Head of Planning be authorised to refuse outline planning permission in the event that such legal agreement has not been completed within the period of 6 months, as the requirements necessary to make the development acceptable in planning terms had not been secured through planning obligation, contrary to saved policy COM6 of the Tendring District Local Plan (2007) and draft policy PEO22 of the Tendring District Local Plan Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014).

2. Planning Policy

National Policy

National Planning Policy Framework
National Planning Practice Guidance

Local Plan Policy

Tendring District Local Plan 2007

QL1	Spatial Strategy
QL3	Minimising and Managing Flood Risk
QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Use
HG1	Housing Provision
HG4	Affordable Housing in New Development
HG7	Residential Densities
HG9	Private Amenity Space
COM6	Provision of Recreational Open Space for New Residential Development
COM19	Contaminated Land
COM20	Air Pollution/Air Quality
COM21	Light Pollution
COM22	Noise Pollution

COM23	General Pollution
COM26	Contributions to Education Provision
EN1	Landscape Character
EN2	Local Green Gaps
EN6	Biodiversity
EN6a	Protected Species
EN13	Sustainable Drainage Systems
EN23	Development Within the Proximity of a Listed Building
EN29	Archaeology
TR1a	Development Affecting Highways
TR1	Transport Assessment
TR2	Travel Plans
TR3a	Provision for Walking
TR4	Safeguarding and Improving Public Rights of Way
TR5	Provision for Cycling
TR6	Provision for Public Transport Use
TR7	Vehicle Parking at New Development

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

SD1	Presumption in Favour of Sustainable Development
SD2	Urban Settlements
SD5	Managing Growth
SD8	Transport and Accessibility
SD9	Design and New Development
PEO1	Housing Supply
PEO2	Housing Trajectory
PEO3	Housing Density
PEO4	Standards for New Housing
PEO5	Housing Layout in Tendring
PEO7	Housing Choice
PEO22	Green Infrastructure in New Residential Development
PLA1	Development and Flood Risk
PLA4	Nature Conservation and Geo-Diversity
PLA5	The Countryside Landscape
PLA6	The Historic Environment
COS12	Development at Rouses Farm Jaywick Lane
COS13	Development South of Clacton Coastal Academy

Other Guidance

Parking Standards Design and Good Practice Guide (2009)
 Essex Design Guide (2005)
 Urban Place Supplement (2007)
 Public Open Space SPD (2008)
 Schools Contributions from Residential Developments (2004)

3. Relevant Planning History

13/30148/PREAPP	Screening opinion to confirm whether land constitutes formal EIA development.	31.12.2013
14/30418/PREAPP	Proposal for up to 265 new residential dwellings, high quality public open space with the principal point of access from Jaywick Lane and a secondary access off Rush Green Road.	11.02.2015

15/00904/OUT	Outline planning application for up to 240 dwellings with areas of landscaping and open space and associated infrastructure.	Refused	03.11.2015
16/00208/OUT	Outline planning application for up to 220 dwellings with areas of landscaping and open space and associated infrastructure.	Current on the same Planning Committee Agenda	

4. **Consultations**

4.1 **Principal Tree and Landscape Officer** considers that the submitted tree report identifies the extent of the constraint that the trees are on the development potential of the land and shows how retained trees will be protected for the duration of the construction phase. The report also identified the retention of virtually all viable trees and identifies the extent of measures to be put in place to ensure that harm is not caused to important retained trees. Works are detailed in the report to fell trees that are not viable and to reduce others that are in a potentially dangerous condition.

Should consent be granted then a soft landscaping condition should be attached to secure further details on the indicative planting shown on the site layout plan. Soft landscaping of the site will be a key element in achieving a desirable layout that could be accommodated in a semi-rural location.

4.2 **Essex County Council Highways** advise that the impact of the proposal is acceptable to the Highway Authority subject to the following requirements:

- Prior to commencement of the development a construction management plan, to include but shall not be limited to details of wheel cleaning facilities within the site and adjacent to the egress onto the highway, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed plan.
- No occupation of the development shall take place until the following have been provided or completed:
 - a) A traffic signal controlled junction off Jaywick Lane to provide access to the proposal site and an emergency/pedestrian/cycle only access off Rush Green Road as shown in principle on the planning application drawings
 - b) Upgrade to current Essex County Council specification the two bus stops in Jaywick Lane adjacent the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development)
 - c) A minimum 3 metre wide shared footway/cycleway along the length of the proposal site's Jaywick Lane frontage and to the toucan crossing outside Tendring Enterprise Studio School
 - d) A minimum 2 metre wide footway along the length of the proposal site's Rush Green Road frontage
 - e) A pedestrian refuge in Jaywick Lane in the vicinity of the proposal site and the southbound bus stop
 - f) Residential Travel Information Packs

4.3 **Environmental Health** – require a full contaminated land condition to be imposed due to the proximity to the adjacent former landfill site. Also request that a full construction method statement is submitted which will need to address; construction hours; noise mitigation measures; vehicle movement plans; waste management methods and details of dust suppression during the construction phase. They are satisfied that there are no air quality issues and the lighting survey submitted is suitable.

