



PLANNING COMMITTEE

DATE: Tuesday 8 August 2017
TIME: 6.00 pm
VENUE: Council Chamber, Council Offices,
Thorpe Road, Weeley, CO16 9AJ

MEMBERSHIP:

Councillor White (Chairman)	Councillor Everett
Councillor Heaney (Vice-Chairman)	Councillor Fairley
Councillor Alexander	Councillor Fowler
Councillor Baker	Councillor Hones
Councillor Bennison	Councillor McWilliams
Councillor Cawthron	

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For further details and general enquiries about this meeting, contact Katie Sullivan on 01255 686585.

DATE OF PUBLICATION: FRIDAY 28 JULY 2017

AGENDA

1 **APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

The Committee is asked to note any apologies for absence and substitutions received from Members.

2 **MINUTES OF THE LAST MEETING** **(Pages 1 - 8)**

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Tuesday 11 July 2017.

3 **DECLARATIONS OF INTEREST**

Councillors are invited to declare any Disclosable Pecuniary Interests or other interest, and nature of it, in relation to any item on the agenda.

4 **A.1 – PLANNING APPLICATION - 15/01787/FUL - SITE TO THE SOUTH OF POUND CORNER, HARWICH ROAD, MISTLEY, CO11 2DA** **(Pages 9 - 36)**

Proposed development of 25 two and three bedroom bungalows.

5 **A.2 – PLANNING APPLICATION - 17/00534/OUT – LAND TO THE SOUTH OF LONG ROAD AND TO THE WEST OF CLACTON ROAD, MISTLEY, CO11 2HN** **(Pages 37 - 50)**

Variation of condition 4 of 15/00761/OUT to change parameter plans. [Related to the outline application with all matters reserved, other than strategic access points onto the public highway, for the erection of up to 300 dwellings, up to 2 hectares of employment land (A2/A3/B1/D1 uses), with associated public open space and infrastructure].

6 **A.3 - PLANNING APPLICATION - 17/00507/FUL - LAND TO THE SOUTH OF GUTTERIDGE HALL LANE, WEELEY, CO16 9AS** **(Pages 51 - 62)**

Change of use to one gypsy pitch comprising one mobile home, one touring caravan, one day room and associated works.

7 **A.4 - PLANNING APPLICATION - 17/00306/FUL - 2 SPRING ROAD, BRIGHTLINGSEA, CO7 0PJ** **(Pages 63 - 72)**

Demolition of existing garage and the creation of 1 no. dwellinghouse accessed from existing driveway to Regent Road and associated landscape works. Creation of two new off-road vehicle parking spaces with a new dropped kerb to be associated with 2 Spring Road.

- 8 **A.5 – PLANNING APPLICATION - 17/01009/FUL - CHURCHILL COURT, PARKESTON ROAD, DOVERCOURT, CO12 4NU**
(Pages 73 - 78)

Removal of existing undercroft garages and conversion of these spaces into a two bedroom residential unit and a community liaison office.

- 9 **A.6 - PLANNING APPLICATION - 17/00587/FUL - GREAT OAKLEY LODGE, HARWICH ROAD, GREAT OAKLEY, CO12 5AE**
(Pages 79 - 96)

Temporary helipad facility including a new temporary porta-cabin, a new fuel storage tank and refuelling facility, lighting and additional car parking.

- 10 **A.7 - PLANNING APPLICATION - 16/01985/FUL - 138 COLNE WAY, POINT CLEAR BAY, ST OSYTH, CO16 8LU**
(Pages 97 - 106)

Proposed replacement dwelling following demolition of existing.

- 11 **A.8 - PLANNING APPLICATION - 16/02107/FUL – BRAMCOTE, THORPE ROAD, CLACTON-ON-SEA, CO16 9SA**
(Pages 107 - 120)

Demolition of existing dwelling and erection of 47 no. bungalows and 2 no. houses with garages, access and public open space.

- 12 **A.9 - PLANNING APPLICATION - 17/00456/FUL - STURRICKS FARM, STURRICK LANE, GREAT BENTLEY, CO7 8PT**
(Pages 121 - 132)

Erection of eight two-storey dwellings following demolition of and alteration to existing buildings.

- 13 **A.10 - PLANNING APPLICATION - 17/01081/OUT - 96 JAYWICK LANE, CLACTON-ON-SEA, CO16 8BB**
(Pages 133 - 142)

Proposed erection of 5 no. bungalows following demolition of existing bungalow.

- 14 **A.11 - PLANNING APPLICATION - 17/00955/FUL - LAND ADJACENT CARBRIA, TENDRING ROAD, LITTLE BENTLEY, CO7 8SH**
(Pages 143 - 152)

Two proposed dwellings and gardens.

MEETING OVERRUN DATE

In the event that all business is not concluded, the meeting will reconvene on Wednesday 9 August 2017 at 6.00 p.m. in the Council Chamber, Council Offices, Thorpe Road, Weeley, CO16 9AJ, to consider any remaining agenda items.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Planning Committee is to be held in the Council Chamber, Council Offices, Thorpe Road, Weeley, CO16 9AJ at 6.00 pm on Wednesday, 6 September 2017.

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**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON TUESDAY 11 JULY 2017 AT 6.00 PM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY**

Present:	Councillors White (Chairman), Heaney (Vice-Chairman), Alexander, Baker, Bennison, Cawthron, Everett, Fairley, Fowler, Hones and McWilliams
Also Present:	Councillors Coley (except minutes 18-21 and 22 part), Griffiths (except minutes 25-28), G V Guglielmi (except minutes 18-21 and 22 part), Land, Scott (except minutes 23-28) and Turner (except minute 28)
In Attendance:	Cath Bicknell (Head of Planning), Charlotte Parker (Solicitor - Property, Planning and Governance), Susanne Ennos (Planning Team Leader) and Katie Sullivan (Committee Services Officer)

18. CHAIRMAN'S OPENING REMARKS

The Chairman (Councillor White) announced that a decision had been made to defer item A.5 (Planning Application 16/00500/OUT – Tamarisk, 19 The Street, Kirby-le-Soken, CO13 0EE) in order to allow Officers to obtain further information and that the application would be reported back to the Committee once that information had been received and assessed. The Chairman confirmed that the information considered necessary was a tree survey report to ensure that the development could be accommodated on the site without resulting in an adverse impact on protected trees on adjacent land and also an ecology survey.

The Chairman also announced that item A.6 (Planning Application 17/00502/FUL – Wittonwood Road, Frinton-on-Sea, CO13 9LB) was a deferred item from the previous meeting of the Committee and that there would therefore be no public speaking for this item.

19. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

20. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Committee, held on 13 June 2017, were approved as a correct record and signed by the Chairman.

21. DECLARATIONS OF INTEREST

Councillor Turner, present in the public gallery, declared an interest in relation to Planning Application 17/00502/FUL by virtue of the fact that he was a local Ward Member and a Frinton and Walton Town Councillor.

Councillor Alexander declared an interest in relation to Planning Application 17/00725/FUL by virtue of the fact that he was a local Ward Member.

Councillor Scott, present in the public gallery, declared an interest in relation to Planning Application 17/00565/DETAIL by virtue of the fact that he was the local Ward Member.

Councillor Land, present in the public gallery, declared an interest in relation to Planning Application 16/00838/OUT by virtue of the fact that he was the local Ward Member.

Councillor Griffiths, present in the public gallery, declared an interest in relation to Planning Application 17/00725/FUL by virtue of the fact that he was a local Ward Member.

22. A.1 - PLANNING APPLICATION - 17/00565/DETAIL - LAND SOUTH OF COCKAYNES LANE, ALRESFORD, CO7 8BZ

It was reported that this application had been referred to the Planning Committee at the request of Councillor Scott, the local Ward Member.

Councillor Scott, present in the public gallery, had earlier declared an interest in relation to Planning Application 17/00565/DETAIL by virtue of the fact that he was the local Ward Member.

The Committee recalled that outline planning permission (14/01823/OUT), with all matters except access reserved, had been refused by Members but had then been allowed at appeal in June 2016. The principle of the development and the means of access had therefore already been approved and the matters for consideration were appearance, landscaping, layout and scale.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council's Head of Planning (CB) in respect of the application.

An update sheet had been circulated to the Committee prior to the meeting with details of:

- (1) Natural England had confirmed that they had no objection;
- (2) Comments received from the Council's Tree Officer; and
- (3) An additional comment which had been received from a neighbour.

Parish Councillor Ernie Osborne, representing Alresford Parish Council, spoke on the application.

Councillor Scott, the local Ward Member, spoke on the application.

Steven Brown, the agent on behalf of the applicant, spoke in support of the application.

Following discussion by the Committee, it was moved by Councillor McWilliams, seconded by Councillor Fairley and unanimously **RESOLVED** (a) that the Head of Planning (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to the following conditions:

1. List of approved plans;

2. Landscaping to be provided within first planting and seeding season following commencement of development;
3. Any landscaping lost within 5 years to be replaced;
4. Boundary treatments to be erected prior to occupation of the dwelling to which they relate;
5. Removal of permitted development rights for dormer windows or rooflights to Plots 11-12, 13-14, 18-19 and 20-21;
6. Tree protection measures during construction;
7. Bollards to be erected at emergency/pedestrian/cycle access prior to occupation; and
8. Details of external lighting.

(b) That a note be sent to the applicant to remind them of the planning conditions attached to the outline planning permission.

23. A.2 - PLANNING APPLICATION - 14/01863/FUL - THE WHITE HART, 9 HIGH STREET, MANNINGTREE, CO11 1AG

It was reported that this application had been referred to the Planning Committee at the request of Councillors Coley and G V Guglielmi, the local Ward Members.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council's Planning Team Leader (SE) in respect of the application.

Town Councillor Ruth Stocks, representing Manningtree Town Council, spoke against the application.

Councillor G V Guglielmi, a local Ward Member, spoke against the application.

Councillor Coley, a local Ward Member, spoke against the application.

David Whipps, representing the applicant, spoke in support of the application.

Following discussion by the Committee and advice provided by Officers, it was moved by Councillor Everett, seconded by Councillor Bennison and **RESOLVED** that, contrary to the Officers' recommendation of approval, the Head of Planning (or equivalent authorised officer) be authorised to refuse planning permission for the development due to the following reason:-

- Contrary to Policy ER31 – Impact on Town Centre.

24. A.3 - PLANNING APPLICATION - 17/00725/FUL - WEST COUNTRY HOUSE, CHERRY TREE AVENUE, CLACTON-ON-SEA, CO15 1AR

It was reported that this application had been referred to the Planning Committee at the request of Councillor Griffiths, a local Ward Member.

Councillor Alexander had earlier declared an interest in relation to Planning Application 17/00725/FUL by virtue of the fact that he was a local Ward Member.

Councillor Griffiths, present in the public gallery, had earlier declared an interest in relation to Planning Application 17/00725/FUL by virtue of the fact that he was a local Ward Member.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council's Planning Team Leader (SE) in respect of the application.

John Barnsdale, a local resident, spoke against the application.

Councillor Griffiths, a local Ward Member, spoke against the application.

Ron Cross, the agent on behalf of the applicant, spoke in support of the application.

Following discussion by the Committee and advice provided by Officers, it was moved by Councillor McWilliams, seconded by Councillor Fowler and **RESOLVED** that the Head of Planning (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to the following conditions:

1. Standard time limit for implementation;
2. In accordance with approved plans; and
3. If this consent is implemented the access road as approved by 16/00731 shall not be constructed.

The Committee requested that any further applications for this site should be referred back to it for consideration.

25. A.4 - PLANNING APPLICATION - 17/00567/FUL - STARENA LODGE HOLIDAY PARK, CLACTON ROAD, WEELEY, CO16 9DH

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council's Head of Planning (CB) in respect of the application.

An update sheet had been circulated to the Committee prior to the meeting with details of a further representation received from a member of the public.

Carol Bannister, a local resident, spoke against the application.

Parish Councillor Christine Hamilton, representing Weeley Parish Council, spoke against the application.

Following discussion by the Committee and advice provided by Officers, it was moved by Councillor Everett, seconded by Councillor Bennison and unanimously **RESOLVED** that, contrary to the Officers' recommendation of approval, the Head of Planning (or equivalent authorised officer) be authorised to refuse planning permission for the development due to the following reasons:-

- Contrary to Policy ER19 and PP11 – Doesn't propose improvements to whole site/diversify tourist economy.

26. A.5 - PLANNING APPLICATION - 16/00500/OUT - TAMARISK, 19 THE STREET, KIRBY-LE-SOKEN, CO13 0EE

This item had been deferred in accordance with the statement made by the Chairman under minute 18 above.

27. A.6 - PLANNING APPLICATION - 17/00502/FUL - 14F AND 14G WITTONWOOD ROAD, FRINTON-ON-SEA, CO13 9LB

Councillor Turner, present in the public gallery, had earlier declared an interest in relation to Planning Application 17/00502/FUL by virtue of the fact that he was a local Ward Member and a Frinton and Walton Town Councillor.

The Committee recalled that it had previously considered this application on 16 May 2017 following a 'call-in' by Councillor Turner, a local Ward Member, on the basis that the design was inferior to that which had been originally approved and what should have been built.

The resolution of the Committee had been to defer consideration of the application, to allow time for amended plans to be forwarded by the applicant to overcome the concerns expressed, to be reconsidered at the Committee in July 2017, and in the absence of such plans, that permission would be refused.

The Committee was informed that the applicant had taken on-board the matters of concern expressed and had submitted new plans indicating changes to the appearance.

The Committee was reminded that outline planning permission 11/00796/OUT and Reserved Matters Approval 14/01447/DETAIL had been granted on 30 June 2014 and 23 March 2015 respectively.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council's Planning Team Leader (SE) in respect of the application.

An update sheet had been circulated to the Committee prior to the meeting with details of comments received from Frinton and Walton Town Council in relation to the revised plans.

The Chairman had earlier announced that item A.6 (Planning Application 17/00502/FUL – Wittonwood Road, Frinton-on-Sea, CO13 9LB) was a deferred item from the previous meeting of the Committee and so there would be no public speaking for this item.

Following discussion by the Committee, it was moved by Councillor Baker, seconded by Councillor Fairley and unanimously **RESOLVED** that the Head of Planning (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to the following conditions:

1. Development in accordance with approved plans; and
2. Parking to be retained.

28. A.7 - PLANNING APPLICATION - 16/00838/OUT - LAND TO SOUTH OF FRINTON ROAD, THORPE LE SOKEN, CO16 0LG

Councillor Land, present in the public gallery, had earlier declared an interest in relation to Planning Application 16/00838/OUT by virtue of the fact that he was the local Ward Member.

The Committee recalled that, at its meeting held on 1 November 2016, it had resolved to refuse outline planning application 16/00838/OUT for the following reasons:

- 1) Highways;
- 2) Heritage/Local Character; and
- 3) Ecology.

The Committee was informed that the application was now the subject of a planning appeal and that Officers had received a letter from the Planning Inspectorate to confirm that the appeal would be dealt with by way of an Informal Hearing scheduled to commence on Tuesday 22 August 2017 and that the Council's statement of case had to be submitted by 12 July 2017.

The Committee was now being asked to review the original grounds for refusal in the light of the latest available information and to agree the case upon which Officers would defend the appeal.

The Committee was reminded that the application had been refused on highways, heritage/local character and ecological grounds at a time when the Council had been unable to demonstrate a five-year supply of deliverable housing sites.

The Committee was aware that the Council could now demonstrate a five-year supply and that the emerging Local Plan had gained greater weight on reaching its publication stage.

The Committee was informed that Officers believed that the Council was now in a reasonable position to contest the appeal on the basis that the proposal was contrary to the Local Plan and that the adverse impact on the character of the area, heritage assets and ecology were not justified and would not be outweighed by the benefit of 49 new homes.

The Committee was made aware of Officers' concerns that the Council would find it difficult to reasonably defend the reason for refusal which had related to highways and

were recommending that this be withdrawn from the case to minimise the risk of an award of costs against the Council.

Following discussion, it was moved by Councillor McWilliams, seconded by Councillor Baker and unanimously **RESOLVED** that the Committee:

- 1) Confirms the withdrawal of reason for refusal 1 in respect of planning application 16/00838/OUT (Outline application for the construction of up to 49 houses together with access roads etc on land south of Frinton Road, Thorpe le Soken) which related to impact on highways; and
- 2) Agrees that the Council's case for the forthcoming appeal should focus on the site's location outside of settlement development boundaries, the achievement of a 5-year supply of deliverable housing sites; the unjustified harm to heritage assets; and adverse impacts on ecology.

The Meeting was declared closed at 9.45 pm

Chairman

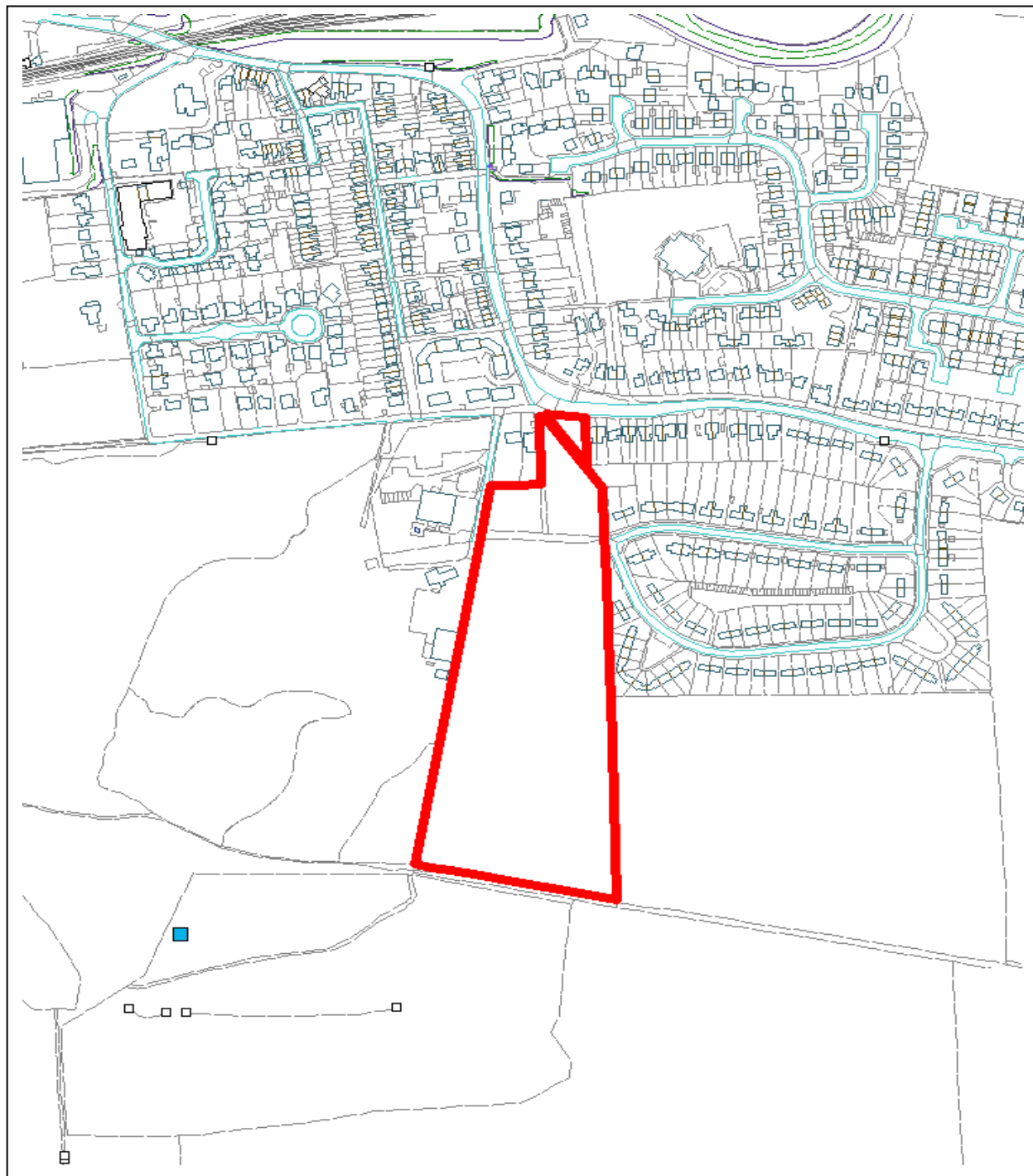
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PLANNING COMMITTEE

8 AUGUST 2017

REPORT OF THE HEAD OF PLANNING

A.1 PLANNING APPLICATION – 15/01787/FUL - SITE TO SOUTH OF POUND CORNER, HARWICH ROAD, MISTLEY, CO11 2DA



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Application:	15/01787/FUL	Town / Parish: Mistley Parish Council
Applicant:	Mr Sharer and Glausiusz	
Address:	Site to South of Pound Corner, Harwich Road, Mistley, CO11 2DA	
Development:	Proposed development of 25 two and three bedroom bungalows.	

- 1.1 This application has been referred to Planning Committee previously - on 19 April 2016 and 7 September 2016. On 7 September 2016 the Planning Committee resolved to grant planning permission subject to the completion of a Section 106 legal agreement within six months of the date of the Committee's resolution to approve (the latest date was 7 March 2017) and subject to conditions; otherwise the Head of Planning had Authority to refuse if necessary.
- 1.2 Since the date of the previous resolution discussions regarding the completion of the Section 106 legal agreement have been ongoing. The agreement is now agreed with the applicant. The Head of Planning seeks the Committee's agreement to an extension of time until 30 September 2017 in order to complete the legal agreement. The agreement should be completed before this date but an extension until 30 September 2017 is sought to ensure that the deadline can be met on this occasion. The original Officer's report and the update presented at the 7 September 2016 Planning Committee is reproduced in full below for information only with the revisions to the recommendation in both sections highlighted in **bold text and underlined** to reflect the requested extension of time for the completion of the legal agreement.

Report Update Presented to Planning Committee on 7 September 2016

Background

- 1.3 This planning application was reported to the Planning Committee on 19 April 2016. The committee resolved that the application be deferred to enable negotiations to take place with the applicant about the removal of or alteration to the proposed northern access road to/from Harwich Road.

Amendments

- 1.4 An amended layout plan was submitted on 25 July 2016 which amends the northern access road and makes consequential changes to the layout and design of plots 1 and 2.
- 1.5 The amended layout moves the access road approximately 20 metres to the east of its previously proposed position, away from the property to the west of the entrance to the site and away from the bend in Harwich Road. The road is proposed to be 5.5m wide for the first 6m into the site and then 4.8m wide. The existing footpath across the site is proposed to be realigned as a 2m wide footpath alongside the proposed access road for about 35m; and then it continues on its current alignment in addition to the continuation of a 2m path alongside the new access road.
- 1.6 The footpath running alongside the access road would be a minimum of 6m away from the house to the east of the site and landscaping is proposed between the highway and the boundary of the site with this property.
- 1.7 The realignment of the access necessitates the repositioning of the bungalow proposed at Plot 2 to the east of its previous position. This also requires a change from plots 1 and 2

being semi-detached to them being detached dwellings and plot 2 is a handed version of the previous proposal.

Consultee and neighbour comments

- 1.8 ECC highways have been consulted on the amended layout and have responded to confirm that they have no objection subject to the imposition of conditions.
- 1.9 Mistley Parish Council makes no objection to the amended plan, but comments that the access road should be full width for two-way traffic and also include pedestrian access.

Neighbour comments

- 1.10 The occupiers of 86 Pound Corner which is adjacent to the site have objected to the proposed new access road which exits on to the Harwich Road. Their concerns relate to the relationship of the proposed access to other access points in the area and issues on Harwich Road as well as requesting that the boundary screening to their property does not shade their south facing garden.
- 1.11 The Mistley Allotment and Leisure Gardeners Association have requested that the land to be gifted as allotments is transferred within 3 months of the planning decision.