- 4.4 **Essex County Council Education Services** have assessed the application on the basis of 276 dwellings, assuming all units have 2 bedrooms or more.

Although there is some early years and childcare capacity in the area, the data shows insufficient full day care provision/free entitlement places to meet demand from this proposal. An additional 24.8 places would be provided at an estimated cost of £346,021, a developer contribution of this amount is required to mitigate its impact on early years and childcare provision.

In terms of primary education the development is located within the Tendring primary group 2 (Clacton). This group is forecast to have a deficit of 186 permanent places by the school year 2019-2020. Based on the demand generated by this proposal, a developer contribution of £1,011,650 is sought to mitigate the impact on local primary school provision.

With regards to secondary education, the development is located within the Tendring secondary forecast planning group 1 (Clacton). This group is forecast to have a deficit of 223 places by the school year 2019-2020. However, the deficit is forecast as a result of the decision taken to close the Tendring Enterprise Studio School at the end of the 2015-16 school year with the loss of 300 places. Under these circumstances it is considered inappropriate to request a contribution for additional secondary school places.

Having reviewed the proximity to the site to the nearest primary and secondary schools, no school transport contribution is sought.

- 4.5 **Essex County Council Archaeology** – the proposed development lies within an area of high archaeological interest; with evidence for multi-period below ground archaeological remains identified in close proximity to the site; including linear cropmarks within the footprint of the development itself. Therefore recommend conditions to secure a programme of trial trenching followed by open area excavation.
- 4.6 **Housing Department** – request the provision of 20 gifted units, as the department is not in a position to purchase units for affordable housing.
- 4.7 **Anglian Water** – there are assets owned by Anglian Water or those subject to an adoption agreement within or close the development boundary, they request that any approval notice advises the applicant of this and that if sewer need to be diverted a s185 agreement is required.

The foul drainage from this development is in the catchment of Jaywick Water Recycling Centre that will have available capacity. The sewerage system also has available capacity. In terms of surface water disposal the preferred method would be to a sustainable urban drainage system (SuDs), a condition to secure a surface water management strategy is recommended.

- 4.8 **NHS England** – the proposal is likely to have an impact on the NHS funding programme for the delivery of primary healthcare provision within this area and specifically within the health catchment of the development. The development is likely to have an impact on the services of 5 GP practices and 3 branch surgeries. These GP practices do not have capacity for the additional growth as a result of this development. Therefore a Healthcare Impact Assessment has been prepared by NHS England to provide the basis for a developer contribution towards capital funding to increase capacity within the GP Catchment Area. The development would give rise to a need for improvements to capacity by way of extension, refurbishment, reconfiguration or relocation at the existing practices. A financial contribution of £83,240 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.
- 4.9 **Natural England** advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscaping. They have not formally assessed this application and associated documents for impacts on protected species, which should be considered in

accordance with their standing advice. However, following the submission further information on bats have provided informal advice stating that they consider the approach taken in the report is acceptable and in view of the transient nature of tree roosts have no objection to conditioning the further surveys required.

- 4.10 **Essex County Council Flood & Water Management Team** – support the granting of planning permission subject to conditions which require:
- A detailed drainage strategy to be submitted and approved.
 - A scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works to be submitted and approved.
 - A maintenance plan detailing the maintenance arrangements for the surface water drainage system to be submitted and approved.
 - Yearly maintenance logs to be kept in accordance with the approved maintenance plan.
- 4.11 **Regeneration** – no comments received.
- 4.12 **Network Planner – UK Power Networks** – no comments received.
- 4.13 **Essex Wildlife Trust** – no comments received.
- 4.14 **TDC Open Space** – consider that any additional development will increase demand on already stretched facilities. The nearest play area to the proposed development is located at Rush Green Recreation Ground. Due to the proximity to the site it is highly likely that the biggest impact would be felt at this play area. To account for the proposed development and to prevent the current deficit from increasing further, additional play opportunities would need to be provided.
- 4.15 **Essex Police** - no comments received.
- 4.16 **National Grid Plant Protection** – no comments received.
- 4.17 **Essex County Fire Officer** – no comments received.

5. **Representations**

- 5.1 Councillor R Everett has referred this planning application to the Planning Committee as the local ward Councillor, for the following reasons:
- The plans are not in accordance with the sustainability objectives of the NPPF
 - The plans are of significant concern to residents in his ward for various issues including but no limited to potential noise nuisance; inadequate infrastructure to support such a development and access considerations.
 - The submitted application possibly indicates a desire to overdevelop the site.
 - Ecological issues including but not limited to bats.
 - Validity of application
 - Finally the application does not accord with the existing local plan.
- 5.2 Two letters of objection were received in relation to this planning application. Issues are summarised below:
- Inadequate local infrastructure including provision of GP's
 - Impact of extra traffic during the build and upon completion where the local car

numbers will substantially increase.