Planning considerations

Highways

- 1.12 The amended layout responds to the Planning Committee's resolution of 19 April 2016 by moving the proposed access road approximately 20 metres to the east of its previously proposed position. This adjustment takes the access away from the property to the west of the entrance and away from the bend in Harwich Road.
- 1.13 The County Council has confirmed that it has no objection to this layout and maintains its recommendation that conditions are attached to the grant of planning permission. One neighbour has raised concerns about the relationship of the proposed access to other access points in the area.
- 1.14 It is considered that the amended access would provide a safe access to the proposed development and the concerns expressed by the neighbour would not be sufficient to refuse planning permission.

Neighbouring amenity

- 1.15 The realigned access road would be further away from the residential property to the west of the site entrance and closer to the property to the east of the entrance than the previous layout. The occupiers of the dwelling to the east have requested that screening of the access road does not shade their south facing garden. It is recommended that the means of enclosure and the landscaping along this boundary are controlled by condition to ensure that a satisfactory relationship is achieved between the site and its neighbours.
- 1.16 Allotments
- 1.17 The local allotment association has requested that the land for allotments is transferred within 3 months of the planning decision in order that the land can be prepared for its intended use. Such a requirement would not meet the tests for conditions/legal agreements; the trigger for release should be related to the development of the land rather

than the grant of planning permission. However, the association's desire to commence preparation work can be borne in mind when drafting the S106 agreement.

Recommendation: Approve

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

a) **By no later than 30 September 2017** 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;
- Transfer of land for allotments and extension to playing fields
- New bus stop (westbound) in the vicinity of the junction with Harwich Road
- New bus stop (eastbound) in the vicinity of the junction with Harwich Road

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).

(i) Conditions:

1. Standard time limit
2. Development in accordance with submitted plans
3. Retention of existing hedges and trees
4. External facing and roofing materials
5. Works to be carried out outside bird breeding season
6. Screen walls/fences.
7. Full method statement for approval by Pollution and Environmental Control.
8. Hard and soft landscaping
9. Landscape planting period
10. Landscape management plan
11. Existing and proposed site levels
12. Construction of carriageway of estate roads
13. All off-street parking provided in accordance with adopted standards
14. Residential Travel Plans
15. Removal of Permitted Development Rights for dormer windows and rooflights.
16. Driveways and parking areas constructed of porous materials, or provision made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellings
17. Highways conditions (as recommended by the Highway Authority);
18. SUDS conditions as requested by Essex County Council;
19. Ecological mitigation as set out in Bat Activity and Reptile Survey by Geosphere Environmental dated 2nd September 2015
20. Tree protection measures;
21. Environmental Health conditions;

c) That the Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed **by no later than 30 September 2017**, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

REPORT TO 19 APRIL 2016 PLANNING COMMITTEE:

1. Executive Summary

- 1.1 This application is for the construction of 25 bungalows on land to the south of Harwich Road, Mistley and includes the retention of existing allotment land and the provision of a new playing field.
- 1.2 The site comprises a total area of 4 hectares of which approximately 0.6 hectares is allotment land immediately south of Harwich Road and 3.4 hectares of greenfield agricultural land beyond the allotments to the south. The current application proposes to develop the 1.3 hectares to the northern part of the site which abuts the exiting built up area.
- 1.3 The site lies completely outside but adjacent to the 'settlement development boundary' in both the adopted and emerging Local Plans. Therefore residential development in this location is contrary to local planning policy aimed at directing the majority of development toward sites within the defined boundary as a means of promoting a sustainable pattern of development across the district.
- 1.4 In both the adopted and emerging plans, Manningtree, Lawford and Mistley are together categorised as a 'town' or 'urban settlement' in recognition of their collective size and range of services and facilities and as a location where sustainable development on a larger scale can be achieved.
- 1.5 The proposal has attracted some objection from individual members of the public while Mistley Parish Council has written in objection to highlight a number of concerns relating mainly to highway safety, cumulative impact as well as the fact that the development is contrary to Local Plan Policy. There are no outstanding objections from any of the statutory consultees or other technical bodies.
- 1.6 The Highways Authority has no objection to the scheme subject to conditions and the Education Authority have indicated that no contributions would be requested for early years and child care, primary or secondary school places. In addition Anglian Water has no objection to the scheme and Essex County Council SuDS also has no objection subject to conditions being attached to any approval. TDC Officers advising on open space, housing, environmental health and trees and landscapes have commented on the application and have no objections to the proposal subject to appropriate conditions or legal agreements being put in place to secure an appropriate level of Council/affordable housing, to secure open space provision and to retain and enhance important trees and landscape features.
- 1.7 The application site is also located within a 'Local Green Gap' and within the Coastal Protection Belt as defined within the 2007 adopted Plan. This 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.
- 1.8 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply. The National Planning Policy Framework (NPPF) 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.
- 1.9 Given the above, the current application should therefore be considered under the presumption in favour of "sustainable development". The NPPF requires the decision

maker to grant planning permission, unless there are (a) adverse impacts and (b) such impacts would 'significantly and demonstrably' outweigh the benefits of the proposal.

- 1.10 The Officers are of the view that current scheme would deliver benefits especially in addressing the Councils housing shortfall while also contributing to investment and regeneration in the area.
- 1.11 Notwithstanding the benefits of the scheme the balanced approach promoted by the NPPF also requires consideration of any potential harm as a result of development proposals. In this instance officers consider that the extent of potential harm would be limited to the impacts on the Green Gap designation, character of the area, impact on neighbouring amenities, impacts on surface water flooding and impacts on ecology. However in officer's opinion the applicant has provided compelling evidence as part of their submission which indicates that the proposal would not result in any adverse impacts that would significantly or demonstrably outweigh the benefits.
- 1.12 Officers consider that the proposal satisfies the three dimensions of 'sustainable development' as set out in national planning policy (economic, social and environmental) and the application is therefore recommended for approval subject to the satisfactory completion of a Section 106 planning obligation to secure affordable housing, public open space, play provision and a financial contribution toward educational facilities to make the development acceptable, as well as a number of planning conditions.

Recommendation: Approve

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

a) **By no later than 30 September 2017** 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;
- Transfer of land for allotments and extension to playing fields
- New bus stop (westbound) in the vicinity of the junction with Harwich Road
- New bus stop (eastbound) in the vicinity of the junction with Harwich Road

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).

(i) Conditions:

1. Standard time limit
2. Development in accordance with submitted plans
3. Retention of existing hedges and trees
4. External facing and roofing materials
5. Works to be carried out outside bird breeding season
6. Screen walls/fences.
7. Full method statement for approval by Pollution and Environmental Control.
8. Hard and soft landscaping
9. Landscape planting period
10. Landscape management plan
11. Existing and proposed site levels
12. Construction of carriageway of estate roads
13. All off-street parking provided in accordance with adopted standards

14. Residential Travel Plans
15. Removal of Permitted Development Rights for dormer windows and rooflights.
16. Driveways and parking areas constructed of porous materials, or provision made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellings
17. Highways conditions (as recommended by the Highway Authority);
18. SUDS conditions as requested by Essex County Council;
19. Ecological mitigation as set out in Bat Activity and Reptile Survey by Geosphere Environmental dated 2nd September 2015
20. Tree protection measures;
21. Environmental Health conditions;

c) That the Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed **by no later than 30 September 2017**, 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 Policy:

The National Planning Policy Framework (NPPF) (2012):

- 2.1 The National Planning Policy Framework (March 2012) sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.2 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused - unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:
 - an economic role;
 - a social role; and
 - an environmental role.
- 2.3 These dimensions have to be considered together and not in isolation. The NPPF requires Local Planning Authorities to positively seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. Where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits.
- 2.4 Section 6 of the NPPF relates to delivering a wide choice of quality new homes. It requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In anyone 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.

Local Plan

- 2.5 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

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

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 (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
SD2 – Urban Settlements
SD6 – Managing Growth
SD7 – Securing Facilities and Infrastructure
SD8 – Transport and Accessibility
SD9 – Design of New Development
SD10 – Sustainable Construction
PRO2 – Improving the Telecommunications Network
PRO3 – Improving Education and Skills
PEO1 – Housing Supply
PEO3 – Housing Density
PEO4 – Standards for New Housing
PEO5 – Housing Layout in Tendring
PEO7 – Housing Choice
PEO10 – Council Housing
PEO16 – Residential Institutions and Care
PEO18 – Community Facilities

PEO22 – Green Infrastructure in New Residential Development

PEO23 – Children's Play Areas

PLA1 – Development and Flood Risk

PLA3 – Water Conservation, Drainage and Sewerage

PLA5 – The Countryside Landscape

Other Guidance

Essex County Council Car Parking Standards - Design and Good Practice (2009)

Essex Design Guide for Residential and Mixed-Use Areas (2005)

Urban Place Settlement (2007)

3. Relevant Planning History

14/30031/PREAPP	Construction of approximately 28 bungalows.	Refused	21.08.2014
15/00518/ACV	Nominated and recorded on the List of Assets of Community Value held and maintained by Tendring District Council.		10.02.2015
15/01787/FUL	Proposed development of 25 two and three bedroom bungalows.	Current	

4. Consultations

Natural England

4.1 Natural England has no comments to make regarding this application.

Anglian Water

4.2 The foul drainage from this development is in the catchment of Manningtree Water Recycling Centre that will have available capacity of these flows. The sewerage system at present has available capacity flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991.

ECC Highways

4.3 From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to mitigation and conditions relating to the following:

- Vehicular turning facility for delivery vehicles
- Details of internal estate road junction and visibility splays
- recycling/bin/refuse collection point
- Details of individual proposed vehicular access points
- Pedestrian visibility splay
- No unbound materials
- Details of the estate roads and footways
- Details of off street car parking

- Details for the storage of bicycles
- Construction Method Statement
- Residential Travel Information Pack
- New bus stop (westbound) in the vicinity of the junction with Harwich Road
- New bus stop (eastbound) in the vicinity of the junction with Harwich Road

ECC Schools

- 4.4 To support bungalows, assuming that all of the units have 2 bedrooms or more. A development of this size can be expected to generate the need for up to 1.1 early years and childcare (EY&C) places, 3.7 primary school, and 2.5 secondary school places.

The proposed development is located within the Manningtree, Mistley, Little Bentley and Tendring Ward. According to Essex County Council's childcare sufficiency data, published in July 2015, there are 3 providers of early years and childcare in the area. Of these 2 are child minders and 1 is a sessional pre-school. Overall a total of 10 unfilled places were recorded. As there is capacity within the area, a contribution would not be requested.

The proposed development is located within reasonable safe travelling distance of Mistley Norman CE Primary School, Highfields Primary School and Lawford CE Primary School. These schools have a combined overall capacity of 630 places and overall are forecast to have a surplus of 8 places by the school year 2019-20.

This proposed development is located within the secondary education priority admissions area for Manningtree High School. The school has a capacity of 870 places. The school is forecast to have a surplus of 70 places by the school year 2019-20.

All of the primary and secondary pupils that would be generated by this development could be accommodated.

However, the County Council is aware that, in addition to this site, outline planning applications have also been submitted for four significant sites in this area:

- 'Bromley Road (Land east of) Lawford - TEN/15/00876/OUT for up to 360 dwellings.
- 'Long Road (land south of) TEN 15/00761/OUT for up to 300 dwellings.
- 'Harwich Road - 15/01520/OUT for up to 135 dwellings
- 'Stourview Close (Land off) - TEN/15/01810/OUT for up to 70 dwellings.

The County Council is aware of the potential cumulative impact on primary and secondary school places in the area if this development is granted planning permission and one, two, three or all of the other developments are also granted planning permission.

Prior to the implementation of the revised Community Infrastructure Levy Regulations on the 6th April 2015 the County Council might have sought a developer contribution from this proposed development for additional primary and secondary school places. However, the implementation of the revised Regulations now restrict the pooling of contributions for a specific item of infrastructure, such as the expansion of a school, to contributions from five separate planning obligations. Under these changed circumstances the County Council has decided not to request a contribution for the provision of additional primary or secondary school places from this proposed development. This is because the scale of this development is relatively small and the impact on pupil places is limited. Seeking a contribution from a small development might, in the future, preclude the County Council from seeking contributions from larger developments in the area.

Having reviewed the proximity of the site to the nearest primary and secondary schools, Essex County Council will not be seeking a school transport contribution. However the

developer should ensure that safe and direct walking/cycling routes are available to the nearest schools.

ECC SuDS

4.5 Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we support the granting of planning permission. The proposed development will only meet the requirements of the National Planning Policy Framework if the following measures as detailed in the FRA and the above mentioned documents submitted with this application are implemented and secured by way of a planning condition on any planning permission. The proposed conditions require:

- A detailed surface water drainage scheme for the site;
- A scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works;
- Maintenance Plan containing the arrangements for maintaining the surface water drainage system; and
- Annual monitoring of maintenance.

TDC Principal Tree & Landscape Officer

4.6 The northern part of the application site is land that was formerly used as allotments with the remainder currently being in agricultural use. Historically the southern part of the application site was set to grass for use as two football pitches.

The site is not well populated with trees. On the western boundary adjacent to the access road to the recreation ground there is a large conifer, probably Cupressocyparis 'Castlewellan'. The tree is a prominent feature and makes a positive contribution to the appearance of the area; there is significant dieback in the growing point and the tree does not merit formal protection by means of a tree preservation order. The tree is situated on the part of the land proposed as public open space and is not threatened by the development proposal.

On the eastern boundary adjacent to the footpath link between Harwich Road and Middlefield Road there is a loosely cohesive group of 3 trees comprising 2 Larch and a single Sycamore. These trees are also situated on the part of the land proposed for public open space and are not threatened by the development proposal. There is also an established hedgerow comprised of an eclectic mix of plant species probably planted by those using the allotments in the past. This feature is not threatened by the development proposal.

There is an attractive and well-established hedgerow, comprising primarily Myrobalan plum, on the boundary of the old allotment land adjacent to the existing informal pedestrian route from Middlefield Road to the access road to the recreation ground. The amenity value provided by this feature could be relatively easily replicated by new planting. The western part of the hedge is shown as retained.

Whilst it may not be necessary for the applicant to submit a full tree survey and report they should provide information to show how retained trees will be physically protected for the duration of the construction phase of any consent that may be granted. This information should be in accordance with BS5837: 2012 Trees in relation to design, demolition and construction, Recommendations.

It would appear that the development proposal could be implemented without causing harm to retained trees.

It will also be necessary for the applicant to recognise the potential impact of the development proposal on the nearby Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB) and perhaps more namely the proposed extension to the AONB. Whilst the development proposal is unlikely to have a direct visual impact on the setting of the existing AONB it will be important to ensure that the development does not have such an adverse impact on the local landscape that it compromises the Council's aspiration to secure the proposed extension. Therefore it will be important to ensure that the development is designed and built to a high standard and sits comfortably in its setting.

If the indicative soft landscaping shown on the site layout plan is implemented it would appear that the development could be enhanced and screened by new planting so that it is assimilated into its setting.

Soft landscaping should be secured by a condition attached to any consent that may be granted and will need to address the screening and treatment of the southern boundary, the layout and planting of the proposed open space to the north of the site and planting that forms an integral part of the design and layout of the development.

TDC Housing

- 4.7 There is a high demand for housing in Mistley. There are currently 65 households seeking a 2 bedroom property and 28 seeking a 3 bedroom property. It is also stated that there is a chronic shortage of 3 bedroom bungalows in the entire district.

The Housing Department is currently deciding its development acquisition priorities and may not be able at this stage to commit to purchase 25% of the provision on this site. As an alternative, the Department would be happy to accept 1 gifted properties (this being 20% of the 25% provision) in order to meet some of the housing demand in this area.

TDC Open Space

- 4.8 There is currently a deficit of 3 hectares of equipped play/formal open space in Mistley.

Due to the size of the site it is recommended that the site includes play provision to a LEAP standard. Should the developer wish to transfer ownership and maintenance responsibilities for the open space and play area a commuted sum equal to ten years maintenance costs will be required.

Environmental Health

- 4.9 No objections subject to a condition requiring the submission of a Construction and Demolition of Sites report.

5. Representations

- 5.1 This application has generated some public interest with 7 letters of objection and 2 letters of support being submitted.
- 5.2 The key issues raised in support and objection to the application are summarised below:

Support

- Gifting of land for allotments and playing fields to the Parish Council

Objection

- Impact on amenities of new access road into the site

- Uncontrolled access to part of site would result in unsociable behaviour
- Impact on character of the area
- Loss of agricultural land
- Impact on trees
- Outside of settlement boundaries
- Highway safety concerns
- The existing infrastructure including the school, doctors surgery and utilities are already at full capacity and will not be able to function with additional housing growth;
- Lack of affordable housing

5.3 Mistley Parish Council despite welcoming the public benefits of the gift of allotment land and playing field area has written in objection to the application. The Parish Council objected to the planning application for the following reasons:

(1) Highway Safety- proposed access to and from the site particularly the point on the western junction of Middlefield Road and Rigby Avenue where evidence of difficulties in manoeuvring larger vehicles is shown by damaged kerbs and verges.

(2) Cumulative Impact - of traffic on busy junction of Pound Comer with Harwich Road and Shrub land Road. The narrow track from the proposed development to the north is unnecessary and would cause considerable congestion and danger to other traffic emerging from Shrubland Road (Village Hall, Secret Bunker, and Shrub land Road residents) as well as from Swan Court. Opposite there is a development of four houses in the grounds of 35 Harwich Road. Under existing plans approved for the Secret Bunker site (12/001 09/FUL) a pedestrian refuge island is shown on that bend which would prevent traffic turning right out of the road.

(3) Planning Policies - This site is outside the village envelope and is not in the development area.

6. **Assessment**

Site location

- 6.1 The site in total has an area of 4 hectares. It is proposed to develop the 1.3 hectares to the northern part of the site which abuts the existing built up area. The east of the site abuts properties in Middlefield Road and Rigby Avenue. Middlefield Road itself reaching the boundary of this site appears to have been originally arranged to allow an extension into this site.
- 6.2 Middlefield Road and Rigby Avenue is characterised by a mixture of houses and bungalows mostly semi-detached with brick walls under clay tile roofs.
- 6.3 Harwich Road to the north of the site is the B81352 between Mistley and Manningtree to the west. This road serves as a main bus route and is characterised by residential dwellings on either side.
- 6.4 To the south of the site is open countryside and to the west the Village Hall and the former 'Secret Bunker' site.
- 6.5 The site abuts the settlement boundary and is within walking distance of local Shops and the primary school. Mistley Railway Station is about 500m away.
- 6.6 There is a footpath crossing the site which is retained as part of this proposal and are included within the proposed layout. The existing footpath running north/south to the east of the site is not affected by the current proposal.

The Proposal

- 6.7 This application is for the construction of 25 bungalows with associated open space and infrastructure on land to the south of Harwich Road, Mistley including the retention of existing allotment land and the provision of a new playing field. The site was subject of a Pre-Application submission 14/30031/PREAPP.
- 6.8 A Design and Access Statement and detailed drawings have been submitted which demonstrate the layout of the current proposal whilst also providing details of the bungalows being proposed.
- 6.9 The main planning considerations are as follows:
- Principle of development;
 - Design and density
 - Neighbouring amenity
 - Landscape and visual impact
 - Traffic, Access and Highway Safety
 - Biodiversity
 - Drainage and Flood Risk
 - Education
 - Affordable housing
 - Conclusion

Principle of residential development

- 6.10 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a material consideration in this regard.
- 6.11 The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved Objections to relevant policies and the degree of consistency with national policy. The 2012 Local Plan: Proposed Submission Draft, as amended by the 2014 Local Plan: Pre-Submission Focussed Changes, is the Council's 'emerging' Local Plan.
- 6.12 On 25th March 2014, the Council decided that further substantial revisions to the emerging plan will be required before it is submitted to the Secretary of State to be examined by a Planning Inspector. These revisions will aim to ensure conformity with both the NPPF and the legal 'duty to cooperate' relating mainly to issues around housing supply. The separate Local Plan Committee is overseeing this work with a view to a new version of the plan being published for consultation in 2016.
- 6.13 The site is not allocated for housing or mixed use development in either the adopted or emerging Local Plans. The site lies adjacent to the 'settlement development boundary' in both the adopted and emerging Local Plans.
- 6.14 Because the site lies 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 contrary to local policy. However, as it stands, both the adopted and emerging Local Plans fall significantly short in identifying sufficient land to meet the objectively assessed need for housing and, as a result, the Council is unable to identify a

five-year supply of deliverable housing sites as required by paragraph 47 of the NPPF. In line with paragraph 49 of the NPPF, housing policies are considered to be 'out-of-date' and therefore the government's 'presumption in favour of sustainable development' is engaged. The Council would not be justified therefore in refusing this planning application, at this time, purely on the basis that it lies outside of the settlement development boundary.

- 6.15 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers consider that Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF. This view has also been supported by the Planning Inspectorate in a number of recent appeal decisions for similar outline schemes.
- 6.16 On this basis members should be aware that in the absence of up-to-date policies and a 5 year supply of housing land, development proposals cannot be refused solely on the basis that a site is outside the development boundary. Paragraph 14 of the NPPF sets out that where relevant policies are out-of-date planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 6.17 Based on the above and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight and the current scheme falls to be considered against the 3 dimensions of 'sustainable development',
- economic,
 - social; and;
 - environmental roles.

Economic Sustainability

- 6.18 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 Mistley. It is also considered that the current scheme if approved would benefit employment locally through the utilisation of local services and tradesmen. It is therefore considered that the scheme could reasonably be considered to meet the economic arm of sustainable development.

Social Sustainability

- 6.19 In terms of the social role it is noted that the site is not only well served by bus and rail services, but is also in close proximity to a primary school and playing fields. Further, Mistley includes a number of local facilities including convenience stores, pharmacy, petrol filling station, employment area, garden centre and take-away food stores.
- 6.20 Within the wider area are other facilities such as a secondary school, healthcare facilities and supermarkets. As already noted, the bus and rail services provide ready access to the further services and employment opportunities. Overall, this site has good access to services, facilities and public transport.
- 6.21 It is noted that Manningtree, Lawford and Mistley are together categorised as a 'town' or 'urban settlement' in recognition of their collective size and range of services and facilities and as a location where sustainable development on a larger scale can be achieved.
- 6.22 Approximately 0.4 hectares of land at the northern end of the site is shown in the 2007 adopted Local Plan as protected allotments where Policy COM9 only allows the loss of all or part of an allotment site to development if:
- a) the allotments are replaced by the provision of new allotments at least equal in quality and size and accessible to the community, which the existing allotments serve;

- b) it is demonstrated that there is no longer a demand for the existing allotments;
- c) the site is not appropriate for other open space functions; and
- d) the development of the allotments would not result in the loss of an area important to visual amenity.

- 6.23 Officers understand that there is local demand for allotments in this area and there have been continued representations to the Local Plan from allotment holders requesting the site's continued protection from development. This issue was raised with the applicant at pre-application stage and as a consequence there is a commitment from the applicant to transfer land to the Parish Council for the use as allotments as well as playing fields. These would make a contribution to the local community which is seen as a benefit in terms of the social aspect of sustainable development.
- 6.24 Overall officers consider that the application site performs well in terms of the social role within the definition of sustainability.

Environmental Sustainability

- 6.25 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 adjacent to the Settlement Development Boundary in the adopted 2007 Plan.
- 6.26 Given the site's partial containment within the landscape, its edge of settlement location and the number of properties suggested, the density proposed for the application site is acceptable for this location and, as shown through the detailed plans provided, can be achieved through the acceptable layout proposed.
- 6.27 With regard to landscape impact it is noted that the northern part of the application site is land that was formerly used as allotments with the remainder currently being in agricultural use. Historically the southern part of the application site was set to grass for use as two football pitches as a consequence the site is not well populated with trees.
- 6.28 The Council's Principle Tree and Landscape Officer was consulted on the content of the details submitted in support of the application. The officer indicated that the proposal has the potential to impact on the nearby Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB) and perhaps more namely the proposed extension to the AONB. Whilst the development proposal is unlikely to have a direct visual impact on the setting of the existing AONB it will be important to ensure that the development does not have such an adverse impact on the local landscape that it compromises the Council's aspiration to secure the proposed extension. As a result it would be imperative to ensure that the development is designed and built to a high standard and sits comfortably in its setting.
- 6.29 The Principle Tree and Landscape Officer concluded that if the indicative soft landscaping shown on the site layout plan is implemented the development could be enhanced and screened by new planting so that it is assimilated into its setting and would not result in material harm to the landscape character of the area. As stated previously a condition to this effect will be attached to any approval.
- 6.30 In addition to the AONB the site is also located within the Coastal Protection Belt. In this regard officers note that this designation has been consolidated in the emerging plan and now excludes the application site.
- 6.31 The applicants have indicated that where feasible the development will provide enhancements for biodiversity within the scheme through the provision of species rich grassland and native species planting.

- 6.32 Based on the above it is considered that the development would be comparable with existing development in the locality without detracting from the AONB or the proposed extension to the AONB. Officers conclude that a more positive approach is justified in this instance to development, as the development of this site can be achieved in keeping with the aims and objectives of National Planning Policy Framework.
- 6.33 The detailed impact upon the Green Gap designation is considered elsewhere in this report.

Design and Density

- 6.34 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.
- 6.35 Policies QL9, QL10 and QL11 of the Saved Plan 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.
- 6.36 The development is for 100% bungalows which would be contrary to the Council's policy in the emerging Local Plan (PE014) which only allows single-storey housing on developments of 10 or more dwellings on selective development plots immediately adjoining the curtilage of existing bungalows where taller properties would raise concerns about overlooking and loss of light or if the form part of a retirement village or extra-care housing scheme.
- 6.37 However, it is acknowledged that this policy is subject to objections and does not reflect the advice in the NPPF to deliver a range of housing to meet identified needs. Given the limited weight that can be attributed to this policy, the Council's identified housing shortfall as well as the Council's Housing Department's indication that there is critical shortfall in the number of bungalows across the district officers conclude that a reason for refusal based on the failure to comply with Policy PE014 could not be substantiated in this instance.
- 6.38 There is also a small area for other highway infrastructure for the connections to and between the development areas.
- 6.39 The design of the new bungalows reflects some of the architectural characteristics typical of the area with proposed materials reflecting similar materials used in the immediate vicinity. Specific details in this regard will be secured by condition attached to any approval.
- 6.40 The proposed dwellings have been set back from the road which allows for the planting of trees and landscaped areas along the frontage which would serve to enhance the character and appearance of the development whilst also reflecting the edge of settlement location of the site. Details of the landscaping as presented within the application will be secured through a planning condition ensuring the delivery of a high quality development that reflects and contributes to the character and appearance of the area.
- 6.41 With regard to the amenities of future residents it is noted that the spacing between dwellings would reflect the local context whilst garden sizes are in excess of the Council's adopted policy requirements under Saved Policy HG9. In addition the residential density

proposed would be 19 units per hectare which would further reflect the character of the area.

Neighbouring Amenity

- 6.42 The NPPF, in paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. Policy SD9 of the Tendring District Local Plan Proposed Submission Draft (2012) supports these objectives and states that 'the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'.
- 6.43 The residential scheme proposed would in places back onto the existing properties facing onto Rigby Avenue. It is considered that, given the garden depths and separation distances proposed in combination with the overall scale, bulk and massing of the residential dwellings, there would be no harmful loss of amenity to any of the adjoining neighbours as a result of overbearing development or loss of light.
- 6.44 In addition it is noted that the roof spaces of the individual properties have been designed to allow storage but no provision is being made for conversion of these spaces to living accommodation. Any conversion of these areas will be controlled by planning condition in order to manage any potential issues with overlooking in the future.
- 6.45 The landscaping details submitted as part of the application shows significant landscaping along the boundaries of the site would further serve to screen the proposed development from the adjoining residential dwellings reducing potential impacts on amenity.
- 6.46 Concerns have been raised with regard to the noise and disturbance that could be generated by the new access road in close proximity to the residential dwelling at Pound Corner. Whilst it is accepted that there would be some level of noise and disturbance generated it is noted that there is an existing gated access into the site in a similar location as being proposed as part of the current scheme.
- 6.47 Officers note the proposed development would share traffic between two access points which could reduce the frequency with which each of these accesses are used. In addition it is considered that the proposed development for 25 bungalows would only generate traffic peaks over a short period during the peak hours.
- 6.48 Finally, there would be the possibility to secure further landscaping or suitable boundary treatments along the boundary with the property at Pound Corner to further reduce any potential noise generated by the new access road.
- 6.49 Given the above officers conclude that on balance the new access whilst resulting in some noise and disturbance, would due to the factors highlighted above, not result in levels of noise and disturbance that would be materially harmful to the amenities of the occupiers of the property at Pound Corner.

Landscape Impact & Visual Impact

- 6.50 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, AONB and Coastal Protection Belt

- 6.51 The site is located within the Green Gap, and outside of the defined settlement limits of the village, as depicted in both adopted and emerging Local Plans. 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.
- 6.52 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.
- 6.53 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.
- 6.54 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"*.
- 6.55 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.
- 6.56 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.

- 6.57 Applying this balanced approach to the current scheme officers consider that the site is bounded to the east, west and north by existing urban development which forms a natural buffer that will limit further incremental expansion. Consequently officers are of the opinion that the proposed development in this instance would not result in the coalescence of settlements or neighbourhoods that could result in them losing their individual identities. A significant physical gap can still be maintained to the south and further to the west beyond the existing playing fields.
- 6.58 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.
- 6.59 With regard to the potential impact on the proposed Suffolk Coast and Heaths AONB extension, the Council's Principle Tree and Landscape Officer indicated that if the indicative soft landscaping shown on the site layout plan is implemented it would appear that the development could be enhanced and screened by new planting so that it is assimilated into its setting.
- 6.60 Should members be minded to approve the current scheme a condition will be attached to secure the levels of soft landscaping as indicated on the plans submitted in support of the application.
- 6.61 In addition the application site falls within the Coastal Protection Belt as shown in the adopted Local Plan. The purpose of the Coastal Protection Belt, as set out in paragraph 6.14 in support of Policy EN3 in the adopted Local Plan, is to protect the unique and irreplaceable character of the Essex coastline from inappropriate forms of development. It goes on to say that open coastal areas are particularly vulnerable to visual intrusion due to the high visibility of any development on the foreshore, on the skyline and affecting vistas along the stretches of undeveloped coast.
- 6.62 The Coastal Protection Belt was originally drawn in 1984 and was a key strategic policy in Essex County Council's 2001 Replacement Structure Plan which was superseded by the East of England Plan in 2008 and subsequently abolished in 2012 with the introduction of the NPPF. The NPPF does however state, in paragraph 114 that local planning authorities should maintain the character of the undeveloped coast, protecting and enhancing its distinctive landscapes, particularly in areas defined as Heritage Coast, and improve public access to and enjoyment of the coast.
- 6.63 Policy EN3 states that new development which does not have a compelling functional need to be located in the Coastal Protection Belt will not be permitted. It requires applicants to demonstrate such a need by showing that by reason of its critical operational requirements of the development cannot be located outside of the designated area. Then, even if the compelling need is demonstrated, the policy requires that significant harm to the landscape character and quality of the undeveloped coastline should be avoided.
- 6.64 However, in the emerging Local Plan, following the abolition of the Coastal Protection Belt Policy at county and regional level, the Council decided that the designation should be kept but that the boundary be rationalised to ensure it relates only to areas that are genuinely coastal and where development is likely to have a genuine impact on the character and appearance of the coastline. Included in the numerous amendments to the designation was the removal of the application site and other land south of Harwich Road.
- 6.65 The status to be given to local 'countryside protection' policies such as Coastal Protection

Belt and Local Green Gaps has been clarified recently by a decision of the Court of Appeal (Cheshire East Borough Council v Secretary of State for Communities and Local Government & Anr. Case Number: C1/2015/0894) in which three judges overturned an earlier High Court decision which had determined that such countryside protection policies are not housing policies and should not be considered out of date if a Council cannot identify a sufficient supply of housing land. In overturning the High Court's decision, the Court of Appeal judges concluded that the concept of 'policies for the supply of housing' should not be confined to policies in the development plan that provide positively for the delivery of new housing in terms of numbers and distribution or the allocation of sites. They concluded that this concept extends to policies whose effect it is to influence the supply of housing land by restricting the locations where new housing may be developed – including, for example, policies for the green belt, policies for the general protection of the countryside, policies for conserving the landscape of Areas of Outstanding Natural Beauty and National Parks, policies for the conservation of wildlife or cultural heritage, and various policies whose purpose is to protect the local environment in one way or another by preventing or limiting development.

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

Traffic, access and highway safety

- 6.67 The proposed development would be served by two access points. The first access would be a 5.8m wide shared surface from Harwich Road and would follow a similar route as an existing access track. The second access would be from Middlefield Road and would be 5.6m in width with 2m wide footpaths on either side.
- 6.68 Essex County Council Highways were consulted on the details submitted in support of the application. Their response indicated no objection to the access points identified for the current proposal subject to a number of controlling conditions. It was also suggested that two new bus stops should be provided along the eastern and western sides of Harwich Road. These stops will be secured through a section 106 agreement should members be minded to approve the proposed development.
- 6.69 Some representations from residents indicate concerns about the wider effects of additional vehicle movements on local traffic, highway capacity and pedestrian safety.
- 6.70 Paragraph 4 of the NPPF sets out the criteria for promoting sustainable transport and in this regard stipulates in Paragraphs 34 to 36 how this should be approached. The overall aims and objectives of the NPPF are supported by Policies contained within Chapter 7 of the Tendring District Local Plan (2007) as well as by Policies SD8 and PEO4 of the draft Local Plan.
- 6.71 Paragraph 34 indicates that decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.
- 6.72 Paragraph 35 further requires that plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, developments should be located and designed where practical to:

- accommodate the efficient delivery of goods and supplies;
 - give priority to pedestrian and cycle movements, and have access to high quality public transport facilities;
 - create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones;
 - incorporate facilities for charging plug-in and other ultra-low emission vehicles; and,
 - consider the needs of people with disabilities by all modes of transport.
- 6.73 Paragraph 37 stipulates that there should be a balance of land uses within the area so that people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities.
- 6.74 Policy QL10 of the Saved Plan states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. This requirement is also carried forward to Policy SD9 of the draft Local Plan.
- 6.75 Having considered the details submitted and the comments received from Essex County Council Highways officers conclude that the development, subject to the proposed conditions, would meet the requirements of Policy TR1a of the adopted Local Plan and the element of Policy SD8 in the emerging Local Plan relating to highway capacity and safety. It would also meet paragraph 32 of the NPPF which states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.76 The Council's Adopted Parking Standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garage, if being relied on to provide a parking space should measure 7 metres by 3 metres internally. The applicants have indicated that the proposed development complies with these standards.
- 6.77 Based on the above it is considered that the proposed development can provide safe and adequate means of access to the site whilst the scheme could also comply with the aims and objectives of the NPPF as well as Local Plan Policies with regard to highway safety and parking requirements.

Biodiversity

- 6.78 Some representations raised concerns about the potential impacts on wildlife resulting from the proposed development.
- 6.79 Policies within Chapter 6 of the Tendring District Local Plan (2007) and Policy PLA4 of the Tendring District Local Plan Proposed Submission Draft (2012) as amended seek to ensure that where development is likely to harm nature conservation or geo-diversity interests, planning permission will only be granted in exceptional circumstances. The benefits of the development should clearly outweigh the harm caused and where appropriate mitigation measures must be incorporated into the development to the satisfaction of Natural England and other relevant Authorities

Ecological Designations

- 6.80 The nearest designated site is the Stour and Orwell Estuary which is designated as a RAMSAR, Site of Special Scientific Interest (SSSI) and Special Protection Area(SPA) located 500m north of the site.

- 6.81 The Ecological Appraisal completed in support of the application concluded that the RAMSAR, SSSI and SPA is separated from the application site by residential development and roads, and is not in direct habitat connectivity with the site. As a result the development will not impact upon these designated sites.
- 6.82 It is considered unlikely, given the distance from the scale of the proposed development that the sites with non-statutory protection will be directly affected by the proposed construction activity and development on the surveyed area.
- 6.83 Natural England raised no objection to the scheme.

Habitats

- 6.84 The site mainly consists of former allotments to the north of the site which are now overgrown with semi-improved grassland and sporadic patches of tall ruderal vegetation and scattered scrub. A species-rich hedge borders the western boundary as well as cutting across the site from west to east. This separates the former allotments from the arable field to the south of the site.
- 6.85 A strip of semi-improved grassland also borders the arable field.
- 6.86 Small rubble piles are present within the northern semi-improved field margin. Common Lizard were noted to be using these piles.
- 6.87 Scattered trees are present.
- 6.88 The applicants have indicated that where feasible the development will provide enhancements for biodiversity within the scheme through the provision of species rich grassland and native species planting.

Protected Species

- 6.89 The site was not found to be suitable for Great Crested Newt, Water Voles, Otters, Dormice or assemblages of invertebrates of conservation concern.
- 6.90 No setts or field signs were noted on site as part of this survey.
- 6.91 The Preliminary Ecological Survey indicated that there are suitable features, within the area to be affected by the proposed development, which may provide foraging and breeding habitat for protected species, in particular:
- The hedgerows and trees provide suitable nesting habitat for breeding birds during the breeding season;
 - The habitats on site are considered suitable foraging habitat for bats;
 - The grassland appears highly suitable for reptiles with four Common Lizard noted within the walkover alone.
- 6.92 In response to the above the preliminary survey suggested that further surveys would be required with regard to bats and reptiles. In response the applicants commissioned a further Bat Activity and Reptile Survey.

Bat Survey

- 6.93 The bat foraging assessment was carried out in order to establish the current status of bats in habitats to be affected by proposed development at the site.
- 6.94 This included a transect survey which was undertaken on two separate dusk surveys between 22 July and 3 August 2015, during which three species of bat were encountered

on the site. The main areas of activity included the southern boundary connecting to adjacent woodland and the western boundary hedgerows.

- 6.95 The species assemblage and numbers observed are considered to be of site importance only.
- 6.96 Given the findings of the survey it is being recommended that as much habitat for bats as possible, is retained in the final development. This should include the retention of the hedgerow along the western boundary, and replacement of any hedgerows to be lost. In addition any future lighting for the scheme should be designed to minimise the potential impacts on bats.

Reptiles

- 6.97 With regard to reptiles a survey was carried out in order to establish the status of reptiles in habitats to be affected by proposed development at the site.
- 6.98 Common Lizard were found on site on 9 out of the 10 days, mostly under the mats along the western hedgerow. The maximum reptile count was 10 adults during one survey, which indicates a good population of local importance.
- 6.99 Based upon these numbers it is estimated that the site supports a medium population of Common Lizard across the entire site. However the land to be developed for residential purposes would likely support a low population of Common Lizard based on the lower number of adults noted within this area during the survey. The southern half of the site which is to be gifted to the council, would still support a medium population of Common Lizard.
- 6.100 Given the findings of this survey it is concluded that a full detailed mitigation strategy should be prepared and submitted to the Local Planning Authority for agreement.
- 6.101 The recommendations of the Bat Activity and Reptile Survey prepared by Geosphere Environmental Ltd and dated 2nd September 2015 will be secured by planning condition should Members be minded to approve the application.
- 6.102 Given the site's previous use and proximity to the wider countryside to the north, and in accordance with paragraph 118 of the NPPF, this application provides opportunities to incorporate features into the design which are beneficial to wildlife. Such ecological enhancement opportunities will be secured by condition.

Drainage and Flood Risk

- 6.103 The National Planning Policy Framework makes it clear that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, it should be made safe without increasing flood risk elsewhere. Accordingly, Policy QL3 of the Tendring District Local Plan (2007) and PLA1 of the Tendring District Local Plan Proposed Submission Draft (2012) have been informed by these national policy requirements, the findings of Strategic Flood Risk Assessments (SFRA) and advice from the Environment Agency.
- 6.104 The applicants have submitted a Flood Risk Assessment as part of the application which highlights the fact that with reference to the Environment Agency Flood Maps indicate that the site is located within Flood Zone 1.

- 6.105 Anglian water in their consultation response indicated that the foul drainage from this development is in the catchment of Walton on the Naze Water Recycling Centre that will have available capacity for these flows.
- 6.106 With regard to surface water disposal Anglian Water indicated that the proposed method of surface water management does not relate to Anglian Water operated assets. It was suggested that the Council should seek the advice of the Lead Local Flood Authority. In response to their consultation Essex County Council SUDS Authority have stated that the updated Flood Risk Assessment and associated documents which accompanied the planning application is acceptable and that this body has no objection to the current scheme. It was further suggested that a number of conditions be attached to any approval to ensure that the proposed development meets the requirements of the National Planning Policy Framework. These can be summarised as follows:
- Detailed surface water drainage scheme for the site, based on the revised FRA and Drainage strategy
 - Scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works
 - Maintenance Plan detailing the maintenance arrangements with regard to surface water drainage system
 - Responsible body for maintenance of the surface water drainage system must record yearly logs of maintenance in accordance with approved Maintenance Plan.
- 6.107 With regard surface water flooding Essex County Council SuDS indicated that the proposed development will meet the requirements of the National Planning Policy Framework if the measures as detailed in the FRA and associated documents submitted in support of the application implemented. On this basis officers have attached a number of conditions to secure these submitted details.
- 6.108 Based on the details contained within the FRA and Drainage Strategy it is considered that the application site could be developed in the manner proposed without any risk of flooding from or to the proposed development compliant with the aims and objectives of the NPPF as well as Local Plan Policies set out above.

Education

- 6.109 Local Plan Policies QL12 of the Tendring District Local Plan (2007) and SD7 of the Tendring District Local Plan Proposed Submission Draft (2012) sets out that the Council will seek planning obligations wherever they are fairly and reasonably related in scale and kind to the proposed development.
- 6.110 To support bungalows, assuming that all of the units have 2 bedrooms or more. A development of this size can be expected to generate the need for up to 1.1 early years and childcare (EY&C) places, 3.7 primary school, and 2.5 secondary school places.
- 6.111 The proposed development is located within the Manningtree, Mistley, Little Bentley and Tendring Ward. According to Essex County Council's childcare sufficiency data, published in July 2015, there are 3 providers of early years and childcare in the area. Of these 2 are child minders and 1 is a sessional pre-school. Overall a total of 10 unfilled places were recorded. As there is capacity within the area, a contribution would not be requested.
- 6.112 The proposed development is located within reasonable safe travelling distance of Mistley Norman CE Primary School, Highfields Primary School and Lawford CE Primary School. These schools have a combined overall capacity of 630 places and overall are forecast to have a surplus of 8 places by the school year 2019-20.

- 6.113 This proposed development is located within the secondary education priority admissions area for Manningtree High School. The school has a capacity of 870 places. The school is forecast to have a surplus of 70 places by the school year 2019-20.
- 6.114 All of the primary and secondary pupils that would be generated by this development could be accommodated.
- 6.115 However, the County Council is aware that, in addition to this site, outline planning applications have also been submitted for four significant sites in this area:
- 'Bromley Road (Land east of) Lawford - TEN/15/00876/OUT for up to 360 dwellings.
 - 'Long Road (land south of) TEN 15/00761/OUT for up to 300 dwellings.
 - 'Harwich Road - 15/01520/OUT for up to 135 dwellings
 - 'Stourview Close (Land off) - TEN/15/01810/OUT for up to 70 dwellings.
- 6.116 The County Council is aware of the potential cumulative impact on primary and secondary school places in the area if this development is granted planning permission and one, two, three or all of the other developments are also granted planning permission.
- 6.117 Prior to the implementation of the revised Community Infrastructure Levy Regulations on the 6th April 2015 the County Council might have sought a developer contribution from this proposed development for additional primary and secondary school places. However, the implementation of the revised Regulations now restrict the pooling of contributions for a specific item of infrastructure, such as the expansion of a school, to contributions from five separate planning obligations. Under these changed circumstances the County Council has decided not to request a contribution for the provision of additional primary or secondary school places from this proposed development. This is because the scale of this development is relatively small and the impact on pupil places is limited. Seeking a contribution from a small development might, in the future, preclude the County Council from seeking contributions from larger developments in the area.
- 6.118 Having reviewed the proximity of the site to the nearest primary and secondary schools, Essex County Council will not be seeking a school transport contribution. However the developer should ensure that safe and direct walking/cycling routes are available to the nearest schools.

Affordable Housing

- 6.119 Saved Policy HG4 requires up to 40% of dwellings to be affordable housing on sites of 15 or more dwellings in urban settlements (with a population of 3,000 or more) and on sites of 5 or more dwellings in rural settlements (with a population less than 3,000). 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 between 10% and 25% (as contained within emerging Policy PEO10) is more realistic. The thresholds under Saved Policy HG4 will therefore be applied but the percentage will be between 10% and 25% as detailed under emerging Policy PEO10.
- 6.120 There is a high demand for housing in Mistley. There are currently 65 households seeking a 2 bedroom property and 28 seeking a 3 bedroom property. It is also stated that there is a chronic shortage of 3 bedroom bungalows in the entire district.
- 6.121 The Housing Department is currently deciding its development acquisition priorities and may not be able at this stage to commit to purchase 25% of the provision on this site. As an alternative, the Department would be happy to accept 1 gifted properties (this being 20% of the 25% provision) in order to meet some of the housing demand in this area.

Conclusion

- 6.122 The application site is situated adjacent to the built-up area of Mistley the town or Urban Settlement of Manningtree, Lawford and Mistley which is recognised in planning policies as a location for growth. The current scheme results in a natural extension of the existing pattern of urban development.
- 6.123 Officers are of the view that current scheme would deliver notable benefits especially in addressing the Councils housing shortfall while also contributing to the provision of community facilities in the form of allotments and playing fields that are to be transferred to the Parish Council.
- 6.124 Notwithstanding the benefits of the scheme the balanced approach promoted by the NPPF also requires consideration of any potential harm as a result of development proposals. In this instance officers considered that the extent of potential harm would be limited to the impacts on the Green Gap designation, AONB, surface water flooding, impacts on the character of the area, impacts on neighbouring occupiers and highway safety matters. However in officer's opinion the applicant has provided evidence as part of their submission which indicates that the proposal would not result in any adverse impacts to the receptors identified above.
- 6.125 Based on the above it is concluded that there are no material conflicts with planning policy and since no material objections have been raised that outweigh the benefits of the proposed development the application is recommended for approval subject to a Section 106 legal agreement and a number of controlling conditions.