- Access to/from proposed development onto Jaywick Lane.
- The speed limit should be reduced to 30mph
- Exacerbation of existing surface water problems
- Loss of local green gap
- Impact on leisure and recreational uses including the Clacton Airstrip and Clacton Golf Clubs
- Development would not constitute sustainable development.
- Lack of and impact on existing health facilities.
- Lack of public transport in the locality
- Contrary to the previously refused application (15/00904/OUT)
- Noise pollution, smells pollution and soil contamination from adjacent recycling centre
- Floodlights from the Clacton Coastal Academy hardcourt play area covers a large area of the proposed development site.
- Impact on bats/lack of bat survey
- Suitability of site in terms of access and impact on highways
- Lack of school places
- Poor telecommunication and broadband
- Lack of employment opportunities in the local area
- Poor television signal in locality
- Development is on a greenfield site, when priority should be given to brownfield sites
- Will result in changes to Clacton airfield flight paths

Planning History

5.3 Members may recall that on 20th October 2015 the Planning Committee refused an application against officer recommendation for up to 240 dwellings on this application site. The application was refused for the following reasons:

- The adverse impact caused by development in the Local Green Gap, and the consequent physical coalescence of Clacton-on-Sea and Jaywick and potential impact upon operations at Clacton Airstrip, contrary to adopted Policy EN2, would significantly and demonstrably outweigh any social and economic benefits of the proposal and would not therefore constitute sustainable development.
- With insufficient early year and childcare and primary school places in the locality and lack of evidence to demonstrate how this can be mitigated through financial contributions, the adverse social impact caused by the development would significantly and demonstrably outweigh any social, economic or environmental benefits of the proposal. The development would fail the social role and would not therefore constitute sustainable development.
- With insufficient healthcare provision in the locality and a lack of evidence to demonstrate

how this can be mitigated through financial contributions, the adverse social impacts caused by the development would significantly and demonstrably outweigh any social, economic or environmental benefits of the proposal. The development would fail the social role and would not therefore constitute sustainable development.

- With limited public transport in the locality and an unacceptable reliance on the private car, the adverse social and environmental impact caused by the development would significantly and demonstrably outweigh any social, economic or environmental benefits of the proposal. The proposal would not therefore constitute sustainable development.

5.4 This decision is a material planning consideration in the determination of this current application. An appeal has been lodged against this decision and is currently pending a decision with a Public Inquiry scheduled for December 2016.

Proposal & Site Description

5.5 This application seeks outline planning permission for the erection of up to 276 dwellings with areas of landscaping, open space and associated infrastructure on land north of Rush Green Road and south of Tendring Enterprise Studio School. Details of access form part of this application; however matters such as appearance, landscaping, layout and scale are reserved for a future application.

5.6 The primary vehicular access route is proposed off Jaywick Lane and an emergency vehicular access is proposed off Rush Green Road.

5.7 The application site is approx. 9.79 hectares in size; most of the site is in agricultural use and is predominately flat with a gentle fall north to south. The eastern corner of the site is uncultivated and characterised by natural vegetation including self-seeded shrubs and grasses.

5.8 To the north of the site is the Tendring Enterprise Studio School (also known as Clacton Coastal Academy) and to the south of the site is the existing residential development of Rush Green Road. To the north east of the site is Rush Green Road Household Recycling Centre. Rush Green Road also forms the eastern boundary of the site. Jaywick Lane forms the western boundary of the site.

6. Assessment

The main planning considerations are:

- Principle of development;
- Design;
- Density;
- Local Green Gap;
- Trees;
- Impact on neighbours;
- Highway Safety;
- Contaminated Land;
- Noise;
- Flood Risk;
- Air Quality;
- Biodiversity and Green Infrastructure;
- Heritage Assets (Listed Buildings and Conservation Areas);
- Heritage Assets (Archaeology); and,
- Legal Obligation
 - Education
 - Affordable Housing
 - Open Space
 - Health Provision

Principle of development

- 6.1 The application site is located to the west of Clacton-on-Sea between the western edge of Clacton and the eastern edge of Jaywick. The site is bounded by the Tendring Enterprise Studio School to the north, Jaywick Lane to the west and Rush Green Road to the south and east.
- 6.2 The site is located outside of the defined Settlement Development Boundaries (SDBs) of Clacton-on-Sea and Jaywick within the adopted (2007) Local Plan. Outside development boundaries, the Local Plan sought to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.
- 6.3 Clacton-on-Sea is identified as a 'Town' within Policy QL1 of the Tendring District Local Plan (2007) and on this basis it is considered that a significant amount of growth can be supported. Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards these larger urban areas and to within development boundaries as defined within the Local Plan as mentioned above.
- 6.4 The application site had been identified within the Tendring District Local Plan Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014) as supporting an urban extension to the town and has been specifically identified for residential development under policy COS13. However, following the refusal of the previous application the proposed allocation is proposed to be removed in the new version of the Local Plan to be published for consultation later in the year. This follows a resolution not to include the site taken at the 12th April 2016 Local Plan Committee Meeting.
- 6.5 Chapter 6 of the NPPF has as an objective to delivery of a wide choice of high quality homes. In order to facilitate this objective paragraph 49 of the NPPF sets out housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites.
- 6.6 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers consider that Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF. This view has also been supported by the Planning Inspectorate in a number of recent appeal decisions for similar outline schemes.
- 6.7 The Council has published the Tendring District Local Plan Proposed Submission Draft (2012), but the document is yet to be submitted to the Secretary of State. Formal adoption cannot take place before it has been examined, consulted on and found to be sound. Until that time the relevant emerging policies may be subject to change. When considered in relation to paragraph 216 of the Framework they may be afforded only limited weight.
- 6.8 Based on the above it is considered that, in the absence of up-to-date policies, development proposals cannot be refused solely on the basis that a site is outside the development boundary. Paragraph 14 of the NPPF supports this view when it sets out that where relevant policies are out-of-date planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 6.9 On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight. As a result the current scheme falls to be considered against the 3 dimensions of 'sustainable development',
 - economic,

- social; and;
- environmental roles.