Background Papers

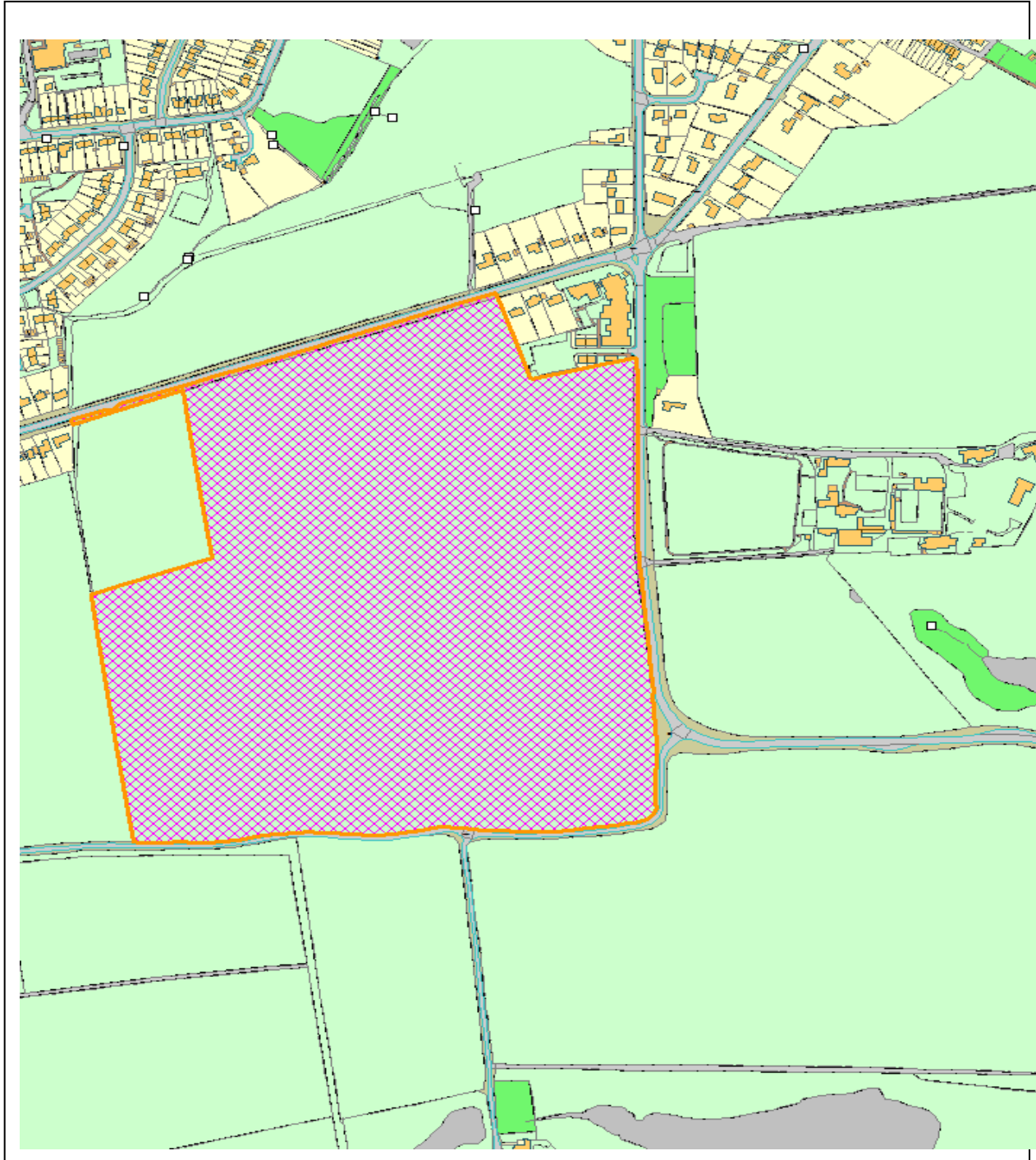
None.

PLANNING COMMITTEE

8 AUGUST 2017

REPORT OF THE HEAD OF PLANNING

A.2 PLANNING APPLICATION – 17/00534/OUT – LAND TO THE SOUTH OF LONG ROAD AND TO WEST OF CLACTON ROAD, MISTLEY, CO11 2HN



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Application:	17/00534/OUT	Town / Parish: Mistley
Applicant:	Tendring Farms Ltd	
Address:	Land to the south of Long Road and to west of Clacton Road, Mistley, Essex CO11 2HN	
Development:	Variation of condition 4 of 15/00761/OUT to change parameter plans. [Related to the outline application with all matters reserved, other than strategic access points onto the public highway, for the erection of up to 300 dwellings, up to 2 hectares of employment land (A2/A3/B1/D1 uses), with associated public open space and infrastructure].	

1. Executive Summary

- 1.1 This land off Long Road and Clacton Road, Mistley already has outline planning permission for 300 homes and 2 hectares of employment land. Planning permission was granted subject to a number of planning conditions including that any detailed plans for the site needed to be in general conformity with the submitted parameter plans which identified, broadly, the location of housing, commercial development and open space as well as the proposed height of development.
- 1.2 This planning application seeks to vary the parameter plans to allow the development to take place in a different way to that originally envisaged. The revised plans seek to:
- Reduce the overall amount of open space;
 - Enlarge the area of land on which homes will be built;
 - Apply a height limit across the whole site of 2.5 storeys or 13 metres;
 - Change the position of the proposed employment land; and
 - Move the proposed access point onto Clacton Road further north.
- 1.3 No changes to the total number of homes or the amount of employment land are being proposed – this could only be achieved through a whole new planning application for the site.
- 1.4 The proposed changes to the parameter plans have not met with any objections from individual members of the public, but Mistley Parish Council has expressed concerns about moving the Clacton Road access point further north as it might lead to more queuing around the junction of Clacton Road with Long Road, Trinity Road and New Road. .
- 1.5 The Council's Principal Trees and Landscape Officer initially raised concerns about the reduction in open space when compared with the original plans, but following the receipt of further information from the applicant, these concerns have been resolved. The amended plans would still allow for some 26% open space which is more than double what is required by the Local Plan policies and the green spaces would still be positioned and landscaped to minimise the visual and landscape impact of the development.
- 1.6 Natural England was also initially concerned about whether or not the reduction in open space might lead to greater recreational disturbance at the Stour Estuary – possibly requiring a more detailed 'Appropriate Assessment' to be undertaken in line with the

European Habitat Regulations. However, because the open space to be provided would still be well above Local Plan requirements and would still provide a substantial useable space for local people, Officers are satisfied that Appropriate Assessment is not necessary. The applicant has submitted an addendum to its original ecological assessments and Natural England has been provided with this. Natural England has now confirmed that it has no objection to the application.

- 1.7 Moving the proposed employment land to the south east corner of the site is not controversial and would be a positive change in terms of ensuring more direct access to the highway and reducing any conflict with the residential development.
- 1.8 The recommendation is approval. If the Committee endorses this recommendation, outline planning permission for the site will be re-issued in full with the relevant planning condition amended to correspond with the new parameters plans. The s106 agreement for the original application which secures affordable housing, education, health off-site highway contributions will also still apply.

Recommendation: Approval

That the Head of Planning be authorised to grant outline planning permission for the proposed development (up to 300 dwellings, up to 2 hectares of employment land (A2/A3/B1/D1 uses), with associated public open space and infrastructure) but with a variation to condition 4 of the decision notice to require the development to be in general conformity with the revised parameters plans.

All other planning conditions are to remain unchanged from the outline planning permission 15/00761/OUT as well as the completed s106 legal agreement to secure education contributions, affordable housing, open space and open space maintenance contribution, healthcare contributions and contributions towards highway improvements to the crossing at Manningtree Station.

2. Planning Policy

National Planning Policy Framework (NPPF)

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

Local Plan

- 2.3 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 consists 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

QL2: Promoting Transport Choice

QL3: Minimising and Managing Flood Risk

QL9: Design of New Development

QL10: Designing New Development to Meet Functional Needs

QL11: Environmental Impacts

QL12: Planning Obligations

ER7: Business, Industrial and Warehouse Proposals

HG1: Housing Provision

HG3: Residential Development Within Defined Settlements

HG3a: Mixed Communities

HG4: Affordable Housing in New Developments

HG6: Dwellings Size and Type

HG7: Residential Densities

HG9: Private Amenity Space

COM2: Community Safety

COM6: Provision of Recreational Open Space for New Residential Developments

COM21: Light Pollution

COM23: General Pollution

COM26: Contributions to Education Provision

COM29: Utilities

COM31a: Sewerage and Sewage Disposal

EN1: Landscape Character

EN4: Protection of the Best and Most Versatile Agricultural Land

EN6: Biodiversity

EN6a: Protected Species

EN6b: Habitat Creation

EN11a: Protection of International Sites

EN12: Design and Access Statements

EN13: Sustainable Drainage Systems

EN17: Conservation Areas

EN29: Archaeology

EN36: Area Proposed as an Extension to the Suffolk Coast and Heaths AONB

TR1a: Development Affecting Highways

TR1: Transport Assessment

TR3a: Provision for Walking

TR5: Provision for Cycling

TR6: Provision for Public Transport Use

TR7: Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond, Publication Draft (June 2017).

Relevant policies include:

SPL1: Managing Growth

SPL2: Settlement Development Boundaries

SPL3: Sustainable Design

HP1: Improving Health and Wellbeing

HP2: Community Facilities

HP3: Green Infrastructure

HP5: Open Space, Sports and Recreation Facilities

LP1: Housing Supply

LP2: Housing Choice

LP3: Housing Density and Standards

LP4: Housing Layout

LP5: Affordable and Council Housing

PP6: Employment Sites

PP7: Employment Allocations

PP12: Improving Education and Skills

PPL1: Development and Flood Risk

PPL3: The Rural Landscape

PPL4: Biodiversity and Geodiversity

PPL5: Water Conservation, Drainage and Sewerage

PPL6: Strategic Green Gaps

PPL7: Archaeology

PPL8: Conservation Areas

SAE2: Land south of Long Road, Mistley

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:

15/00761/OUT	Outline application with all matters reserved, other than strategic access points onto the public highway, for the erection of up to 300 dwellings, up to 2 hectares of employment land (A2/A3/B1/D1 uses), with associated public open space and infrastructure.	Approved	18.07.2016
17/00534/OUT	Variation of condition 4 of 15/00761/OUT to change parameter plans. [Related to the outline application with all matters reserved, other than strategic access points onto the public highway, for the erection of up to 300 dwellings, up to 2 hectares of employment land (A2/A3/B1/D1 uses), with associated public open space and infrastructure].	Current	
17/00535/DETAIL	Application for phase one reserved matters for access, appearance, landscaping, layout and scale for 96 residential units and 163m ² of retail space following outline planning permission 15/00761/OUT.	Current	

4. Consultations

TDC Regeneration The Regeneration Team have no specific comments to make on this application.

TDC Building Control No comments at this time.

TDC Principal Tree & Landscape Officer Original comments:
 The relatively simple and straightforward proposal to replace of the original Masterplan/Site Parameter Plan with the new Site Parameter Documents would bring about a fundamental change to the character and scale of the development of the land. In effect the proposed public open spaces would be reduced to such an extent that they would be little more than corridors and their future functionality and recreational use would be significantly compromised.

The original emphasis of the design of the development appeared to have been to ensure that a large scale development could be assimilated into its setting and sit relatively comfortably in its semi-rural setting. The proposed intensification of the development compromises the ability to achieve a satisfactory layout for the site.

The opportunity to set out top quality open spaces and maximise recreational use of the land will be diminished to such an extent that the nature of the development will not relate to the original proposal.

The application should be refused and any future detailed planning application for the site should relate to the original Site Parameter Plan approved under 15/00761/OUT.

Revised comments following submission of further information:

The response provided by the applicant recognises that the application will result in a change that reduces the open space footprint and changes the character suggested with the outline application, but goes on to say that the quality and functionality will not be affected.

Taking into account the information provided, especially relating to the amount of open space to be provided in relation to that required by the Local Plan: it is considered that an overall provision of open space, in the region of 25% of the development, is acceptable both in terms of amount and quality.

- Anglian Water As this discharge of condition does not relate to anything drainage related, foul water or surface water Anglian Water have no comment to make.
- ECC Highways Whilst this would appear to be a relatively simple application the revised parameters seem to suggest an increase in the size of the development. In this regard there is insufficient information for this Authority to fully assess the final impact on this application on the highway. If confirmation can be sought from the developer to the effect that no increase in residential units or commercial floor space is proposed, further consideration to this application can be given.
- ECC Archaeology The above application seeks variation of the masterplans for the original application 15/00761/OUT. A full archaeological condition was applied to the 2015 application on the basis of the high archaeological potential identified on the HER and through a programme of geophysics survey. A programme of archaeological trial trenching and excavation was recommended to satisfy this condition. This work has not yet taken place and Condition 20 of 15/00761/OUT has not been discharged. Until this work is complete we are unable to comment on the proposed variation.
- Natural England Original comment: Based on the information provided in support of the application, Natural England's view is that there is currently insufficient information to allow likely significant effects to the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site1 to be ruled out. We also consider that there is insufficient information to rule out adverse effects the Stour Estuary and Cattawade Marshes Sites of Special Scientific Interest (SSSIs). We therefore request that the information outlined on page 2 of this letter is provided by the applicant, that we are re-consulted on this accordingly and given a further 21 day period within which to respond.
- Revised comment (following submission of additional information): Based on the information provided in support of the application, it is our view that the proposal is unlikely to have a significant effect on the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site. We also consider that the proposal is unlikely to adversely affect the Stour Estuary and Cattawade Marshes Sites of Special Scientific Interest (SSSIs). We therefore have no objection to this development.
- National Grid National Grid has identified that it has apparatus in the vicinity of your enquiry which may be affected by the activities specified. National Grid should be informed, as soon as possible, of the decision the Council is

likely to take.

Cadent Gas Ltd Cadent Gas Ltd do not object to this proposal

Babergh District Council We have no objections to the proposed alterations subject to no increase in the dwelling numbers on the site.

5. Representations

- 5.1 The Council has only received one objection from a resident of Long Road which states: *“The new plan submitted shows the housing area now a lot closer to our property with a larger spread of housing and a big reduction of green space to both Clacton Road and Long Road. The impact now views as a far greater sized housing development with greatly reduced green spaces. With the housing now closer to the main roads the potential to have on road side parking becoming closer to the entrances will be a big hazard as time goes on there is never enough allocated parking areas as we have seen in all local developments. The commercial area has also been re sited and is now accessed via Dead Lane, the impact will be the lane will become naturally wider from traffic use. By keeping access to the commercial area via the housing development it protects any change of use in the future. The overall developed site increase and the reduction of the green space is a far less favourable option to the previous plan we viewed at Furze Hills. Please consider refusing these large impact changes.”*

6. Assessment

The Site

- 6.1 The land in question lies immediately south of Long Road on the Mistley side of the Mistley/Lawford Parish boundary and borders Clacton Road to east and Dead Lane to the south. The site comprises 23 hectares of arable agricultural land that is roughly square in shape and that rises from its northern boundary but then falls to a relatively flat plateau over the southern part of the site. With limited boundary hedging and vegetation, the site is visually very exposed on entry into the settlement from the south along Clacton Road.
- 6.2 To the west of the site lies open agricultural land that is the subject of separate planning permission for major mixed use development including up to 360 dwellings. The northern edge of the site abuts Long Road which passes through the open gap between the built up areas of Lawford and Mistley. To the north of Long Road is an area of open space that falls towards the built up area and which affords long distance views over the built up area and toward the Stour Estuary. The site abuts a small number of dwellings and recently completed assisted living complex (Mistley Manor) in Clacton Road to the east and there is further open countryside to the south past Dead Lane.

The Proposal

- 6.3 The site has outline planning permission 15/00761/OUT for up to 300 dwellings, up to 2 hectares of employment land (including use classes A2: financial and professional services; A3: restaurants and cafes, B1: business use and D1: non-residential institutions), with associated public open space and infrastructure. This was granted in July 2016.
- 6.4 Condition 4 of the outline planning permission requires that the subsequent reserved matters applications will be in general conformity with the following indicative drawings:

1648 01 A - Outline Landscape Master Plan; 2014-426-13 Rev. A - Parameter Landscape Plan, and; 2014-426-11 Rev. A - Parameters Massing Plan.

- 6.5 This is an application to vary that condition and replace these plans with a single sheet 237738-200 which includes three amended parameters plans – one for land use, one for building heights and one for green infrastructure.
- 6.6 The main differences between the existing masterplan/parameter plans and the proposed amended plan are summarised as follows:
- 1) On the proposed plans, the open space/green infrastructure shown for the north-east, east and south-western parts of the site is narrower than on the original plans;
 - 2) The area devoted to residential development is, as a consequence, larger than on the original plan;
 - 3) The height of development across the whole site is limited to 2.5 storeys or 13 metres, whereas the original plans were more specific in identifying varying heights of development in different parts of the site;
 - 4) The employment area or ‘commercial zone’ on the proposed plan is relocated to the south east corner of the site, whereas in the original plan it was to be located in the south western corner; and
 - 5) The access point onto Clacton Road is proposed to be around 60 metres further north than was indicated on the original plans.
- 6.7 There have been no changes in circumstances since the original grant of planning permission that might affect the principle of development, so the assessment within this report focusses only on the specific changes to the parameters plans being proposed.

Green infrastructure

- 6.8 In the original plans, a green buffer of some 100m from the frontage of Long Road to the built development on the eastern part of the site and an 80m distance from the corner of the Mistley Manor assisted living complex in Clacton Road was shown with the names ‘North Green’ and ‘Mistley Green’. The equivalent distances in the proposed plan (in which the green spaces are unnamed), are reduced significantly to around 80m and 50m respectively. For the eastern edge of the site running along Clacton Road, the original plan showed a green buffer ‘East Green’ of some 80m in width but this is reduced to be 30m in the proposed plan. In the south western corner of the site, the ‘South Green’ on the original plans provided for 50m of green infrastructure between Dead Lane and the built development, whereas the proposed plan shows a narrower strip of 20m. The overall consequence is that the total area of the site proposed for green infrastructure is reduced from around 9 hectares (39%) to around 6 hectares (26%) which is still well in excess of the requirement of 10% in the Local Plan.
- 6.9 The reduction in the area of green infrastructure from the original plans to the proposed plan initially attracted concern from the Council’s Principal Trees and Landscape Officer as it raises questions over the potential character of the development, its landscape and visual

impact, its ecological value and its ability to guard against potential increase in recreational disturbance at the Stour Estuary. The one objector to this application also highlights this as a concern. These were all key issues in the determination of the original outline planning application.

- 6.10 Policy QL9 in the adopted Local Plan and Policy SPL3 in the emerging Local Plan require 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 PL3 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 SPL3 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.
- 6.11 With limited boundary hedging and vegetation, the site is visually very exposed on entry into the settlement from the south along Clacton Road and Dead Lane. Development on this site would also be clearly visible from Long Road which currently enjoys a sense of openness on both sides. There are also some long distance views at the northern part of the site over the settlement of Manningtree and Mistley towards the Stour Estuary that would be affected but not lost as a result of development.
- 6.12 With the original outline application, the applicants submitted a Landscape and Visual Impact Assessment and indicative landscape plan which Officers considered acceptable. It was acknowledged that whilst the character of the location would change considerably, there would be scope for a comprehensive package of open space and landscaping that would help to mitigate the visual impact of the development and potentially bring about some environmental enhancements. The applicant also submitted a Tree Survey and Report that demonstrated, to Officers' satisfaction, that development could take place without harm being caused to the trees and other vegetation on the land.
- 6.13 The revised plan with a reduced area of open space will naturally lead to a development with a different impact to that originally envisaged with development being closer to the east and southern peripheries of the site and a greater intrusion of built form into the countryside. That said, the green spaces will still contain considerable landscaping and are still to be positioned in the sensitive parts of the site where they will help to minimise visual and landscape impacts. Officers do not believe that the narrower green spaces now proposed would lead to the development being unacceptable in visual and landscape terms.
- 6.14 Under Regulations 61 and 62 of the Habitats Regulations, local planning authorities as the 'competent authority' must have regard for any potential impact that a plan or project might have on European designated sites. The application site is not, itself, designated as a site of international, national or local importance to nature conservation but the urban area of Manningtree, Lawford and Mistley does abut the Stour Estuary which is designated as a Special Protection Area (SPA), a Ramsar Site and a Site of Special Scientific Interest (SSSI). As the application site is located within 2 kilometres of the Stour Estuary consideration needs to be given to potential indirect effects on the designated area that might result from the proposed development.

- 6.15 In response to the original outline planning application, Natural England highlighted specific concerns about the potential for 'recreational disturbance' to the protected habitat that might arise from the development and the associated increase in population and activity. Recreational disturbance is a significant problem for such habitats and can have a disastrous effect, in particular, on rare populations of breeding and nesting birds. Notable concerns include increased marine activity (boating, jet skiing etc) and people walking their dogs either within or close to the protected areas. Both activities can easily frighten birds that are breeding and nesting and can have an extremely detrimental impact on their numbers.
- 6.16 Natural England, in advising the Council on the potential impacts on the development and the need, or otherwise, for 'Appropriate Assessment' to comply with the Habitat Regulations, accepted the conclusions of the assessments submitted with the original outline application which cited, in particular, the considerable amount of recreational and informal open space to be proposed as part of the development – based on the indicative masterplan and parameters plan. With a reduction in the site area being proposed for green infrastructure, Natural England initially submitted a holding objection with concerns over the absence of sufficient information to assess the potential impact of the revised proposal. The applicants have since issued an addendum to the original Habitats Regulation Assessment and Natural England has confirmed that it no longer objects and that Appropriate Assessment will not be necessary.

Residential area

- 6.17 The original outline planning permission is for up to 300 dwellings and there is a specific planning condition that restricts dwellings numbers to that figure. To increase that figure, a new planning application would be required, which would have to be assessed on its own merits at the relevant time. There is no intention in the application to increase dwelling, but the significant increase in the area shown in the proposed plans for 'residential use including roads and associated infrastructure' would lend the scheme to either a significant reduction in housing density, or a future increase in housing numbers. Both Essex County Council as the Highway Authority and Babergh District Council as our neighbouring authority have expressed concern about the potential impact of increased dwelling numbers upon the transport network. At the time of writing, the Council had received a new outline application for the site seeking up to 500 dwellings and this was in the process of validation.
- 6.18 Considering housing density first, the total site area is approximately 23 hectares and the original application drawings made provision for around 9ha approximately of green infrastructure and 2 hectares of employment land. By implication, the residual area of around 13 hectares would accommodate the 300 homes and associated infrastructure at a net density of around 23 dwelling per hectare. This is a relatively low housing density but one that would be wholly appropriate for this semi-rural peripheral location. If the residential area is increased to around 16 hectares to reflect the proposed parameters plans, this would either suggest a reduction in the net density to around 19dph which is relatively low, but wholly appropriate for this peripheral location. As explained above, an increase in housing numbers would require a brand new planning application for the site and s106 requirements would need to be re-assessed.

Development height

- 6.19 The approved parameter plans for the original application showed different zones with the site where different maximum storey heights would apply. These showed a maximum of two storeys across the majority of the site, with 1-2 storeys on a small part of the site to the west and up to 2.5 storeys on central parts of the site surrounding a central open space. The revised plan simply shows the whole of the development area with a maximum of 2.5 storeys or up to 13 metres in height (which would be most applicable to the employment area).
- 6.20 This would prevent future development exceeding 2.5 storeys or 13 metres but would not prevent the Council from withholding planning permission at reserved matters stage if 2.5 storey or 13 metre buildings in certain parts of the site are considered inappropriate or harmful to the character and appearance of the area.

Employment area

- 6.21 The original parameter plans showed the 2 hectares of employment land in the south western corner of the site whereas the revised plan moves it to the south eastern corner. Subject to the detailed design of the commercial units being acceptable given the visually exposed nature of this corner of the site, the principle of locating the employment uses closer to the highway and in a position that allows better separation from the housing is acceptable.