Economic

6.10 Officers consider that the proposal would contribute economically to the area, for example by providing custom for services such as shops and public houses within Clacton-on-Sea. It is also considered that employment during the construction of the development will also take place, this could take the form of the developer utilising local services and tradesmen. It is therefore considered that this meets the economic arm of sustainable development.

Social

6.11 The site is located on the edge of Clacton-on-Sea. Clacton-on-Sea is the main town within the District and has been identified as one of six 'Urban Settlements' within the district in Policy SD2 of the draft Local Plan. These are the largest types of settlement, containing a vast range of local services and facilities with potential for the highest level of growth in terms of homes and jobs. For these settlements, the draft Local Plan identifies opportunities for the enhancement of town centres, public transport facilities and other community facilities. Whilst the policy has limited weight at this stage, it goes some way to illustrate the sustainability credentials for the town and the site.

6.12 In terms of the social role, the site is within close proximity of various community services all within walking distance of the site, in particular the Tendring Enterprise Studio School.

6.13 Clacton-on-Sea benefits from good transport links. The nearest bus stop is located opposite the site to the southwest and the nearest train station is approximately 4.5km away. The location has provision to public transport that provides accessibility to Colchester. Clacton railway station also provides connections to London. Overall, this site has good access to services, facilities and public transport.

6.14 It is accepted that when the previous application (15/00904/FUL) was determined by Planning Committee (20th October 2015) members refused the application on the basis that amongst other things, 'the frequency of bus services is limited and they do not provide a viable alternative to the private car for everyday travel as required for a residential development of this scale to be considered sustainable'. Since this decision taken by Planning Committee, there have been appeal decisions which have concluded that villages such as Frating, Elmstead and Tendring are sustainable locations for residential development, despite having limited access to shops, jobs, services and facilities. Due to these appeal decisions Officers are of the opinion that this is no longer a legitimate or defensible reason for refusal that will stand up at appeal, as it is on the edge of Tendring's largest town and whilst the bus service may have limitations it is still one of the most sustainable locations within the district.

6.15 Whilst taking into consideration the previous view of the Planning Committee, Officers still consider that the application site performs well in terms of the social role within the definition of sustainability.

Environmental

6.16 It is acknowledged that, in terms of settlement shape and form, development in this location is unlikely to have a significantly detrimental impact (subject to consideration against other Local Plan policies) as the site is close to the Settlement Development Boundary in the 2007 Plan and is adjacent to existing buildings such as the school and residential properties. It would therefore not appear isolated and would be comparable with existing development in the locality.

6.17 The detailed impact upon the Green Gap allocation and local environment is considered in

detail below.

Design and Density

- 6.18 The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, indivisible from good planning, and should contribute positively to making places better for people. One of the core planning principles of The Framework as stated at paragraph 17 is to always seek to secure high quality design.
- 6.19 Policies QL9, QL10 and QL11 of the Saved Plan aim to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties. Policy SD9 of the Draft Plan, whilst of limited weight carries forward the sentiments of these saved policies stating that all new development must make a positive contribution to the quality of the local environment and protect or enhance local character.

Density

- 6.20 The application is for up to 276 which would represent a density of 28 dwellings per hectare for the site as a whole, or 31 dwellings per hectare on the net developable site area, if one hectare of open space is proposed. If less open space were to be provided the net density could be up to 38 dwellings per hectare. However, this would be a matter to be considered as part of any future reserved matters application. If minded to approve, planning conditions could apply to ensure general conformity with the illustrative drawings that have been provided.
- 6.21 A capacity of 276 dwellings with a resultant density of between 28 and 31 dwellings per hectare is considered acceptable in this edge of town location.

Design

- 6.22 This planning application is submitted in an outline form with all matters, except access, reserved for later consideration by the Council. The development's detailed design is one of these matters to be considered at 'reserved matters' stage so does not form part of this application.
- 6.23 Notwithstanding the above, the applicant has provided an illustrative Framework Plan which, whilst only indicative demonstrates to officers that a suitable layout could reasonably be achieved on site.

Landscape Impact & Visual Impact

- 6.24 The application site is not located in or close to any area of land defined as local, national or international protected sites, however there are some site specific characteristics to be considered.