Access via Clacton Road

- 6.22 The revised parameter plan shows the access point onto Clacton Road being approximately 60 metres further north than shown on the original version. This position is now shown as being roughly equidistant to the junctions of Clacton Road/Dead Lane and Clacton Road/Long Road/Trinity Road/New Road. Mistley Parish Council has raised concerns that this change might lead to a greater risk of queuing traffic, however Officers do not believe that moving the position of the junction will bring about such an issue.
- 6.23 As part of the original outline planning application, details were approved for the position and dimensions of the junction onto Long Road, but the junction onto Clacton Road was not approved in detail at that stage. The Highway Authority has not commented specifically on the re-positioning of the junction in response to this application for revised parameters plans, but it has provided detailed comments on the associated reserved matters application for the first phase of the development (which is currently under consideration) indicating no objection in principle.

Conclusion

- 6.24 This application seeks a variation to the parameters plans that will guide the approved development of up to 300 homes and 2 hectares of employment land at Long Road/Clacton Road, Mistley. There is no proposal to increase the number of homes or amount of commercial development going on the site through this application. Officers are however aware of a separate application seeking an increase in housing – but this will need to be determined on its own merits and need not influence the determination of this application.

- 6.25 Although it reduces the amount of open space on the site compared with what was originally proposed, it still significantly exceeds the 10% required by Local Plan policy and will be located in positions that mitigate the visual and landscape impact of the development whilst providing a considerable area for formal and informal recreation and ecological enhancement.
- 6.26 The repositioning of the access point along Clacton Road causes no concerns in terms of highway capacity or safety and the re-positioning of the employment land to the south eastern corner of the site is a sensible change in terms of securing more direct access and protecting residential amenity.
- 6.27 The application is recommended for approval. If the Committee accepts the recommendation, an outline planning permission will be granted with the relevant planning condition amended to reflect the change to the plans. The s106 legal agreement will also continue to apply to the new consent.

Background Papers

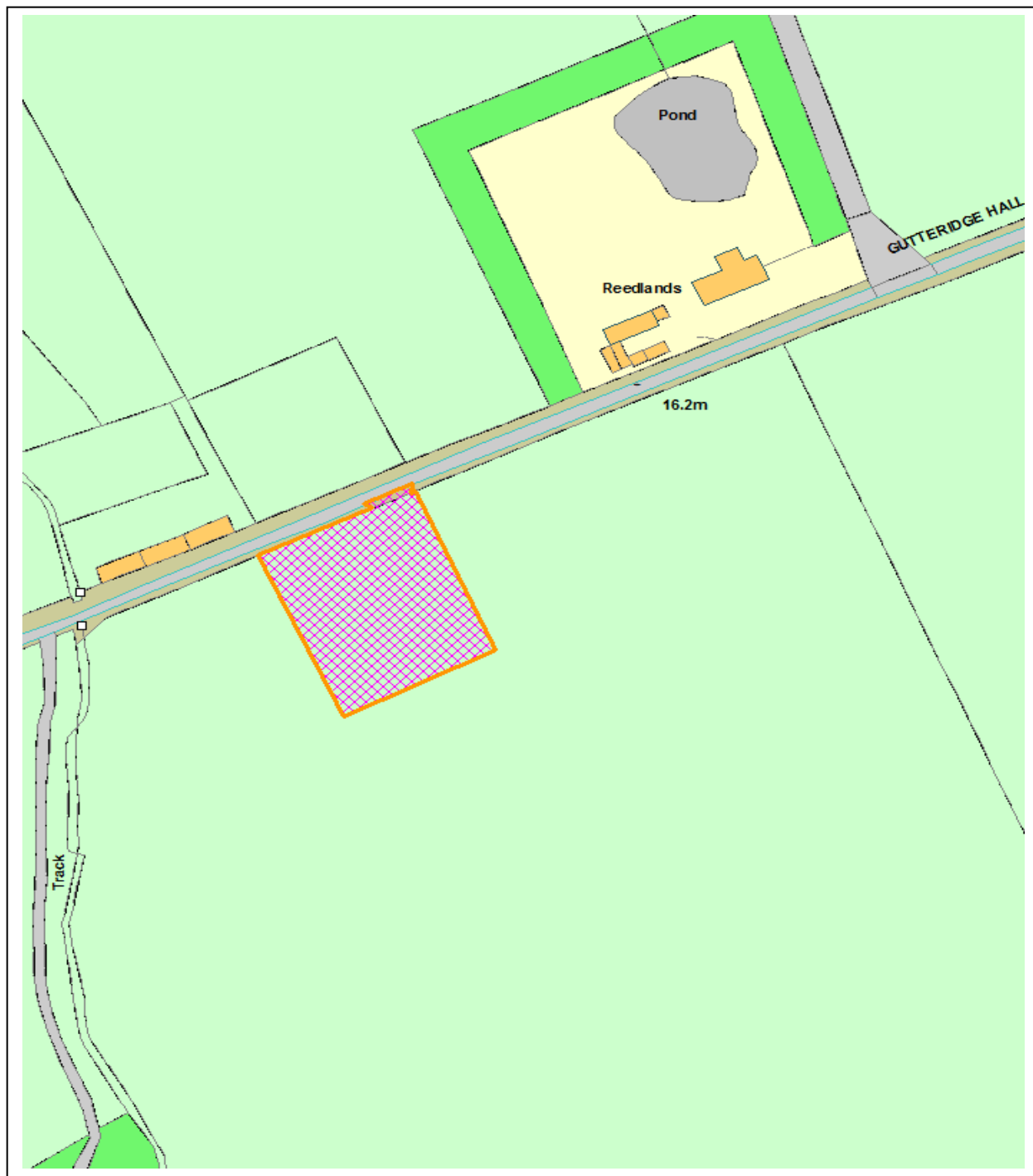
None.

PLANNING COMMITTEE

8 AUGUST 2017

REPORT OF THE HEAD OF PLANNING

A.3 PLANNING APPLICATION - 17/00507/FUL - LAND TO THE SOUTH OF GUTTERIDGE HALL LANE, WEELEY, CO16 9AS



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Application:	17/00507/FUL	Town / Parish: Weeley Parish Council
Applicant:	Mr T Buckley	
Address:	Land to The South of Gutteridge Hall Lane Weeley	
Development:	Change of use to one gypsy pitch comprising one mobile home, one touring caravan, one day room and associated works.	

1. Executive Summary

- 1.1 The application has been called to Committee by Cllr Mike Brown, on the basis that the development would increase traffic/impact on highway safety; that Gutteridge Hall Lane has been designated as a quiet lane, and this area has already had its quota of traveller sites.
- 1.2 The application site relates to a modest development of a single gypsy 'Plot' with a mobile home, touring caravan and day room, within a small paddock area to the south side of Gutteridge Hall Lane to the west of Weeley.
- 1.3 The site is situated within the open countryside, albeit relatively close to Weeley village and the primary school.
- 1.4 The gypsy site provision within the adopted local plan is based on an old survey and is out-of-date. A new needs survey has fed in to the formulation of new policy, and suggested allocations are being advanced through the emerging local plan.
- 1.5 The applicant has indicated an intention to make representations to that policy through the local plan process, and believes their personal circumstances warrant a temporary consent
- 1.6 It is a reasonably sustainable location and the development meets the 3 arms of sustainable development as noted within the N.P.P.F.
- 1.7 The D.C.L.G Planning policy for traveller sites indicates that Local Planning Authorities (L.P.A's) should allocate sufficient sites to meet the identified need (5 year supply) and establish criteria for dealing with other ad-hoc (usually individual) 'windfall' sites.
- 1.8 The Adopted Tending Local Plan of 2007 is somewhat out-of-date in terms of the gypsy and traveller policy, as the 'need' assessment is of some age and the policy itself (HG22) is solely a criteria-based policy and does not specifically allocate sites.
- 1.9 The emerging policy is still at an early stage, and as the applicant wishes to make representations, then less weight can be attributed to that policy.
- 1.10 It is concluded that the current application should be given a temporary permission – based on the applicant's need and personal circumstances, in order to give sufficient time to evaluate the emerging policy and allow consideration through the local plan process (the N.P.P.F promotes a plan-led system).
- 1.11 Whilst the current proposal represents an intrusion in to the countryside, this must be balanced against the applicant's need for a site, the applicant's children's human rights to education, and the emerging status of the development plan, along with the very modest nature of the proposal, being a single family 'plot'.

- 1.12 A temporary consent would allow the applicant's/children's needs to be met, and allow their objection to the policy to be heard through the due process, and the application is recommended for approval on that basis.

Recommendation: Approve

Conditions:

1. **Temp permission for 2 years, and after that period all structures etc to be removed and site re-instated to paddock**
2. **Personal to the applicant**
3. **Occupation only by persons meeting Gypsy Definition**
4. **Dev in accordance with plans**
5. **No more than 1 pitch, and no more than 2 caravans one of which can be a mobile Home complying with Caravan Sites Act**
6. **No occupation until following details approved:-
Landscaping scheme and timetable for implementation
Hardstanding/parking provided
Foul and surface water drainage installed in accordance with details
Refuse storage details agreed**
7. **No businesses to be carried out from the site**
8. **No vehicles to be stored at the site in excess of 3.5tonnes unladen weight**
9. **No external lighting**

2. Planning Policy

NPPF National Planning Policy Framework

National Planning Practice Guidance

D.C.L.G - Planning policy for traveller sites (PPTS)

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG22 Gypsy Caravan Sites

EN1 Landscape Character

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SP1 Presumption in Favour of Sustainable Development

SP2 Spatial Strategy for North Essex

SP6	Place Shaping Principles
SPL1	Managing Growth
SPL3	Sustainable Design
LP9	Traveller Sites
PPL3	The Rural Landscape
CP1	Sustainable Transport and Accessibility

Status of the Local Plan

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. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. As this plan is yet to be examined, its policies cannot carry the full weight of adopted policy. However, because the plan has reached publication stage its policies can carry some weight in the determination of planning applications. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

3. Relevant Planning History

17/00507/FUL	Change of use to one gypsy pitch comprising one mobile home, one touring caravan, one day room and associated works.	Current
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4. Consultations

Building Control and Access Officer	No adverse comments.
Environmental Health Housing Services	Comments awaited
Policy Section	Comments awaited
ECC Highways Dept	The Highway Authority has assessed the details of this application and does not wish to submit formal comments

5. Representations

Weeley Parish Council state:-

Weeley Parish Council objects to this application for the following reasons: the site is

outside the development boundary, there are already sufficient gypsy/traveller pitches in Weeley,
this site is prime agricultural land, this application would lead to additional traffic and Gutteridge
Hall Lane has been designated as a 'Quiet Lane' by ECC.

6 individual letters of objection have been received which make some of the following points:-

- Prime agricultural land
- Outside the development boundary
- 5 traveller/gypsy pitches already have planning permission in Gutteridge Hall Lane – a massive gypsy site already exists
- 2 further gypsy/traveller pitches are allocated to Weeley in the Local Development plan - Tendring has already provided sufficient pitches within its boundaries
- TDC should be forward thinking and take the lead to modernise the countryside for travellers as well as the local community – there needs to be clear strategy rather than dealing with ad-hoc applications
- The east and south-east has highest concentrations of traveller sites in U.K – why must we have more?
- This is prime agricultural land and my family farmed it until 1957 and it has never had buildings on it for hundreds of years
- Affects the green belt
- The entrance needs to be clear of Essex County Council land
- Gutteridge Hall Lane has been designated as a "quiet lane" for walkers and public to access the countryside and footpaths
- The lane is a no-through road, with blind bends and few passing places, and was recently blocked when a caravan fell in to the ditch, and long vehicles have difficulty manoeuvring
- Extra traffic is a concern – a risk for walkers and horses, and would cause delays in leaving Gutteridge Hall Lane
- The lane has to cope with so much speeding traffic, and there has been a serious accident damaging gate-posts, since ECC put the 30mph signs at the playground
- One pitch could lead to further pitches
- Sets precedent for exploitation of residential development in the area
- Puts extra pressure on rural services and road
- There are no mains services in the area
- Work has already started on the site. The ditch has already been filled in, and I am unsure if any modifications have been made to allow for proper drainage – the accesses created should be done in a manner to maintain the ditch
- There is no serviceable ditch, which leads to flooding of the lane
- Cesspit should not be allowed due to drainage problems – land is impermeable
- Buildings have already been erected on the site in the form of two wooden stable blocks
- There are also paddock fences erected, and topsoil has been excavated from the site
- The fence and plants are illegal, and must be stopped – everyone else has to abide by the law – TDC should exert its authority and take out an injunction to stop this unauthorised development - make these people feel pain for their unlawful acts
- The application should not be advanced until the fence and plants are removed
- A right of access exists through the site to adjacent land
- Neighbours were not notified

6. **Assessment**

The main planning considerations are:

- Principle of development

- Policy issues
- Character and form of the development
- Highway Safety
- Residential Amenity
- Overall planning balance

The Site

- 6.1 The site comprises a small parcel of land at the end of Gutteridge Hall Lane (on its southern side) and the land is grazing land. It forms part of a larger field currently used as a grazing paddock for horses, and where unauthorised stables are located.
- 6.2 The site is modest in size with a frontage of 40m and depth of 45m. It has a substantial hedge to the road/ditch, with an agricultural access at the eastern end of the site. The applicant has already erected a fence under permitted development rights along with some hedge planting and other shrubs.
- 6.3 There are residential properties to the west, and a single dwelling on the north side of Gutteridge Hall Lane, with another well-established traveller site further to the east on Gutteridge Hall Lane – allowed on Appeal - which is closer to Weeley village and railway station.
- 6.4 The surrounding land is in agricultural use, mostly grazing, and the site to the east (on the southern side of the lane) was a former unauthorised encampment – known as the duck-farm site - that was the subject of an injunction to prevent caravans from entering the site.

The Proposal

- 6.5 The proposal is to utilise the site for the creation of a gypsy-site for an individual family, and would comprise:-
- A stoned hardstanding directly from the field access (which would be piped and a tarmac verge crossing created)
 - A parking area for a touring caravan at the western side
 - The siting of a mobile home with adjacent parking on the southern side
 - The erection of a day-room immediately adjacent to the access and behind the high boundary hedge on the northern side
 - Installation of a package treatment plant for foul drainage (a Tricel Novo EN6-50)
 - 1.2m high post and wire fencing to the eastern and southern boundaries supplemented by extensive natural species hedging, with a 1.8m close-boarded fence to the western boundary, the northern boundary hedge to be retained.
- 6.6 The site would be used by one family – the applicants and their children – and the agent indicates that:-

“The applicant Mr T Buckley is a Romany Gypsy who fulfils the definition in PPTS. He and his partner have two children one of whom is enrolled at the local school. At present they are moving around a number of different stopping places in the area. The family have found land in the area because they have close connections to other Travellers in Essex.

The family travel each summer between April to October, but only during the school holidays as the education of the children is important. They stay on a mixture of friend’s sites, campsites, on the road side and fairs.

Mr Buckley undertakes work while travelling including fencing, landscaping, farm work, and horse dealing. The family attend traditional Gypsy horse fairs such as Appleby, Stowe, Horsemanden, and the Welsh cob sale.

- 6.7 Initially, the proposal was for a permanent site, and the day-room was proposed as a brick and tile permanent building, although the revised plans indicate that the day-room would be constructed from pre-fabricated timber-panels with a felt roof, to allow its removal, and which includes a sitting/kitchen/dining area, a bathroom and utility/store, within a building of 6m x 5m proportions and 4m in height.
- 6.8 There was an initial concern regarding the intrusion in to the countryside and the relatively isolated location of the site and the agent indicates that:-

“The applicant was interested in pursuing the route of a three - five year temporary permission. We would ask for a 4-year permission in this instance.

The justification for this is twofold - one is that the best interest of Mr Buckley's child would be to be able to attend school for a guaranteed period. The early years of a child's education are amongst some of the most crucial. It would also allow the family to have a secure base. On this basis a personal consent would be appropriate. Second, given that the identified need has been met already this would suggest that the need in Tendring may be an underestimate. A period of four years would allow the local plan process to assess this and make adjustments where necessary. This should be sufficient to allow for permission to be granted on a temporary basis.

Consideration

Principle of development

- 6.9 The issue of gypsy and traveller sites is an emotive one, and the PPTS (D.C.L.G Planning policy for traveller sites) does not rule out entirely, the fact that in rural areas, some development will need to be within the countryside, away from existing settlements, and paragraph 14 indicates that Local Planning Authorities should ensure that the scale of such sites does not dominate the nearest settled community, and being a single family site of one household, the proposed development is a very modest one.
- 6.10 The document requires Local Planning Authorities to identify on an annual basis, a minimum of a 5-year supply of deliverable sites to meet the likely need for permanent and transit site accommodation for gypsy and traveller sites in their area, to allocate sites to meet such a need and to establish criteria-based policies to determine applications where there is no identified need and where cases never-the-less come forward.
- 6.11 The adopted local plan policy HG22 is based on an old survey and is therefore out-of-date, and the emerging plan is based on a more recent County-wide needs-survey of Gypsy and Traveller sites, that was not highly successful as many travellers would not be interviewed, and the identified need is not necessarily conclusive.
- 6.12 The applicant has indicated that they intend to object to the policy – on the basis that the need is greater than the survey indicates - and that there are aspects of the policy that they do not consider is consistent with the N.P.P.F and the PPTS.
- 6.13 On the basis that the policy is likely to be challenged through the Development Plan process, then the N.P.P.F indicates that significantly less weight can be attributed to emerging plan policy, and therefore the application would need to be assessed against the N.P.P.F, the PPTS and the general principle of a presumption in favour of sustainable development.
- 6.14 The site is not particularly well located for local services, although the local school – where the applicant’s child is enrolled – is within walking distance, albeit the lane is narrow and with no footpaths or street lighting, and there is the railway station on the main road, and a

post-office/store within Weeley village, however the location of the site does not therefore perform particularly well against the social arm of sustainability, and would be likely to encourage car-usage.

- 6.15 The site would have some very localised environmental impact but when viewed against the environmental arm of sustainability would be a neutral impact and in economic terms, it would also have a neutral effect.
- 6.16 The development, when viewed against the 3 arms of sustainability, could not be considered to be a particularly sustainable development, although this has to be balanced against the N.P.P.F/PPTS requirement to provide sites and the applicant's daughter's human rights to an education and settled life, and the fact that she is enrolled in the school closest to the site, carries appreciable weight, and at appeals, the human rights of the child can carry significant weight in the overall planning balance.
- 6.17 The applicant's 'need' to be at the site therefore has some weight and along with the personal circumstances of their children's education and their objection to the emerging plan, results in a situation that would not be resolved easily, and therefore a temporary permission would appear to be an appropriate way forward in order to advance the local plan and for the applicant's policy concerns to be heard within the proper forum, whilst not contravening their child's human rights in relation to a settled lifestyle and educational needs.
- 6.18 Whilst the applicant has suggested that a 4 year temporary consent would be appropriate, the emerging plan has advanced to a stage where the examination in public is scheduled in to the timescale, and in such circumstances, Inspectors at appeal and the Secretary of State in call-in appeals, generally favour a 2-year temporary permission, and it is considered that such a period would be appropriate in this instance.

Policy issues

- 6.19 Apart from the N.P.P.F and the PPTS, there are few key policies relating to gypsy and traveller sites, and Policy HG22 of the Adopted Local Plan is of some age and based on an old 'needs' survey and must therefore be considered to be out-of-date, particularly as it is a criteria-based policy, whereas current requirements are for allocations to meet identified need and criteria-based policies for assessing other sites/applications.
- 6.20 It is the Governments view that gypsy and traveller sites should be privately-funded, and the expectation is that applications would be made for individual sites, often on an ad-hoc basis, and the current application is for a single plot site to meet the applicant's specific needs, rather than meeting the locally identified need, as referred to in the PPTS.
- 6.21 The proposed site meets many of the stated criteria within HG22, apart from being linked to mains services (there is no public sewer available), and that services - including schools and health facilities and public transport - are not particularly accessible, being some distance from the site along a narrow unlit lane with no footways.
- 6.22 In relation to other criteria of Policy HG22, the development is to meet a specific need; the site has a safe and convenient access with on-site parking/turning; it would not harm the character or appearance of a nationally recognised designated area, and has a minimal impact on other areas, and it would not impact on the residential amenity of nearby dwellings by virtue of noise/disturbance or traffic movements, and therefore meets the spirit of that policy.
- 6.23 The Publication Draft Local Plan, includes Policy LP9, which is based on the new definition of gypsies and travellers in the PPTS 2015, and is evidenced by a more up-to-date survey,

albeit that many travellers would not agree to be interviewed, and on the basis of the survey, the recognised need is particularly low – a requirement for 2-4 pitches – with a further 5 to meet the unknown need, and such a low requirement has not been transposed in to a specific allocation.

- 6.24 Policy LP9 indicates that over-and-above the above 'need' individual applications for gypsy/travellers with a genuine need, would be assessed against the stated criteria-based part of the policy.
- 6.25 The various criteria of Policy LP9 are given in italics below, with the review of the current proposal shown in normal text, as follows:-

The Council will consider proposals against criteria a) to h) below alongside other requirements in the Local Plan:

a. sites must avoid any adverse impacts on any internationally, nationally or locally designated protected areas and must avoid areas prone to flooding;

The site does not affect any designated protected areas, and is not at risk of flooding, based on the Environment Agency flood-maps,

b. sites must have reasonable access to key facilities (normally 1.5 miles/2.4km on foot or 15 miles/24km by public transport to primary schools, doctors' surgeries and convenience shops, 2 miles/3.2km on foot or 20 miles/32km by public transport to secondary schools and major employment);

Access along Gutteridge Hall Lane (a narrow unlit rural lane with no footways or street lighting) is not ideal, although it does lead to the railway station and Clacton Road where bus-stops are located, and the school and post office/convenience store are within m of the site. In terms of distance, the closest Primary School, St. Andrews C of E Primary School, is located 550m (7 min walk) from the site. The closest GP is Great Bentley Surgery which is located 5.9 km (9 min drive/27min train journey) from the site, there is also a local post office & store within walking distance of the site (1.2 km, 15 min walk). Further, the site is well located for access to a range of public transport options. The closest bus stop is 650m (7 min walk) from the site and Weeley train station is located 1.3 km (14 min walk) from the site.

c. sites should, where possible, utilise previously developed land and recognise the scale of nearby communities;

The site is a greenfield one and not previously developed (brownfield), although the scale is very modest which recognises the scale of the nearby community,

d. sites must not exceed ten pitches in size and must make a minimum allowance of 250 square metres per pitch including circulation and amenity space and a maximum of 350 square metres. Sites should normally be 3 miles/4.8km apart with scope for smaller sites to be closer than this;

The site is a single 'pitch' for a single gypsy family (and even when the cumulative impact with the existing 8-pitch site further along Gutteridge Hall Lane is considered) the total number is below the 10 pitches noted in the policy, and it meets the minimum requirement for 250sqm of circulation/amenity space, although it does exceed the upper limit of 350sqm. Whilst there is another gypsy site to the east that is less than 3 miles away, the policy allows for smaller sites to be closer,

e. sites must comprise flat well drained ground and achieve safe access for large vehicles from the local road network and access to utilities;

The site is flat and well drained and allows for safe access from the road network, and the Highway Authority raises no objections,

f. sites must be safe for children, achieve aesthetic compatibility with the surroundings with scope for visual and acoustic screening to protect the amenity of nearby residents; and not impact on high grade utilised agricultural land;

The site would be safe for children, and the site is well screened with additional planting proposed, and it would achieve aesthetic compatibility with its surroundings as the planting matures. The applicant has already erected a fence to the western boundary, although the neighbour is somewhat distant, and the modest nature of the development is such that no amenity issues would arise for neighbours,

g. sites must be of a high quality design and landscaping, providing a good standard of residential amenity for their occupiers; and

The modest nature of the site is such that there would be no wider landscape impact, and the development is an appropriate design, screened behind the front boundary and would provide a good standard of amenity for the occupants

h. sites must be linked to mains services.

The site would be connected to mains water, however, there are no public sewers and the site would be served by a package treatment plant, as was the appeal site nearby.

- 6.26 It can be seen from the above that the proposal meets many of the stated criteria of Emerging Plan policy LP9, although given that the applicant has indicated an intention to make representations to that policy and the evidence base behind it, then little weight can be attributed to that policy at this time.

Character and form of the development

- 6.27 Whilst Gutteridge Hall Lane has a very rural appearance and is narrow, it is not particularly 'open' in the area of the application site, with a greater sense of enclosure due to the roadside trees and hedges, although there would be some distant views from the Weeley direction, and the development would be visible at the entrance and through 'gaps' in the hedges.
- 6.28 The development would as a result, be visible, but any landscape impact would be quite localised, and therefore not unduly harmful.
- 6.29 The Inspector in relation to the appeal at the other site to the north of Gutteridge Hall Lane, concluded that the lane was not of any special landscape and that the development would not be out-of-character.
- 6.30 Whilst the N.P.P.F indicates that the countryside should be protected for its beauty, the modest nature of the development and the localised landscape impact is such that the development would not be 'harmful' for a temporary period.

Highway Safety

- 6.31 The proposed gypsy site is served by an existing field access that is to be upgraded, with a tarmac crossing and turning parking areas.

- 6.32 There is ample parking within the site, and the use of Gutteridge Hall Lane for such a modest proposal – a single gypsy family site - would not generate high volumes of traffic and little more than if the site was utilised for grazing horses for example.
- 6.33 The designation of Gutteridge Hall Lane as a "quiet lane" follows CPRE's successful campaigning, local authorities are able to designate country lanes as 'Quiet Lanes' in rural areas, under the Transport Act 2000, however such designation does not prevent access by vehicles, or prevent development occurring, and currently, the legislation does not afford any user group priority on a Quiet Lane and the use is shared.
- 6.34 The Highway Authority has not commented due to the minor nature of the scheme.
- 6.35 The N.P.P.F states at paragraph 32, that Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe, and in this instance, the resulting highway impact would not be severe.

Residential Amenity

- 6.36 The proposal is for a very modest development, and due to the distance to the nearest residential property, it is unlikely that any disturbance would arise, although due to the rural location, a condition to restrict external lighting would be appropriate.
- 6.37 The Inspector in relation to the appeal for 8 pitches to the east, concluded that the coming and going of traffic from that site would not cause disturbance to other residents, and the same conclusion is reached in this instance.

Overall planning balance

- 6.38 The proposed gypsy site is located within the countryside, and whilst it does not have a high landscape impact, it would be a form of encroachment in to the open rural area.
- 6.39 The N.P.P.F still contains a presumption in favour of sustainable development, as well as the PPTS requiring the L.P.A to meet the local need for sites, and it does not preclude rural sites within the countryside.
- 6.40 The existing local plan policy is based on old information and is out-of-date, and the emerging policy has a more recent evidence base, and identifies only a very modest local need that would be met in part by recent permissions.
- 6.41 The applicant is challenging both the evidence base for the need, as well as the wording of the policy and therefore little weight can be attributed to it, and the applicant needs to be afforded the opportunity to be heard before the examination Inspector for the local plan.
- 6.42 The current proposal meets some of the criteria of both existing and emerging policy, and the applicant considers that the proposal is a sustainable one, although the relatively isolated location in the countryside, along a narrow unlit lane with no footways would be likely to encourage car-usage, suggests that the site does not perform particularly well in terms of sustainable development.
- 6.43 The applicant's need is based on providing for the educational needs of his daughter, who is enrolled in the nearby school, and the human rights of children must be afforded significant weight.
- 6.44 The creation of a modest gypsy site at this location would not cause any significant highway safety concerns, or any appreciable impact on residential amenity.

- 6.45 On balance, the development would cause some harm to the countryside, and performs poorly in terms of sustainability. The policy situation is currently in a state of flux, and the issue is whether the applicant's personal needs based on his children's educational needs is considered to out-weight any harmful impacts.
- 6.46 The Human Rights of children in such circumstances are afforded significant weight by the courts and at appeal, and in the absence of up-to-date development plan policies it is considered that the applicant's proposals have some merit, and given that the resolution of the emerging policy will take some time to advance through the examination process, a temporary approval would afford the applicant some security, and meet his daughters educational needs, whilst allowing him full consideration of the emerging policy through the due process.
- 6.47 The applicant's personal circumstances are considered to be compelling in this instance, and the development is therefore an appropriate one and recommended for a temporary approval.

Background Papers

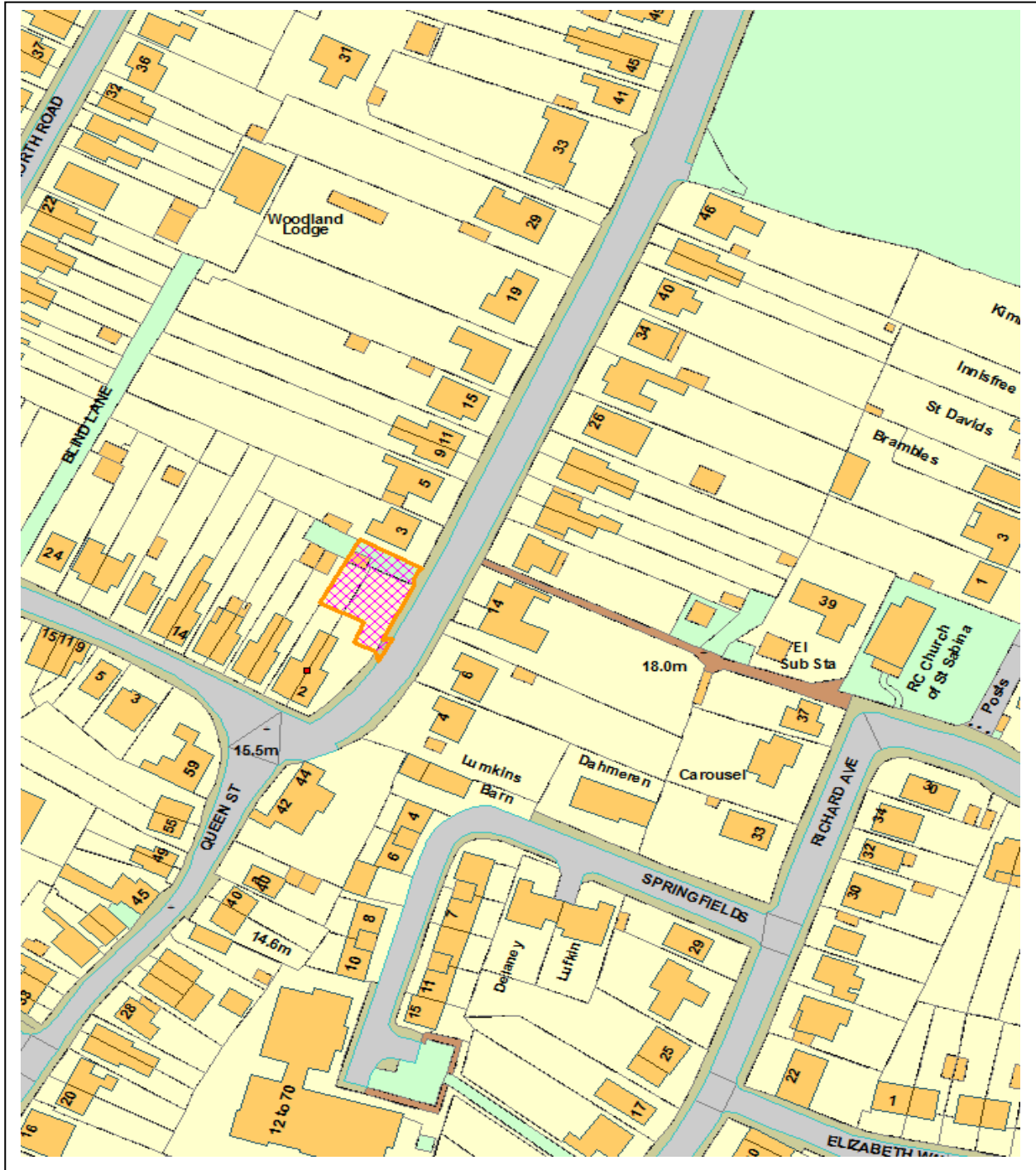
None

PLANNING COMMITTEE

8 AUGUST 2017

REPORT OF THE HEAD OF PLANNING

A.4 PLANNING APPLICATION - 17/00306/FUL - 2 SPRING ROAD, BRIGHTLINGSEA CO7 0PJ



DO NOT SCALE

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Application:	17/00306/FUL	Town / Parish: Brightlingsea Town Council
Applicant:	Mr & Mrs S Redfearn	
Address:	2 Spring Road Brightlingsea Colchester	
Development:	Demolition of existing garage and the creation of 1 no. dwellinghouse accessed from existing driveway to Regent Road and associated landscape works. Creation of two new off-road vehicle parking spaces with a new dropped kerb to be associated with 2 Spring Road.	

1. **Executive Summary**

- 1.1 The application is before Members as it has been called-in by Councillor Jayne Chapman.
- 1.2 The application seeks full planning permission for the sub-division of the garden serving 2 Spring Road and its redevelopment for the erection of a 2 bedroom chalet style dwelling with associated parking and garden areas following the demolition of an existing summerhouse and single garage. The proposed dwelling will front Regent Road and be accessed via the existing shared access running to the rear of the properties fronting Spring Road (shared access with 6 and 8 Spring Road).
- 1.3 The application also proposes the creation of a new vehicular access and 2 off-street parking spaces from Regent Road to serve the donor dwelling.
- 1.4 The principle of residential development on this site is acceptable as the site is located within the Settlement Development Boundary of Brightlingsea as defined by the Saved Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).
- 1.5 The development has been significantly amended from a 2 storey, 3 bedroom dwelling of a modern design and construction. The amended application is now for a 2 bedroom chalet style property of a traditional appearance and finish. Officers are satisfied that no material harm to visual amenity, neighbouring amenity or highway safety will result from the development. The application is therefore recommended for approval subject to conditions.

Recommendation: Approve

Conditions:

1. **Time Limit**
2. **Approved Plans**
3. **Removal of permitted development rights for extensions, additions or alterations to the roof, outbuildings and walls / fencing / enclosures**
4. **Removal of permitted development rights for the conversion of the garage.**
5. **Restriction of construction working hours**
6. **Hard and soft landscaping scheme**
7. **Details of boundary walls and enclosures**
8. **Materials**
9. **Any block paving / hardstanding to be permeable or porous**
10. **Visibility Splays provided prior to occupation and retained**
11. **Pedestrian visibility splays provided prior to occupation and retained**
12. **Parking provided prior to occupation and retained**

- 13. No unbound materials**
14. No vehicular access gates

2. Planning Policy

NPPF National Planning Policy Framework
 National Planning Practice Guidance

Tendring District Local Plan 2007

- QL9 Design of New Development
- QL10 Designing New Development to Meet Functional Needs
- QL11 Environmental Impacts and Compatibility of Uses
- HG3 Residential Development Within Defined Settlements
- HG9 Private Amenity Space
- HG13 Backland Development
- HG14 Side Isolation
- TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

- SPL1 Managing Growth
- SP1 Presumption in Favour of Sustainable Development
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- LP2 Housing Choice
- LP4 Housing Layout
- LP8 Backland Residential Development
- CP2 Improving the Transport Network

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

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. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. As this plan is yet to be examined, its policies cannot carry the full weight of adopted policy. However, because the plan has reached publication stage its policies can carry some weight in the determination of planning applications. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

3. Relevant Planning History

83/00768/FUL	Dining room extn	Approved	12.08.1983
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4. Consultations

Building Control and
Access Officer

The timber cladding and window areas may cause an unprotected area problem on the rear elevation given the proximity to the boundary.

ECC Highways Dept

This has been removed as part of the amendments

This Authority has assessed the highway and transportation impact of the proposal and does not wish to raise an objection to the above application subject to the following:

For the new access

' Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 17 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

' Prior to commencement/occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

Other Matters

' Prior to occupation of the development the vehicular parking facilities, as shown on the submitted plan shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

' No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

' At no point shall gates be provided at the vehicular access. The

access shall remain open and free for use in perpetuity.
Reason: To give vehicles using the access free and unhindered access to and from the highway in the interest of highway safety and in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

' Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, retained in perpetuity.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

' Any single garages should have a minimum internal measurement of 7m x 3m. All garages shall be retained for the purposes of vehicle parking in perpetuity

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011

' No works shall commence until a detailed sustainable transport mitigation package has been submitted to and agreed, in writing by, the Local Planning Authority. This package will provide information on how the applicant proposes to mitigate any increase in private vehicular use associated with the development and will include appropriate information on all sustainable transport modes including bus and rail travel, cycling, walking (including the local Public Rights of Way network), taxi travel, car sharing and community transport in the vicinity of the site. The package shall thereafter be implemented as agreed for each individual dwelling and/or premises within 14 days of the first beneficial use or occupation of that unit.

Reason: In the interests of mitigating the impact of the approved development by seeking to reduce the need to travel by private car through the promotion of sustainable transport choices.

Tree & Landscape Officer

The application site currently forms part of the curtilage of 2 Spring Road and is reasonably well populated with established shrubs and small trees ' the most significant of which is a young Silver Birch.

The amenity value of this tree could be relatively easily replicated and improved upon by new tree planting.

In terms of the appearance and character of the area the proposed loss of the garden area and its replacement with a dwelling will reduce the open character of the immediate vicinity, created by the rear garden of 2 Spring Road. However the site layout shows the planting of two new trees and this would go some way to softening the appearance of the development.

Should planning permission be granted then a soft landscaping condition should be attached to secure the indicative planting shown on the site layout plan.

5. Representations

5.1 Brightlingsea Town Council object to the application on the following grounds;

- Loss of privacy to adjoining properties.
- Over-development of site - insufficient amenity land.
- Access onto a dangerous junction.

5.2 A total of 6 letters of objection have been received;

4 letters of objection were received in response to the original application.

2 letters of objection were received in response to the amended proposal stating that their original objections remain the same.

The concerns raised can be summarised as follows;

- Mass, bulk and close proximity to boundary and neighbours.
- Overbearing and results in a sense of enclosure.
- Intrusive.
- Overdevelopment and cramped.
- Loss of light and overshadowing.
- Loss of privacy and harmful overlooking.
- Noise and disturbance from activity within private amenity area and open plan living area.
- Should be considered as backland development and not an 'infill'.
- No manoeuvring area for new parking spaces resulting in vehicles reversing into the highway.
- Minimum parking provision is not sufficient and will result in on-street parking.
- New access to 2 Spring Road will reduce space for on-street parking.
- New access located on a tight, busy and blind bend harmful to highway safety.
- Surface water flooding to shared access.

The material planning considerations have been addressed in the main assessment below.

Any rights of access or shared ownership disputes are a civil matter. Land ownership is not a material planning consideration.

6. Assessment

The main issues to be considered are:

- Site Context;
- Proposal;
- Principle of Development;
- Backland Residential Development;
- Layout, Design and Appearance;
- Residential Amenities;
- Private Amenity Space, and;
- Highway Considerations and Parking.

Site Context

6.1 The application relates to 2 Spring Road, a south-west facing, detached, double fronted Victorian dwelling located on the corner plot with Regent Road. The property fronts Spring

Road with an existing detached garage and access to the rear of the property fronting Regent Road. The dwelling is enclosed along its side and rear boundaries with a combination of close boarded fencing and walls all being around 1.8 metres in height with areas of hedging overtopping the fencing. To the bottom of the garden is an existing summerhouse.

- 6.2 2 Spring Road is a 2 storey dwelling being of the same scale and period as its neighbouring dwellings to its west. The immediate neighbour to the rear, 3 Regent Road, is a chalet style dwelling with 2 storey properties beyond.
- 6.3 The existing garage is accessed via a shared access also serving the detached garage building for numbers 6 and 8 Spring Road. This access runs adjacent to no. 3 Regent Road.

Proposal

- 6.4 The application seeks full planning permission for the sub-division of the garden serving 2 Spring Road and its redevelopment for the erection of a 2 bedroom chalet style dwelling with associated parking and garden areas following the demolition of an existing summerhouse and single garage.
- 6.5 The proposed dwelling will front Regent Road and be accessed via the existing shared access running to the rear of the properties fronting Spring Road (shared access with 6 and 8 Spring Road). The private amenity space serving the dwelling will be located to its southern side enclosed by a part brick, part fence 1.8 metre boundary treatment. The frontage will see a lower boundary wall and access gate with some scope for soft landscaping. The dwelling will be finished in facing red brick with a natural slate roof.
- 6.6 The application also proposes the creation of a new vehicular access and 2 off-street parking spaces from Regent Road to serve the donor dwelling.

Principle of Development

- 6.7 The application site is located within the Settlement Development Boundary of Brightlingsea as defined by the Saved Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). The principle of residential development in this location is therefore acceptable.
- 6.8 Therefore the key consideration is whether the development proposed could be accommodated on the site in a satisfactory manner and without any material detriment to character, amenity or highway safety.

Backland Residential Development

- 6.9 The proposal is within the defined Settlement Development Boundary for Brightlingsea. The proposed dwelling will be sited to the rear of 2 Spring Road but have its own road frontage and access on Regent Road. The resultant garden space for the donor dwelling remains in accordance with policy requirements (covered in more detail below). For these reasons, the proposal does not constitute backland residential development when considered against the definition and criteria of backland development set out within Saved Policy HG13 of the adopted Local Plan and LP8 of the Draft Plan.

Layout, Design and Appearance

- 6.10 The character of the area is one of predominantly two storey detached, semi-detached and terraced dwellings. There is an occasional single storey and chalet style dwelling scattered throughout Regent Road with a bungalow (with rooflights) directly adjacent to the north of

the application site. Number 2 Spring Road is a 2 storey dwelling. There is a varied mix of materials within both Spring Road and Regent Road but red brick dominates. Figure Ground Plan PA05_A has been submitted by the Agent showing how a site fronting North Road to the west has been developed in a similar fashion to that proposed. This application was for a pair of semi-detached two storey dwellings within the rear garden of 44 Spring Road.

- 6.11 The proposed chalet style dwelling would be sited alongside number 3 Regent Road to the north, a single storey dwelling with accommodation within the roof served by rooflights. 2 Spring Road is a 2 storey dwelling with 2 storey and single storey rear projections. The height of the proposed dwelling would sit lower than the ridge of the donor dwelling and slightly higher than its neighbour to the north creating a staggered street scene arrangement. The height of the dwelling is not considered excessive and relates satisfactorily to its immediate neighbours.
- 6.12 The proposed dwelling is sited slightly further forward in its plot than the side elevation of 2 Spring Road and the front elevation of 3 Regent Road but a 4.5 metre set back from the footway edge would still be retained. The boundary treatment proposed to enclose the private garden area is a replacement for the existing. For these reasons, the proposed dwelling and its boundary enclosure would not appear unduly prominent or intrusive within the street scene.
- 6.13 The proposed dwelling would be served by an integral garage and carport area in a similar position to the existing garage to be demolished. The spacing to this side of the dwelling is therefore similar to the existing arrangement and cannot be considered significantly harmful in street scene terms. The garden area serving the dwelling is positioned to its southern side and the width of the shared access is to the northern side. 1 metre is retained to the rear boundary. The proposed dwelling is not considered to appear cramped within its plot or its setting.
- 6.14 The proposed dwelling is of a traditional design, appearance and finish with an oak framed central entrance porch, well proportioned dormer windows with decorative badge boards and a brick and slate finish. The dormer cheeks will be finished in off-white render which is a finish seen elsewhere in the locality.
- 6.15 The proposed parking spaces to serve the donor dwelling would result in a break in the boundary treatment breaking up the hard edge in close proximity to the back edge of the footway and cannot be considered harmful to visual amenity.
- 6.16 It is considered that the proportions, appearance and finish of the property would relate appropriately to the character and appearance of the area and sit comfortably within its setting.

Residential Amenities

- 6.17 The application has been amended and now proposes a 2 storey chalet style dwelling of a traditional cottage design reduced in scale from a 3 bedroom, 2 storey house of a modern appearance. The main ridge height has been lowered to 6.8 metres with a lower rear projection of 6 metres in height incorporating a half-hip roof form adjacent to the shared boundary with number 6 Spring Road. There are no first floor side or rear facing windows, only a single high level rooflight to the north east elevation adjacent to the shared access. Two dormer windows are proposed to the front elevation overlooking Regent Road.
- 6.18 The shared access width and distance to the neighbouring property means that 5 metres are retained between the side elevations of the proposed dwelling and number 3 Regent Road to the north. The proposed dwelling will be sited in a similar position to the existing

pitched roof garage but will result in an increase in height and depth to the current arrangement. The rear projection of the dwelling is hipped away from the neighbour minimising any impact. Whilst the proposed dwelling is higher and deeper than the existing garage, the separation distance retained is considered sufficient and the development will not result in any material loss of outlook or light. The proposed rooflight faces this neighbour but is high level and will not result in any overlooking or loss of privacy.

- 6.19 The proposed dwelling will be sited 1 metre from the shared boundary with number 6 Spring Road to the west with the rear projection positioned almost in line with the existing garage block to the rear of numbers 6 and 8 Spring Road. This rear projection is pitched away from the rear elevation of the properties in Spring Road with a half-hipped roof element directly adjacent to this boundary further minimising any impact. This rear projection has an eaves height of 2.9 metres and an overall height of 6 metres. The proposed dwelling will be sited 13 metres from the rear elevation of number 2 and 14 metres from 8 Spring Road. Due to the roof form being pitched away at its highest point the rear projection of the proposed dwelling retains a further 7+ metres from these dwellings with the main ridge of the dwelling being a total of approximately 17 metres away. No first floor windows are proposed within the rear or side elevations of the dwelling. For these reasons, the development will not result in any significant loss of light, outlook or privacy to the neighbouring dwellings fronting Spring Road.
- 6.20 In terms of the impact on the occupiers of the donor dwelling and future occupants of the proposed dwelling, the distance between the properties is considered sufficient to ensure that no loss of light will occur. There are no side facing windows in the proposed dwelling therefore having no impact on privacy to the donor dwelling. There is only a single first floor window within the rear elevation of number 2 Spring Road which does not serve a main living space. Therefore any overlooking into the private amenity area of the new dwelling would be limited and not harmful.
- 6.21 Any noise coming from the new dwelling and the living area cannot be considered as a nuisance given that the land is already used as garden land with a summerhouse also located in this location.
- 6.22 It is therefore concluded that any impact upon the neighbouring properties in terms of outlook, loss of light and loss of privacy would be minimal and not sufficiently detrimental to warrant a refusal of planning permission.

Amenity Space

- 6.23 Saved Policy HG9 of the Tendring District Local Plan (2007) relates to private amenity space and states that new dwellings with 2 bedrooms shall have a minimum of 75 square of private garden area and that dwellings with 3 or more bedrooms shall have a minimum of 100 square metres.
- 6.24 In this instance, the proposed 2 bed dwelling is to be served by a private amenity space just over 100 square metres with the donor dwelling retaining a garden area of approximately 120 square metres. Both dwellings will therefore be served by a private amenity area in excess of that required by the policy standards.