Local Green Gap

- 6.25 The proposed development is located within an area designated as a 'Local Green Gap' within the adopted plan. Policy EN2 of the Adopted Local Plan (2007) states that the primary purpose and function of the Green Gap is to maintain physical separation between different settlements or neighbourhoods and avoid developments that would result in them merging together and losing their individual identities.
- 6.26 These gaps have been carefully defined in specific locations where there is a genuine risk, due to the close proximity of settlements or neighbourhoods that any development approved could undermine (in whole or in part) the remaining undeveloped gap and jeopardise those

settlements individual identities.

- 6.27 The Planning Committee has resolved to refuse a number of planning applications for being contrary to adopted Local Green Gap policy including the previous application on this site; 15/00904/OUT for 240 dwellings off Rush Green Road, Clacton; 15/01234/OUT for 240 dwellings off Halstead Road, Kirby Cross; 1515/00964/OUT for 71 dwellings off Mayes Lane, Ramsey; and 15/01710/OUT for 110 dwellings off Thorpe Road, Kirby Cross.
- 6.28 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*".
- 6.29 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.
- 6.30 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.
- 6.31 Applying this balanced approach to the current scheme officers consider that sufficient protection is given by an acceptable design solution which can take place on site. The applicant has proven that a suitable gap can be provided to the southwest of the site which would keep the settlements of Clacton and Jaywick separate. Moreover, it is considered that, as part of an allocated site the insertion of green space within the development is a stronger protection in comparison to upholding the Local Green Gap policy as agricultural land alone.
- 6.32 The land in question in officers opinion does not contribute toward the intrinsic beauty of the open countryside in the same way that many green gap sites do and, on balance, officers conclude that the adverse impact of losing this area of land to development would not undermine the function of the Local Green Gap policy and would significantly or demonstrably outweigh the benefits of the development in terms of housing supply. That said, because the weight to be given to the local Green Gap designation alongside the benefits of the development is a matter of judgement, if the Committee takes an alternative

view to Officers and concludes that the adverse impact of losing part of the Local Green Gap significantly and demonstrably outweighs all economic, social and environmental benefits of the development, refusal against Policy EN2 of the Saved Local Plan would at least be a legitimate and defensible reason for refusal; consistent with previous Committee decisions.

Trees

- 6.33 The main body of the application site is currently in agricultural use. There are no trees or other significant vegetation on the main body of the land. There are a number of trees on the boundary of the application site with the highway, within the gardens of properties abutting the application site and on the adjacent recreation ground.
- 6.34 In order to ascertain the extent of the constraint that these trees are on the development potential of the land the applicant has provided a tree survey and report that has been carried out in accordance with BS5837 Trees in Relation to Design, Demolition and Construction 2012, recommendations. The report identifies the extent of the constraint that the trees are on the development potential of the land and shows how retained trees will be protected for the duration of the construction phase of any consent that may be granted. The report identifies the retention of virtually all viable trees and identifies the extent of measures to be put in place to ensure that harm is not caused to important retained trees.
- 6.35 Works are detailed in the report to fell trees that are not viable and to reduce others that are in a potentially dangerous condition, this includes the pollarding of the White Willows situated on the boundary with Rush Green Road.
- 6.36 The report also identifies the need to coppice trees close to the proposed new bollard-controlled access from Rush Green Road. It states that T2 - Ash, T3 - Oak, T4 - Ash and T5 - Ash will be coppiced. Whilst the condition of the Ash is such that the works are justified the Oak is a better tree and should be retained. It appears that it would not fall within a visibility splay and if a 'Crown Lift' were to be carried out to remove lower branches, then the tree could be retained.
- 6.37 In terms of the indicative site layout the proposed open space provides room for play and pleasant pedestrian links through the development. A soft landscaping condition will be attached to secure further details on the indicative planting shown on the site layout plan. Soft landscaping of the site will be a key element in achieving a desirable layout that could be accommodated in a semi-rural location. Soft landscaping should include planting to soften and enhance the appearance of the development and the open space as well screening the whole site to minimise any potential adverse impact on the character and appearance of the countryside.

Impact upon Neighbours

- 6.38 Whilst the layout provided is only indicative, the proposed development is located to the north of the application site away from the properties which front Rush Green Road and Jaywick Lane, this degree of separation means there is unlikely to any significant impact and the site is capable of accommodating up to 276 dwellings with resulting in an adverse impact on neighbours amenities.
- 6.39 As part of the reserved matters application, this issue will be considered in more detail.

Highway Safety

- 6.40 Essex County Council Highways Authority have been consulted on the application and consider that from a highway and transportation perspective the impact of the proposal is acceptable subject to the following conditions:
- Prior to commencement of the development a construction management plan, to include but shall not be limited to details of wheel cleaning facilities within the site and

adjacent to the egress onto the highway, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed plan.

- No occupation of the development shall take place until the following have been provided or completed:
 - a) A traffic signal controlled junction off Jaywick Lane to provide access to the proposal site and an emergency/pedestrian/cycle only access off Rush Green Road as shown in principle on the planning application drawings
 - b) Upgrade to current Essex County Council specification the two bus stops in Jaywick Lane adjacent the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development)
 - c) A minimum 3 metre wide shared footway/cycleway along the length of the proposal site's Jaywick Lane frontage and to the toucan crossing outside Tendring Enterprise Studio School
 - d) A minimum 2 metre wide footway along the length of the proposal site's Rush Green Road frontage
 - e) A pedestrian refuge in Jaywick Lane in the vicinity of the proposal site and the southbound bus stop
 - f) Residential Travel Information Packs

6.41 These requirements are achievable and can be secured by condition. On this basis, given the lack of objection for the highway authority, officers consider that the application is acceptable in highways terms and it is not possible to substantiate a reason for refusal on these grounds.

Contaminated Land

6.42 To the northwest of the application site is the Rush Green Recycling centre. There are potential land contamination issues associated with this land use. The Council's Environmental Health team were consulted as part of the application process. The Environmental Health Team does not object to the proposed development but do require a full contaminated land survey and method statement. These would be requested through a planning condition.

Noise

6.43 The applicant has provided a noise assessment dated May 2015. This sets out noise levels in the locality, and predicted levels from construction and occupation of the application site. The Council's Environmental Health team agreed with the recommendations made and set hours of working which can be conditioned.

Flood Risk

6.44 The Environment Agency's maps show the site lies in Flood Zone 1, which is the area of low flood risk (1 in 1000 year event). As the site exceeds 1 hectare, a Flood Risk Assessment (FRA) is required, in accordance with Footnote 20 of paragraph 103 of the National Planning Policy Framework (NPPF) that provides details of how surface water is to be managed on the site. Whilst the site is outside the floodplain, development of this scale can generate significant volumes of surface water. The applicant has prepared a Flood Risk Assessment (FRA) which shows that ground water flooding will not be an issue.

6.45 Essex County Council SuDS team are the Lead Local Flood Authority (LLFA) in regard to flood risk and as such the Council has consulted them with regard to this application. The LLFA raised no objection to the proposed development subject to condition to cover the following:

- A detailed drainage strategy to be submitted and approved.
- A scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works to be submitted and approved.

- A maintenance plan detailing the maintenance arrangements for the surface water drainage system to be submitted and approved.
- Yearly maintenance logs to be kept in accordance with the approved maintenance plan.

Air Quality

6.46 The application is accompanied by an air quality assessment which considers air quality at present, during construction and once the site is occupied. The Council's Environmental Health team were consulted on this report considered that the conclusions reached were acceptable.

Lighting

6.47 The applicant has provided a lighting assessment which considers the existing lighting levels within the locality and those proposed by the new development. This assessment was assessed by the Council's Environmental health team who agreed with the conclusions of the assessment and found the lighting to be provided to be acceptable.

Biodiversity and Green Infrastructure

6.48 Natural England was consulted as part of the application process. This body did not object to the application but did advise the Council to pay regard to their standing advice in respect to protected species.

6.49 The application is accompanied by an Ecological Assessment of the site. This constitutes an extended Phase One habitat survey. The assessment found that the loss of habitat, principally arable land, semi-improved grassland and some trees would not constitute a significant loss of high quality habitat. It is also recommended to plant additional trees and sew a wild flower mix within the open space to the south of the site.

6.50 Two statutory sites were identified in the assessment within 2 kilometres of the application site. Clacton Cliffs and Foreshore Site of Special Scientific Interest (SSSI) is located 997m south of the application site and is designated for its geological rather than ecological interest so is unlikely to be significantly affected by the propose development.

6.51 The second site is the Essex Estuaries Special Area for Conservation (SAC) located some 1.9 kilometres south of the application site. The SAC which is designated for its estuarine habitats is particular vulnerable to 'coastal squeeze', this is to say the landward migration presented by coastal protection works. The proposed development will not have an impact on this feature and so this relationship is considered to be acceptable.

6.52 With regard to nationally protected species' on or near to the application site the assessment found the following:

6.53 Evidence of bats was not found on site but it was noted that a number of the trees to be affected could potentially be habitats for bats before the development commences. Given this, since the time the previous decision was taken a further report has been produced following an updated aerial inspection of the trees focussing on trees that will be subject to tree works or felling and were assessed as having some suitability as bat roost habitat. It was not possible to assess all the trees to be felled or coppiced for confirmed field signs; the report states that there were confirmed field signs in one willow tree. The report recommended that tree felling and coppicing works are supervised by an experienced ecologist to ensure that none of the potential roost features identified or any unidentified roost features are damage or destroyed without appropriate further surveys or mitigation i.e. sectional soft felling under supervision. It is also recommended that tree works are undertaken in March/April or October, outside key hibernation and maternity periods for bats.

6.54 Natural England have provided comments on the application, they advise that bat roosts in

trees are more difficult to survey accurately than buildings, and tree roosting bats tend to move more frequently between roosts. As such the approach taken in the report to survey using inspections largely, rather than emergence techniques, is acceptable, and they have to avoid impacts where possible by soft felling around the roost structure and retaining the roost structure in situ. Natural England advises that in the view of the transient nature of tree roosts, there is no objection with conditioning further surveys required.