Highways Considerations & Parking

- 6.25 The Highway Authority has assessed this proposed development and considers it to be acceptable, subject to standard conditions relating to the parking standards, visibility splays and surface treatments.

- 6.26 The proposed dwelling will be served by a single garage and a parking space in front both being of the correct dimensions in accordance with the current adopted Parking Standards. A dwelling of this size requires 2 parking spaces which will be provided by the garage and area in front. The proposed garage and parking space is located in the same position as the existing and is therefore considered to have a neutral impact. The shared access arrangements will not increase and will still serve 3 dwellings overall.
- 6.27 The proposals can accommodate the pedestrian and vehicular visibility splays required by The Highway Authority.
- 6.28 2 parking spaces of 2.9m by 5.5m are proposed to serve the donor dwelling in accordance with the Council's current Adopted Parking Standards. Regent Road is an unclassified road. The provision of a new access and dropped kerb could therefore be carried out without the benefit of planning permission. The existing access and parking serving 2 Spring Road does not have a turning area and the new parking area would therefore be a similar arrangement providing direct access to Regent Road with no turning area. This is also typical of the majority of neighbouring dwellings in the locality. The new dwelling and donor dwelling would therefore deliver sufficient off-street parking.
- 6.29 Furthermore, the site is located within a highly sustainable location within easy walking distance of the main high street and beach facilities.
- 6.30 The additional traffic movements from a single dwelling cannot be considered excessive. It is therefore considered that the highway network can accommodate the development without any significant harm to highway safety.

Background Papers

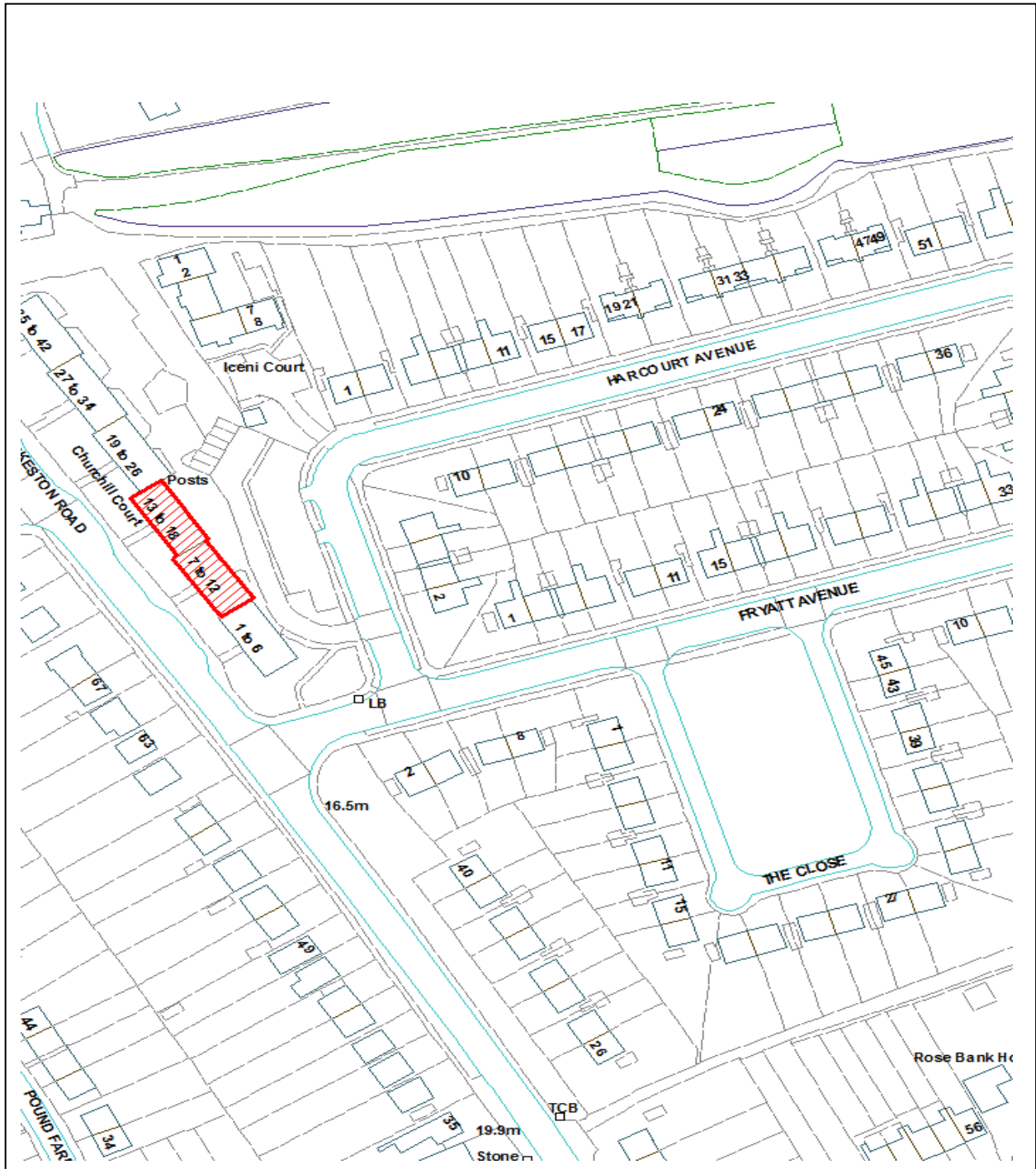
None.

PLANNING COMMITTEE

8 August 2017

REPORT OF THE HEAD OF PLANNING

A.5 PLANNING APPLICATION – 17/01009/FUL - CHURCHILL COURT, PARKESTON ROAD, DOVERCOURT, CO12 4NU



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Application:	17/01009/FUL	Town / Parish: Harwich Town Council
Applicant:	Mr Barry Eldridge -Tendring District Council	
Address:	Churchill Court Parkeston Road Dovercourt	
Development:	Removal of existing under croft garages and conversion of these spaces into a two bedroom residential unit and a community liaison office.	

1. Executive Summary

- 1.1 The application is before the Planning Committee as Tendring District Council is the owner and applicant.
- 1.2 This application is an amendment to a previous application under reference 16/01946/FUL approved by Committee on 31st January 2017.
- 1.3 The application proposes alterations to the rear elevation at ground floor level with the conversion of the existing garages below numbers' 7 to 18 Churchill Court. The garage doors will be replaced with new windows and doors as required and will accommodate a fully accessible 2 bedroom flat (1 bedroom under 16/01946/FUL) and a community liaison office with the remainder of the space being converted into small storage units to serve the residential units.
- 1.4 The development has been revised as an alternative to the existing planning permission. The new application differs from this by retaining the existing storage to the south-west elevation fronting Parkeston Road and constructing the new dwelling to the north-east elevation as opposed to having a room facing both elevations. The dwelling will also have 2 no. bedrooms as opposed to 1. The office area will remain unchanged from the previous application.
- 1.5 Subject to imposition of the conditions recommended below the proposal is not considered to result in any material harm to visual or residential amenity or highway safety. Approval is therefore recommended.

Recommendation: Approve

Conditions:

1. **Time Limit**
2. **Approved Plans**
3. **Opening Hours of Community Liaison Office**
4. **Restrict Construction Working Hours**

2. Planning Policy

NPPF National Planning Policy Framework
National Planning Practice Guidance

Tendring District Local Plan 2007
QL9 Design of New Development
QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses
 HG3 Residential Development Within Defined Settlements
 HG9 Private Amenity Space
 TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SPL1 Managing Growth
 SP1 Presumption in Favour of Sustainable Development
 SPL2 Settlement Development Boundaries
 SPL3 Sustainable Design
 LP2 Housing Choice
 LP4 Housing Layout
 CP2 Improving the Transport Network

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

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. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. As this plan is yet to be examined, its policies cannot carry the full weight of adopted policy. However, because the plan has reached publication stage its policies can carry some weight in the determination of planning applications. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

3. Relevant Planning History

10/01470/FUL	Demolition of existing garages and associated works.	Approved	09.03.2011
13/00647/FUL	Increase parking to include 7 no. additional parking spaces, new external bin store, increased play area and new security fence and new CCTV system.	Approved	22.07.2013
14/00061/DISCON	Discharge of conditions 03 (playground layout), 04 (CCTV Plan), 06 (Planting Plan) and 07 (Level)S of planning permission 13/00647/FUL - For Information Only	Approved	03.02.2014
16/01946/FUL	Removal of existing undercroft garages and conversion of these	Approved	01.02.2017

spaces into a one bedroom two person fully accessible residential unit and a community liaison office and storage.

4. Consultations

Building Control and Access Officer No adverse comments at this time.

Environmental Health Working hours should be restricted to 07.00 to 19.00 Monday to Friday, 08.00 to 13.00 Saturday with no Sunday or Bank Holiday working.

No burning of any waste arising from the conversion to take place on site.

Asset Management Team No comments received.

ECC Highways Dept The Highway Authority does not wish to make comment further to those submitted under application 16/01946.

The comments received in response to 16/01946 were:

Having now been presented with additional information regarding the use of the garages, this Authority has assessed the highway and transportation impact of this proposal, removes the previously supplied objection, and raises no objection as it is not contrary to the following policies:-

A) Safety - Policy DM1 of the Highway Authority's Development Management Policies February 2011

B) Accessibility - Policy DM9-12 of the Highway Authority's Development Management Policies February 2011

C) Efficiency/Capacity - Policies DM13-15 of the Highway Authority's Development Management Policies February 2011

D) Road Hierarchy - Policies DM2-5 of the Highway Authority's Development Management Policies February 2011

E) Parking Standards - Policy DM8 of the Highway Authority's Development Management Policies February 2011

5. Representations

5.1 Harwich Town Council has no objection to the application.

5.2 No individual letters of representation have been received.

6. Assessment

The main planning considerations are:

- Principle of Development
- Design and Visual Impact
- Residential Amenities
- Parking Provision

Principle of Development

- 6.1 The application site is within the Settlement Development Boundary of Harwich as defined by the Saved Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). Saved Policy HG3 of the Adopted Local Plan states that 'within the defined development boundaries of towns and villages, development will be permitted providing it satisfies amenity, design, highway, local housing needs and sustainability criteria, as appropriate, and can take place without material harm to the character of the local area'.
- 6.2 The introduction of an additional flat within this block of existing residential properties does not raise any sustainability concerns with access to a convenience store and other amenities in close proximity.
- 6.3 The fully accessible residential accommodation and community liaison office will contribute positively to housing need and other needs of the area and the existing residents of Churchill Court.
- 6.4 Therefore, there is no principle objection to the development subject to the acceptability of the detailed considerations below.

Design and Visual Impact

- 6.5 The proposed alterations are to the ground floor level of the building. Due to the change in site levels the external alterations to the building will not be overly prominent from the rear fronting Harcourt Avenue. No alterations are proposed to the elevation fronting Parkeston Road.
- 6.6 The existing garage doors will be removed and the openings reduced to receive new windows and doors which will be of a similar scale and appearance to the existing building facade. The infill around the windows will be rendered to match the existing.
- 6.7 Overall, the alterations to the building are minor and will not result in any harm to visual amenity or the character of the area.

Impact on Neighbouring Amenities

- 6.8 There is considered sufficient communal amenity areas to serve the resultant number of dwellings strengthened by the creation of the new storage areas proposed in the currently unused garages.
- 6.9 There will be no material harm to neighbouring amenities resulting from the new flat or community liaison office given the location adjacent to existing residential units.

Parking Provision

- 6.10 A disabled parking bay will be provided adjacent to the entrance of the new flat together with a parking space to serve the community liaison office.
- 6.11 The garages to be lost as a result of the development are undersized and do not meet the current requirements of the Council's adopted parking standards. Existing residents no longer use these garages and the new parking areas provided through application 13/00647/FUL were in preparation for this application and compensate for the loss of the existing garages.

- 6.12 The creation of storage areas for the residents further compensate for the loss of the garages by providing additional secure storage.
- 6.13 The parking provision is therefore considered adequate and Essex County Council Highway Authority raise no objection to the development.

Background Papers

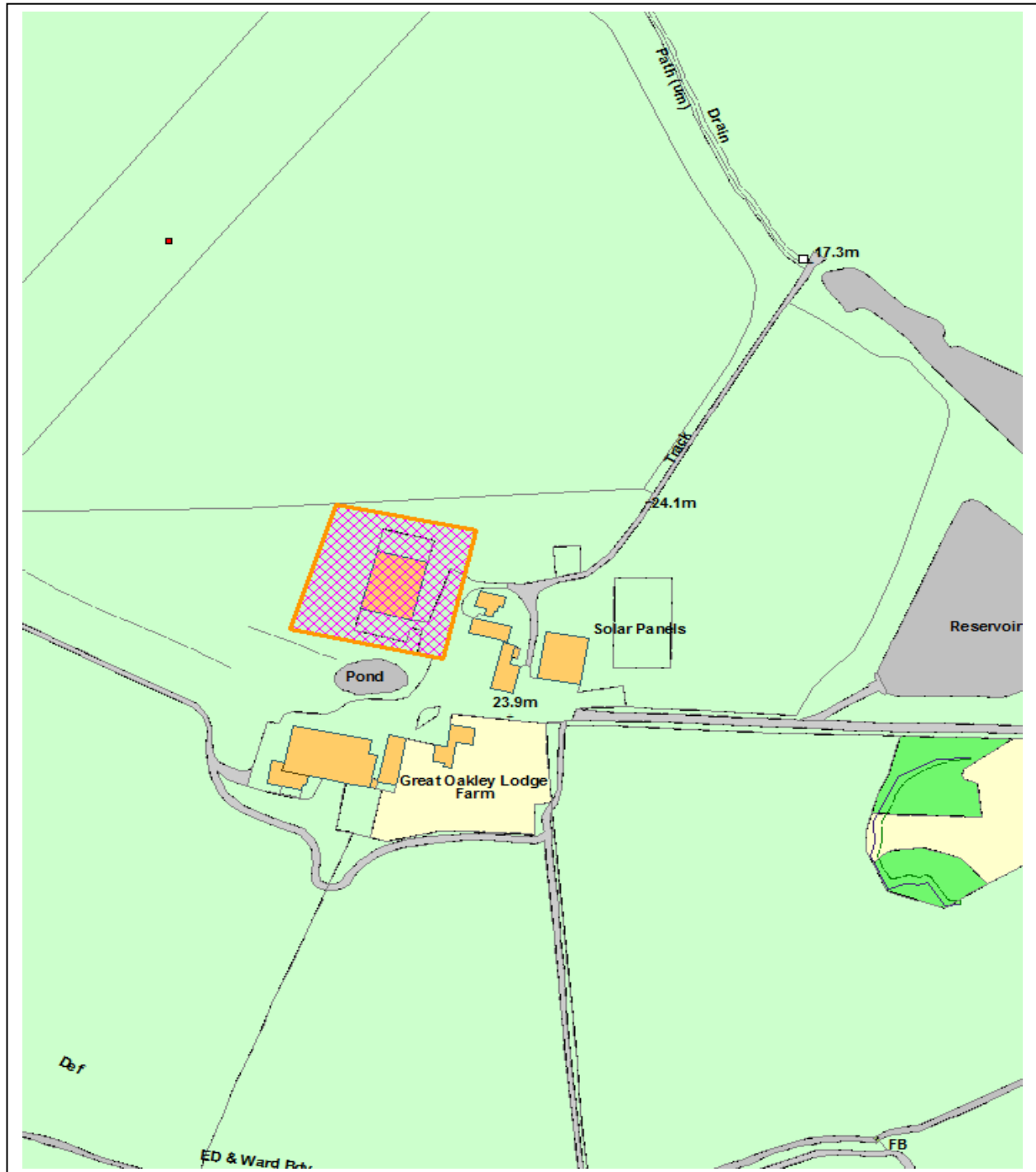
None

PLANNING COMMITTEE

8 AUGUST 2017

REPORT OF THE HEAD OF PLANNING

A.6 PLANNING APPLICATION - 17/00587/FUL - GREAT OAKLEY LODGE, HARWICH ROAD, GREAT OAKLEY, CO12 5AE



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Application:	17/00587/FUL	Town / Parish: Great Oakley Parish Council
Applicant:	Mr Hugh Morris - Galloper Wind Farm Ltd	
Address:	Great Oakley Lodge Harwich Road Great Oakley	
Development:	Temporary helipad facility including a new temporary porta-cabin, a new fuel storage tank and refuelling facility, lighting and additional car parking.	

1. Executive Summary

- 1.1 The application is before Members as it has been called-in by Councillor Mike Bush.
- 1.2 Galloper Offshore Wind Limited (GWFL) is applying for a new time limited planning permission at Great Oakley Airfield to temporarily allow associated helicopter movements required from the middle of November 2017 for up to a maximum of 24 months from the commencement of operations.
- 1.3 Galloper Offshore Wind Limited (GWFL) seeks to develop a site specific base in Harwich, with its own helipad and a pontoon for crew transfer vessels, for which the planning application was submitted on the 18th November 2016 under planning reference 16/01897/FUL. However, ahead of this being developed, a temporary helipad site facility is required from the middle of November 2017 until approval has been received for the permanent base and the facility has been constructed. This is envisaged to be 2 years from November 2017.
- 1.4 Great Oakley Airfield currently has consent for a limited number of helicopter movements (3 take-offs per day), under Planning Permission 12/00405/FUL. A maximum of 20 helicopter movements per day is proposed however in practice the level of helicopter use is anticipated to be less than half of this and a monthly maximum equivalent to 10 movements per day is proposed (310 per month Aug-May inclusive and 45 movements per month in June-July). A movement of the helicopter is defined as a take-off or landing.
- 1.5 The NPPF and local planning policy seek to balance the needs of business with protecting against significant undue effects.
- 1.6 During the course of the application and following objections from Natural England and the RSPB an amended Flight Avoidance Plan has been submitted. The plan shows the main sensitive wildlife sites being avoided. Subsequently Natural England and the RSPB have now removed their objections.
- 1.7 It is considered that the central issue is the impact upon the locality (people and place) of noise disturbance which may be caused by helicopters using the airfield. The impacts of additional use by helicopters for a 2 year temporary period would be limited and the proposal can be made acceptable by the imposition of conditions. The application is therefore recommended for approval.

Recommendation: Approve

Conditions:

1. Temporary Permission for 2 years only commencing 1st November 2017 after which the site shall be reinstated to its former condition.
2. Accordance with approved plans.
3. Accordance with Flight Avoidance Plan (version dated 12th June 2017). A copy of the Flight Avoidance Plan shall be installed prominently in the cabin/office/club house and in Pilot's Handbook.
4. Use of Helicopters to accord with protocol in the Great Oakley Airfield Pilot Handbook, (2012).
5. No more than 310 Galloper Offshore Wind Limited helicopter movements per month (1st Aug – 31st May) with the daily maximum being 20 movements.
6. No more than 45 Galloper Offshore Wind Limited helicopter movements per month (1st June – 31st July) with the daily maximum being 20 movements.
7. Times of flight operations being in accordance with the table included at section 1.2.4 of the submitted Planning Application Supporting Statement (updated June 2017).
8. No additional lighting installed other than that stipulated on approved plans.
9. No helicopter with a higher noise rating than a Bell 206 Long Ranger shall be used at any time.
10. Other than for necessary routine/servicing and maintenance the site shall not be used as a base for serving, maintenance or repair of helicopters.
11. Records of take-offs/landings of helicopters shall be kept and made available to LPA upon request.
12. Permitted use shall not include helicopter/gyroplane flying training.
13. Programme of monitoring helicopter flight impacts on SPAs in liaison with RSPB.

2. **Planning Policy**

**NPPF National Planning Policy Framework
National Planning Practice Guidance**

Tendring District Local Plan 2007

QL7 Rural Regeneration

QL11 Environmental Impacts and Compatibility of Uses

COM22 Noise Pollution

ER7 Business, Industrial and Warehouse Proposals

EN11a Protection of International Sites: European Sites and Ramsar Sites

EN11b Protection of National Sites: Sites of Special Scientific Interest, National Nature Reserves, Nature Conservation Review sites, Geological Conservation Review sites

EN11c Protection of Local Sites: Local Nature Reserves, County Wildlife Sites, Regionally Important Geological/Geomorphologic sites

EN23 Development with the Proximity of a Listed Building

TR1a Development Affecting Highways

TR10a General Aviation

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SP1 Presumption in Favour of Sustainable Development

SPL3 Sustainable Design

PP6 Employment Sites

PP13 The Rural Economy

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Tendring District Council's Economic Development Strategy

Status of the Local Plan

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. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. As this plan is yet to be examined, its policies cannot carry the full weight of adopted policy. However, because the plan has reached publication stage its policies can carry some weight in the determination of planning applications. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

3. Relevant Planning History

02/02235/FUL	Change of use of agricultural land to use as grass airstrip for private flying	Approved	19.02.2003
05/01152/FUL	Variation of conditions 2, 3, 4 & 6 of planning consent 02/02235/FUL to enable; - a maximum of 30 take-offs in any one day, (without exceeding the current annual allowances). - visiting aircraft to land and take off from the site, whilst still being limited to the overall restrictions on the numbers of movements	Approved	13.01.2006

controlled by condition 2, as may be modified, (currently only those 'based' at the site can land and take-off).

- gliding to take place on 3 days per year.

In addition, access improvements at the junction with Harwich Road.

06/00770/FUL	Variation of Condition 2 of planning permission 05/01152/FUL to enable the Local Planning Authority to authorise additional flights (in excess of 30 per day) on special occasions.	Approved	22.06.2006
12/00405/FUL	Variation of condition 5 of planning permission T/APP/P1560/A/94/435398 to allow helicopters to operate from the aerodrome.	Approved	30.01.2013
12/00406/FUL	Variation of condition 6 of planning permission T/APP/P1560/A/94/435398 to allow flying training from the aerodrome.	Approved	30.01.2013
13/00521/FUL	Portacabin for use as flying school reception and briefing room.	Approved	
17/00587/FUL	Temporary helipad facility including a new temporary porta-cabin, a new fuel storage tank and refuelling facility, lighting and additional car parking.	Current	

4. Consultations

Civil Aviation Authority	No comments received
Essex Bridleways Association	No comments received
ECC Highways Dept	The Highway Authority has assessed the amended documents and does not wish to make comment further to those already submitted.
Natural England	Based on the information provided in support of the application, including the incorporated mitigation measures, it is our view that the proposal is unlikely to have an adverse effect on integrity of Hamford Water Special Protection Area (SPA) and Ramsar site or the Stour and Orwell Estuaries SPA and Ramsar site. We also consider that the proposal is unlikely to adversely affect Hamford Water or the Stour Estuary Sites of Special Scientific Interest (SSSIs).

We welcome that a Flight Avoidance Plan (version dated 12th June 2017) has now been submitted which highlights the sensitive areas

(the SPAs and 1 km buffers around them) will be avoided. We also welcome that the flight path has been amended to avoid overflying the majority of potential supporting SPA habitat north of Hamford Water.

On this basis, we have no objection to the development provided the Flight Avoidance Plan is fully integrated into the proposals and secured through an appropriate planning condition or obligation.

The Ramblers Association No comments received

Royal Society For The Protection of Birds Further to recent correspondence with Mr Hugh Morris, the Senior Consenting and Permitting Advisor at RWE Generation UK and receipt of their Flight Avoidance Plan map dated 9 June 2017 (ref: UI794621) the RSPB removes its objection subject to the following condition being adopted:

The Flight Avoidance Plan dated 9 June 2017 is registered and adopted by aircraft used in the service and maintenance of the Galloper Offshore Wind Facility.