- 6.55 Within the locality of the application site a number of lakes and ditches were identified and surveyed, These features were all found to be unsuitable habitats for Great Crested Newts as the water bodies consisted of managed ponds and a swimming pool and the ditches that adjoin the application site were dry on the second site survey.
- 6.56 With regard to badgers, no evidence of a population was found within the desk study or on the site visit, it is therefore considered that impacts on badgers would not be significant as a result of the proposed development.
- 6.57 Similarly, with regard to water voles, no evidence of a population was found within the desk study or on the site visit, it is therefore considered that impacts on water voles would not be significant as a result of the proposed development.
- 6.58 The assessment found that the site had the potential to be home to reptile species. This area of land was considered to be modest, consisting of only a rubble pile and a small area of modern grassland. It was considered that this area of land would not support a reptile population in its own right and therefore no further assessment work would be required. Mitigation measures have been recommended to address any impact. Clearing of the rubble pile is to be undertaken outside of winter months and the grassland is to be managed prior to cutting.
- 6.59 Some common bird species were noted on site but no significant impact was likely to take place as a result of the proposed development. A number of mitigation measures are put forward in the ecological assessment.
- 6.60 Whilst the assessment did identify a foxes den at the edge of the application site, this appeared to be unused, Mitigation measures are to be put in place to avoid harm to this animal.
- 6.61 Whilst a number of invertebrate species were identified by the desk study within 500m of the site, the proposed development has the potential to enhance these identified habitats through mitigation and habitat improvement measures.
- 6.62 Officers therefore consider that should the development be carried out in accordance with the recommendations of the Ecological Assessment and further surveys secured by condition, impact on species and habitat will not be significant and could be enhanced within the proposed development.

Heritage Assets (Listed Buildings & Conservation Areas)

- 6.63 There are no listed buildings or conservation areas within, adjoining or close to the application site.

Heritage Assets (Archaeology)

- 6.64 The Essex Historic Environment Record, including the results of the Tendring Historic Environment Characterisation Project, indicates that there are extensive below ground archaeological deposits in this area, including ring ditches, track-ways, field boundaries and enclosures (EHER 2898). The Tendring Geodiversity Characterisation report also highlights the potential for evidence of early human occupation being present in the Holland Gravels located within the development site.

- 6.65 The Archaeological Desk Based Assessment included with the planning application also identifies the potential for below ground archaeological remains of local and possibly regional significance that may be affected by the development.
- 6.66 Essex County Council Archaeology were consulted as part of the application process. No objection was raised, subject to conditions to secure a programme of trial trenching followed by open area excavation.

Legal Obligations

- 6.67 The previous application was refused on the basis that the proposal fails to meet the definition of sustainable development due to the lack of education and healthcare facilities and any details of how these can be mitigated against by financial contributions. This objection to the proposal is understood. However, whilst there may not be an allocated project that can be identified at the time of the decision the financial contributions will have to be used for its stated purpose and this is the standard approach that is taken by Officers and Appeal Inspectors in many decisions. It is considered that in this case there are no special circumstances that would justify deviating from the standard approach. Therefore it is the view of Officers that these are not reasons for refusal that are legitimate or defensible on appeal.

Education

- 6.68 Essex County Council Education has been consulted as part of the application process.
- 6.69 On the basis of 276 homes, assuming all units have 2 bedrooms or more, the proposal would generate a need for up to 24.8 Early Years and Childcare (EY&C); 82.8 primary school and 55.2 secondary school places.
- 6.70 The proposed development falls in the Bockings Elm ward of the Tendring district. According to Essex County Council's childcare sufficiency data, published in January 2016, there are 5 providers of early years and childcare in the ward. Of these 4 are child-minders and 1 is a sessional pre-school. Overall a total of 8 unfilled places were recorded. For Essex County Council to meet its statutory duties it must both facilitate sufficient places to meet free childcare demand and also ensure a diverse range of provision so that different needs can be met. Although there is some EY&C capacity in the area, the data shows insufficient full day care provision/free entitlement places to meet demand from this proposal. It is thereby clear that additional provisions will be needed and a project to expand a provision or provide a new facility in the Bockings Elm ward is proposed. Based on the demand generated by the proposal a contribution of £346,021 is required to mitigate its impact on local EY&C provision.
- 6.71 This proposed development is located within the Tendring primary group 2 (Clacton) forecast planning group. The forecast planning group has an overall capacity of 4,202 places, of which 133 places are in temporary accommodation. The Tendring primary group 2 (Clacton) forecast planning group is forecast to have a deficit of 186 permanent places by the school year 2019-20. Based on demand generated by this proposal a contribution of £1,011,650 is sought to mitigate its impact on local primary school provision.
- 6.72 This proposed development is located within the Tendring secondary forecast planning group 1 (Clacton). The forecast planning group has an overall capacity of 5,365 places. The Tendring secondary forecast planning group 1 (Clacton) forecast planning group is forecast to have a surplus of 223 places by the school year 2019-20. However this deficit is forecast as a result of the decision taken to close the Tendring Enterprise Studio School at the end of the 2015-16 school year with the loss of 300 places. Under these circumstances it would be inappropriate to request a contribution for additional secondary school places.
- 6.73 The applicant has agreed to submit the above mentioned financial contributions as part of a wider Section 106 legal agreement.

Affordable Housing

- 6.74 Saved Policy HG4 of the Tendring District Local Plan 2007 states that the Council will expect 40% of new dwellings to be made available in the form of affordable housing to be normally provided on site, in the following cases:
- a) In settlements of over 3,000 population: housing development for 15 or more dwellings or residential sites of 0.5 hectares or more;
 - b) In settlements with a population of 3,000 or fewer housing developments which have the potential for 5 or more dwellings or residential sites of 0.15 hectares or more.
- 6.75 The National Planning Policy Framework requires Councils to consider economic viability when it applies its policies and the Council's own 2013 viability evidence in support of the Local Plan demonstrates that 40% affordable housing is unlikely to be viable in Tendring and that 25% (as contained within emerging Policy PEO10) is more realistic. The threshold under Saved Policy HG4 will therefore be applied but the percentage will be 25% as detailed under emerging Policy PEO10.
- 6.76 A 25% affordable provision on site would constitute 69 dwellings on site being sold to the Council at a discounted rate. However, the Housing Department is not in a financial position to purchase these units. As an alternative, the Department would prefer to be gifted 20 units. The applicant has agreed in principle to provide these. If approved, a S106 legal agreement will secure these homes.

Open Space

- 6.77 The Council's Open Space and Play department were consulted as part of this planning application.
- 6.78 Any additional development in Clacton will increase demand on already stretched facilities.
- 6.79 The nearest play area to the proposed development is located at Rush Green Recreation Ground. The play area is classified as a Local Equipped Area for Play.
- 6.80 Due to the proximity to the site it is highly likely that the biggest impact would be felt at this play area. Without the provision of additional play areas it is very likely that a largest impact would be felt at this play area. To account for the proposed development and to prevent the current deficit from increasing further, additional play opportunities would need to be provided.
- 6.81 It is noted that open space and the provision of new on-site play areas has been incorporated within the design. Should the developer wish to transfer the open space and play facilities to the Council upon completion a commuted sum calculated in accordance with Appendix 4, Supplemental Planning Document, Provision of Recreational Open Space for New Development dated May 2008 would be required for a period of ten years
- 6.82 The applicant has no objection to this requirement forming part of the required legal agreement.

Health Provision

- 6.83 NHS England was consulted as part of the planning application. The organisation made the following comments:
- 6.84 The development is likely to have an impact on the services of 5 GP practices and 3 branch surgeries within Clacton on Sea. These GP practices do not have capacity for the additional growth as a result of this development. Therefore a Healthcare Impact Assessment has

been prepared by NHS England to provide the basis for a developer contribution towards capital funding to increase the capacity within the GP Catchment Area.

- 6.85 The development would give rise to a need for improvements to capacity by way of extension, refurbishment, reconfiguration or relocation as existing practices, a proportion of which would need to be met by the developer.
- 6.86 Due to the capacity deficit a developer contribution of £83,240 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. The contribution would be payable before the development is first occupied.
- 6.87 Officers understand that the applicant is willing to provide the financial contribution required.

Environmental Impact Assessment

- 6.88 The site has been screened by the Council under the 2011 regulations where it was found that the development is not EIA development and did not require an Environmental Statement at application stage.

Utilities

- 6.89 The application is accompanied by a Utilities Assessment which details the requirement of the proposed development on a number of existing utility providers.
- 6.90 Foul water drainage is to be accomplished by utilising the existing 150mm gravity sewer which cores the site north to south and drains into the adopted sewer on Rush Green Road. The sewer has capacity for the proposed development with the potential insertion of a suitably sized pump chamber. Officers have contacted Anglian Water direct in this respect. The Water Authority confirms that there is sufficient capacity in the network and that the sewage treatment works at Jaywick also has capacity for the proposed development.
- 6.91 With regard to electricity UK Power Networks provided the developer with two separate budgets, either of which is considered to be acceptable. The principle difference in these two scenarios is that one includes the burying of the existing high voltage cables which currently crosses the site and the other does not. This can be further considered at 'reserved matters' stage. UK Power Networks and National Grid were consulted as part of the application process but have chosen not to comment as yet.
- 6.92 Gas on site is provided by a connection to the medium pressure main along Jaywick Lane, as proposed by National Grid within the Utilities Assessment. This too can be confirmed at 'reserved matters' stage.
- 6.93 With regard to fresh water, Affinity Water has confirmed that there is capacity to serve the proposed development within the existing network.
- 6.94 Telecommunications and internet will be provided from the south end of the site but details of this will need to be considered with BT at 'reserved matters' stage.

Conclusion

- 6.95 In the absence of an up-to-date Local Plan and the subsequent need to consider the proposal against the NPPF presumption in favour of sustainable development, the proposal achieves an appropriate balance between economic, social and environmental considerations. It is considered that the proposal represents sustainable development.
- 6.96 It is considered that the site is capable of accommodating up to 276 dwellings (depending on size and design) whilst resulting in no significant material harm to the character of the

surrounding area, biodiversity or protected species, preserving the amenities of neighbouring residents and meeting the requirements of Essex County Council Highways.

6.97 The previous reasons for refusal have been reviewed as part of the application and it is felt that given recent appeal decisions and appeal court judgements these refusals would be difficult to substantiate on appeal.

Background Papers

None.