The RSPB's acceptance of this condition, relates entirely to this case alone, and is without prejudice to our position on any other current or future proposals elsewhere or to our standing objection on other planning considerations currently sitting with the Council.

Environmental Health Having read the application details and also the noise statement for the temporary use as a helipad to service the wind farm, I contacted RWE for further information which has now been provided in these documents. I note that the proposed number of predicted flights has now also been reduced to 310 a month.

Looking at the new amended flight path and predicted flight numbers, which takes the aircraft further from residential properties, I have compared this to the original noise report for the use of the site to have helicopter flights to and from there, although on a reduced number.

Pollution and Environmental control have no objections to this application as long as the number of flights and the flight path are conditioned in any approval given to the operator.

Regeneration The Council's Regeneration Team fully supports this application for a temporary helipad at Great Oakley Lodge Airfield to service the construction and operational requirements of the Galloper Wind Farm. This application is ancillary to proposals to establish an Operations and Maintenance (O&M) Base at Harwich International Port (which include plans for a permanent helipad), for which the Regeneration Team has already expressed its full support.

This application includes proposals for a temporary office and waiting room, as well as fuel storage arrangements, and will create 6.2 FTE jobs. It is understood that these jobs will transfer to the applicant's permanent base at Harwich International Port, should this element of their primary application (O&M Base) be approved.

The operational activity associated with the Galloper Wind Farm provides Harwich with a significant opportunity to grow its status as a Centre for Offshore Renewable Engineering.

ECC Highways Dept

This Authority has assessed the highway and transportation impact of the proposal and would not wish to raise an objection to the above subject to the following;

Public Rights of Way - The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpaths no11 and 29 (Great Oakley) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.

Tree & Landscape Officer

The application site comprises of an area of grass, an area of made ground and concrete aprons either side of an existing barn.

No trees or other significant vegetation will be affected by the proposed development.

In terms of the impact of the development on the local landscape character it is considered that the new structures would be relatively well associated with the existing farm buildings. Therefore the development would not have a significant adverse impact on the character or appearance of the area.

In order to screen the proposed structures and car parking area from the Public Rights of Way in the vicinity of the application site it would be desirable to secure soft landscaping to partially obscure views of them from the footpaths. This could be by way low level hedgerow planting.

5. Representations

5.1 Great Oakley Parish Council outline their following concerns;

- new independent noise survey is required.
- if granted there should be no further extensions to the 2 year temporary period.
- existing number of movements approved under 2012 permission should be included as part of the overall movements.
- operations should be limited to 7am to dusk.
- reduced operations should take place in summer months.
- flightpaths should be revised to avoid settlements and wildlife corridors.
- helicopters should take off vertically to 1000ft before moving off and return approaching at 1500ft to reduce impact upon local residents.
- improvement to track leading to site should be undertaken.

5.2 Harwich Town Council recommend refusal due to the helipad not being fit for purpose due to the unsuitability of flight paths and immediate access for emergency services.

5.3 The application has been called in to Planning Committee by the Local Ward Councillor Mike Bush. He provides the following reasons/concerns;

- The original application was based upon a Bellringer 206 Long Ranger and as such the condition imposed was that no helicopter noisier than a Bellringer 206 Long Ranger should be used at Great Oakley airfield. Increased noise is a significant concern and the original application may have been refused outright had enabling planning condition not been included to protect local residential amenities from noise disturbance.

- In the event that the variation is considered then a new full noise assessment must be carried out by a qualified and ideally independent expert based upon the helicopters proposed for usage by this application.

- Number of helicopter flights – The existing permission includes planning condition 6 limiting helicopter take-offs to no more than three in any one day in order to protect residential amenities from noise disturbance from helicopter take-offs. Application 17/00587/FUL seeks permission to increase helicopter movements. As an enabling condition, this condition should not be varied or replaced as without this enabling condition, planning application 12/00405/FUL would likely have been refused.

- Hours of Helicopter Operation – The existing permission limits helicopter take-offs and landings to being within the hours of 08:30 and 21:00 via planning condition 7 of planning permission 12/00405/FUL in order to be consistent with planning conditions existing on previous planning applications approved and to prevent unacceptable noise disturbance to residential amenities by way of helicopters landing and taking off. Application 17/00587/FUL seeks permission to extend take-off and landing hours from 07:00 through to 21:00 Monday to Friday with weekend operations in response to urgent issues, again without planning condition 7 on application 12/00405/FUL, which was an enabling condition, that planning application would likely have been refused. As such, the permitted times for take offs and landings for helicopter usage at Great Oakley airfield should not be varied or replaced.

- Fuel Safety – There are concerns regarding health and safety given the narrow track to and from the site to be used for fuel deliveries and given that two bungalows have been built at the entrance to the site since the previous helicopter application was approved. There are concerns about the safety of the access to and from the site for regular fuel deliveries, application 17/00587/FUL would constitute a significant increase on current deliveries to the site. Health and safety risks to the community will be significantly increased as the B1414 is used by EPC to transport highly hazardous chemicals on a daily basis. A full risk assessment should be carried out to determine impact and consequences of increased traffic movements of multiple vehicles simultaneously transporting highly hazardous products through the Oakley villages.

5.4 22 letters of objection have been received outlining the following concerns;

- Quiet rural location where residents want peace and quiet. Helicopter's noise will be unacceptable.
- Helicopter movements 14 hrs a day is unacceptable.
- A two year permission cannot be considered temporary.
- Fuel tanker deliveries along rural lanes is unacceptable.
- Better alternatives in Clacton and Harwich areas.
- No benefit to the local community.
- Out of character with the local environment
- Questionable green credentials for a renewable energy company utilising helicopters.
- Flight path crosses valuable wildlife areas.
- Helicopters cause more noise due to hovering and circling prior to landing.
- Helipad is close to Primary School and Doctor's Surgery causing disruption.
- Possibility of temporary permission becoming permanent.
- No measurements of noise taken under proposed flight path.

- Wildlife concerns put before local residents in respect to the amended flight path.
- New flight path crosses residential areas in Dovercourt causing noise and disturbance and health and safety risks.
- Rural villages will be impacted as it impacts upon current tranquillity.
- Disruption to clinicians at local GP's surgery.
- Need for a new independent noise assessment assessing background levels along flight path.
- Condition should be imposed limiting flights over and the above the 2012 limits to Galloper Helicopters only and only when it's not possible to use Crew Transfer Vessels.
- Flights should take place Monday to Friday only.

6. Assessment

The main planning considerations are:

- Site Context
- Proposal
- Planning History/Background
- Policy Considerations (including regeneration aspects, residential amenity/noise concerns, environmental/conservation interests, visual impact, accessibility/highway considerations and impact upon existing airstrips).

Site Context

- 6.1 The application site is located at Great Oakley Lodge which is situated to the north of the village of Great Oakley. The land at Great Oakley Lodge is currently utilised as an aerodrome and consists of several buildings including a Grade II Listed property and barn. The application site itself comprises of a square piece of land located centrally within the airstrip to the south of grass runway areas. The site encompasses the existing hanger, concrete aprons, existing grass helipad area, car parking and other hard-standings. Access to the site is taken from the B1414 Harwich Road via the existing drive. The main built up area of Great Oakley is situated approximately 730m to the south along Harwich Road.

Proposal

- 6.2 Galloper Offshore Wind Limited (GWFL) is applying for a new time limited planning permission at Great Oakley Airfield to temporarily allow associated helicopter movements required from the middle of November 2017 for up to a maximum of 24 months from the commencement of operations.
- 6.3 It is the intention for Galloper Offshore Wind Limited (GWFL) to develop a site specific base in Harwich, with its own helipad and a pontoon for crew transfer vessels, for which the planning application was submitted on the 18th November 2016 under planning reference 16/01897/FUL. The proposed permanent base is within Harwich International Port. However, ahead of this being developed, a temporary helipad site facility is required from the middle of November 2017 until approval has been received for the permanent base and the facility has been constructed. This is envisaged to be 2 years from November 2017.
- 6.4 GWFL is an offshore wind farm located off the coast of Suffolk where foundation installation started in 2016. The current development will have an electrical generating capacity of approximately 336 Megawatt and the project represents an investment of approximately £1.5 billion. GWFL is a Nationally Significant Infrastructure Project authorised by the Galloper Wind Farm Order 2013.
- 6.5 Crew transfer vessels are the main means of transferring staff to the wind farm and the helicopter is used when sea conditions are unsuitable for transferring staff, or other factors dictate that a rapid transfer is necessary.
- 6.6 Great Oakley Airfield has consent for a limited number of helicopter movements, under Planning Permission 12/00405/FUL, however the GWFL proposal would exceed the consented movements and conditions relating to the permanent siting of a helicopter at the site. The helicopter will be used to transfer staff for regular maintenance activities when it is not possible to use the crew transfer vessels or a rapid transfer is required. A worst case scenario of 20 helicopter movements per day is proposed when the helicopter is required to operate, however in practice the level of helicopter use is anticipated to be less than half of this and a monthly maximum equivalent to 10 movements per day is proposed. A movement of the helicopter is defined as a take-off or landing.
- 6.7 The application therefore proposes 310 movements per month between 1st Aug – 31st May (maximum of 20 movements per day), which equates to on average 10.5 movements a day. During June and July, a much reduced level of activity is anticipated because during this period, normal operations are suspended to allow special maintenance to take place. As such between 1st June – 31st July 45 movements per month are proposed (maximum of 20 per day).
- 6.8 The proposed time of flights operations are proposed as below;

Month	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Earliest take off	07:00	07:00	07:00	07:00	07:00	09:00	09:00	07:00	07:00	07:00	07:00	07:00
Latest landing	18:00	18:30	20:30	21:00	21:00	17:00	17:00	21:00	20:30	19:30	17:30	17:00

6.9 To utilise the existing hangar and helipad the following facilities/upgrades are required;

- A temporary porta-cabin to provide an office and canteen
- A temporary fuel bowser unit, being a fixed fuel storage unit and refuelling system, on a concrete slab
- A hard standing around the porta cabin and fuel bowser
- Additional car parking for three cars and a mini bus
- Lighting of the helipad, hangar apron and porta-cabin and car parking area
- An extension to the existing concrete apron on the northern side of the hangar
- An illuminated wind sock on the roof of the existing hangar

Planning History/Background

Original Planning Permission

6.10 In August 1994, temporary planning permission for “Continued use of grassland for purposes of recreational flying and as a base for three light aircraft, use of caravan for meteorological equipment and safety equipment” was granted on appeal (Planning ref. 93/00773/FUL & Appeal ref. T/APP/P1560/A/94/435398), for the period up to January 1996. In allowing the planning appeal and quashing the related enforcement notice, the Appeal Inspector imposed seven conditions. Although, from the Inspector’s decision letter, the reason for the temporary period was clearly to allow the noise impact of the use to be assessed more comprehensively, the precise reasons for the remaining 6 conditions are not specified and are unclear. Those conditions appear to be based largely upon accommodating the applicant’s proposal, excluding any not-applied-for wider uses, including flying training and by helicopters, rather than any evidence that wider uses would be harmful. The Council’s concerns at that time were that the use of the land for general flying by three light aircraft had an unreasonable impact on the locality by reason of noise, nuisance and loss of amenity caused by low flying aircraft in close proximity to residential property.

6.11 The Appeal Inspector’s opinion was that the central issue at that time was “whether the continued use of the airstrip on the scale proposed is likely to cause undue disturbance by reason of noise and intrusion to the quiet enjoyment of the occupiers of dwellings in the neighbourhood”. In allowing the appeal, the Inspector therefore accepted that there would be a degree of disturbance from flying activity but that this would not amount to undue disturbance.

6.12 Summary list of subsequent related planning permissions

November 1995 - permanent renewal of temporary planning permission (95/01206/FUL).

December 1996 - to allow up to 4 aeroplanes to be based at the airfield (96/01267/FUL).

December 1998 – vary conditions 3 and 4 of the original planning permission (98/01284FUL) to allow 5 take-offs/day and 10 aeroplanes (until 31 December 1999).

November 1999 - to allow the number of take-off movements to be increased from 5 to 10 in any one day (99/01430/FUL) (until 31 December 2001).

April 2001 – variation of planning condition 3 of 99/01430/FUL to allow up to 10 take-off movements in any one day on a permanent basis (01/00319/FUL).

February 2003 – change of use of agricultural land to use as grass airstrip for private flying (second runway) (02/02235/FUL). No more than 10 take-offs/day in total and 10 aeroplanes.

January 2006 - to allow a maximum of 30 take-offs in any one day; visiting aircraft to land and take off (not only those 'based' at the site); and gliding to take place on 3 days per year (05/001152/FUL). No more than 3650 take-offs/year. No more than 30 aircraft based at airfield.

January 2006 – building for aircraft storage (05/01153/FUL).

January 2006 – use of building for aircraft support room (05/01154/FUL).

June 2006 – to allow additional flights (in excess of 30 per day) on special occasions (06/00770/FUL).

January 2013 – variation of condition 05 of T/APP/P1560/A/94/435398 to allow helicopters to operate from the aerodrome (12/00405/FUL)

January 2013 - variation of condition 6 of planning permission T/APP/P1560/A/94/435398 to allow flying training from the aerodrome (12/00406/FUL)

- 6.13 Planning permission 12/00405/FUL concerns the use of helicopters on the application site. However, the limitations of the existing consent would not allow the type of operation required by GWFL. The 2012 consent was primarily aimed at emergency situations including use of the site by the Air Ambulance, Police and Trinity House helicopters. The 2012 consent would remain unaltered by these proposals.
- 6.14 The 2012 consent contained several restrictions including; no helicopter being permanently based at the airfield for over 28 days, the maximum number of daily take-offs not exceeding three in total and no helicopter landing or taking off from the airfield outside 8:30am – 21:00pm. The GWFL application seeks a separate consent operating outside the restrictions of the 2012 application for a temporary period of 2 years from first use, which is to be in Mid-November 2017.

Policy Consideration

- 6.15 The NPPF gives advice on promoting sustainable transport and paragraph 33 states that when planning for airfields, "plans should take account of their growth and role in serving business, leisure, training and emergency service needs".
- 6.16 The NPPF includes advice on noise, including paragraph 123, which states, among other things, that "Planning policies and decisions should aim to: avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development; and recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established".
- 6.17 The NPPF recognises that businesses will often create noise and makes clear that noise should be avoided which gives rise to significant adverse effects. In other words, the government accepts that some adverse effects may arise. In order to justify the refusal of planning permission on noise grounds, it would therefore be necessary to demonstrate,

convincingly, not just that there were concerns over noise, but that significant adverse effects would result. There is a need to weigh up not imposing unreasonable restrictions against ensuring that there would be no significant adverse impacts.

- 6.18 The main planning issues concern the acceptability of the proposal having regard to the provisions of the Tendring District Local Plan (2007) 'saved' Policy TR10a – General Aviation. This sets out seven criteria against which the application should be assessed and these are considered, in turn, below. The policy is reproduced below in full, for ease of reference (although the Development Plan should be considered as a whole):

Policy TR10a – General Aviation

Proposals for new development relating to any existing operational airfield or proposals to establish a new flying site will be considered on their merits having regard to the following criteria:

- a. **Air travel needs of residents, business and air sports users;**
- b. **The economic and employment advantages arising to local and regional businesses;**
- c. **The impact upon public health and safety and residential and other noise sensitive properties in the immediate vicinity (i.e. under flight paths and circuits) by virtue of noise and disturbance;**
- d. **The impact on environmental and nature conservation interests;**
- e. **The impact on the landscape such as visual amenity and lighting;**
- f. **The accessibility of the site in relation to transport; and**
- g. **Development proposals will not be allowed where they would compromise the existing use of the districts' airfields or airstrips.**

a & b) Air travel needs of residents, business and air sports users / the economic and employment advantages arising to local and regional businesses.

- 6.19 It is a Council priority to support the needs of local/national businesses. In this instance GWFL have identified a need for a temporary use at the application site associated with the Gallapor Offshore Wind Farm, which is a Nationally Significant Infrastructure Project. It is GWFL's intention to establish a permanent base at Harwich International Port which will create a significant number of jobs. However, until this facility is up and running the ability to use the application site, as a helicopter facility on a temporary basis is essential to the overall project. As such this proposal is one of relatively few schemes that is proposing investment in a Nationally Significant Infrastructure Project that could support existing employment uses and their development in the Tendring Area. The Council's Economic Development Strategy identifies as one of its five key objectives the need to target growth sectors which are best placed to support growth and job creation within Tendring's economy. The strategy therefore focuses attention upon the opportunities afforded by Offshore Wind Energy. This therefore has to be given significant weight in assessing the proposal against other material planning considerations.

- 6.20 The Council's Regeneration Team endorse this view by providing the following comments;

The Council's Regeneration Team fully supports this application for a temporary helipad at Great Oakley Lodge Airfield to service the construction and operational requirements of the Galloper Wind Farm. This application is ancillary to proposals to establish an Operations and Maintenance (O&M) Base at Harwich International Port (which include plans for a permanent helipad), for which the Regeneration Team has already expressed its full support. This application includes proposals for a temporary office and waiting room, as well as fuel storage arrangements, and will create 6.2 FTE jobs. It is understood that these jobs will transfer to the applicant's permanent base at Harwich International Port, should this element of their primary application (O&M Base) be approved. The operational activity associated with the Galloper Wind Farm provides Harwich with a significant opportunity to grow its status as a Centre for Offshore Renewable Engineering.

c) The impact upon public health and safety and residential and other noise sensitive properties in the immediate vicinity (i.e. under flight paths and circuits) by virtue of noise and disturbance.

- 6.21 Public health and safety in this context includes considerations of noise impact and also the additional use of the airfield by helicopters, including having regard to the public footpath which crosses the farm. The proposed helicopter landing area is to be sited away from the footpath, to the west of the main group of buildings, whereas the footpath runs to the east of the buildings. A large number of objections have been received citing noise as a major local concern.
- 6.22 As part of the previous 2012 planning application a detailed noise survey was commissioned to inform the selection of candidate helicopters and to assess the impact upon residents. Due to this assessment still being relevant the applicant has not undertaken a new noise report but has submitted updated information relevant to the current proposal. The Council's Environmental Health endorses this approach.
- 6.23 As such to inform consideration of the noise issue, a updated report titled 'Great Oakley Helicopter Noise Assessment' has been submitted. The report confirms the following information;
- The location of the proposed temporary helipad is the same as that approved under permission 12/00405.
 - The helicopter to be used under the new permission will be the helicopter referred to in the existing 2012 permission (Condition 14) or one with a lower noise rating
 - The flight path proposed for the helicopter is to the north east of the airfield, close to that shown in the Pilot's Hand Book.
 - The total annual number of flights has been reduced to less than 44% of the total originally applied for as part of the planning application under consideration, through applying a maximum number of movements per month.
- 6.24 The Great Oakley Airfield Pilot Handbook published June 2012 (Issue 2) includes a Flight Protocol Map which identifies Great Oakley, Little Oakley and Wix as Residential Settlements, each of which is annotated as a "Flight Avoidance Zone". The proposed helicopter flight path to and from the airfield (in addition to the two runway circuit patterns shown) will avoid those residential areas. It will be conditioned that this document remains in force.
- 6.25 The updated noise report provides for a worst case prediction and assessment of the increased noise levels resulting from the maximum additional number of daily flights and using the helicopter with the highest noise rating (Bell 206 Long Ranger or equal to it). Under these conditions the assessment concludes that the overall average noise levels for take-off, overflight and landing will be below the official guidelines for the onset of annoyance.

6.26 The Council Environmental Health Team have reviewed the submitted information and provide the following comments;

- Having read the application details and also the noise statement for the temporary use as a helipad to service the wind farm, I contacted RWE for further information which has now been provided in these documents. I note that the proposed number of predicted flights has now also been reduced to 310 a month. Looking at the new amended flight path and predicted flight numbers, which takes the aircraft further from residential properties, I have compared this to the original noise report for the use of the site to have helicopter flights to and from there, although on a reduced number. Pollution and Environmental control have no objections to this application as long as the number of flights and the flight path are conditioned in any approval given to the operator.

6.27 Overall noise from flying activities is not constant, nor fixed in terms of location, and aircraft/helicopters of different types from other locations may also fly overhead. Whilst noise from helicopters differs from that of fixed-wing light aircraft and helicopters are designed to be able to hover, in practice they would arrive, land and take-off and depart in relatively short periods of time, thereby minimising any such local noise disturbance in that sense.

6.28 As such the regulated use of the land and application of the Flight Protocol set out in the Pilot Handbook along with the proposed Flight Avoidance Plan would be able to safeguard local amenity. Helicopters would follow direct routes to and from the airfield, away from noise sensitive properties as far as practicable. Once reaching the residential area of Dovercourt/Harwich the helicopter would be at an altitude of 500m (1640ft). At this height the impact upon local residents would not be significant or adverse. Public safety would also be safeguarded by ensuring that the helicopter landing site is located away from the public footpath which crosses the airfield and farm.

d) The impact on environmental and nature conservation interests.

6.29 The application site does not lie within a sensitive area for biodiversity. However, there are such sensitive areas to the north, east and south of the site. These include sites of international, European, national, regional and local importance, including: two internationally important sites - the Stour and Orwell Estuaries and Hamford Water Ramsar Sites; two European sites - the Stour and Orwell Estuaries and Hamford Water Special Protection Areas; Hamford Water National Nature Reserve; Sites of Special Scientific Interest (SSSI); and Local Nature Reserves.

6.30 Natural England objected to the original flight plan due to insufficient information to allow adverse effects on the integrity of Hamford Water Special Protection Area (SPA) and Ramsar site or the Stour and Orwell Estuaries SPA and Ramsar site to be ruled out. They also considered that there was insufficient information to rule out adverse effects on Hamford Water or the Stour Estuary Sites of Special Scientific Interest (SSSIs).

6.31 The RSPB also originally objected to the intended flight paths, as they considered the applicant had not provided sufficient information to Tendring District Council as the competent authority in relation to the impact upon Hamford Water Special Protection Area (SPA), Site of Special Scientific Interest (SSSI) and Ramsar and the Stour and Orwell Estuaries SPA/SSSI/Ramsar. The RSPB were particularly concerned that the altitudes of the proposed flightpaths were too low and may adversely affect the waterbird assemblages of these internationally designated sites.

6.32 In response to these objections the applicant entered into discussions with both Natural England and the RSPB. The result of these discussions was the submission of an amended

flight avoidance plan showing the proposed helicopter flight path. The revised avoidance plan shows the areas to be avoided and other restrictions, including the following;

- The residential settlements around Great Oakley from the Pilot's Handbook
- A 'No Fly Zone' over the Bramble Island Top Tier COMAH site
- A 1km buffer around Hamford Water and the Stour and Orwell Estuary SPAs
- A Flight path and limit of deviation avoiding the SPAs and buffers, routed to the north of the corridor shown in the application and a limit of deviation either side of the path.

6.33 Upon receipt of the revised Flight Avoidance Plan Natural England and the RSPB were re-consulted and both withdrew their previous objections. The RSPB requests that a programme of monitoring to be conducted by the applicant to understand the effects of the helicopter flights on the feature species of the SPAs to inform the flight path management. This will be secured via condition.

6.34 Natural England welcome the amended Flight Avoidance Plan and confirm that the sensitive areas (the SPAs and 1 km buffers around them) will be avoided or overflown at a minimum height of 1070m. They also welcome that the flight path has been amended to avoid overflying the majority of potential supporting SPA habitat north of Hamford Water.

6.35 In view of the withdrawal of the statutory consultee's objections through the submission of an amended Flight Avoidance Plan, it is considered that the development would safeguard nature conservation.

e) The impact on the landscape such as visual amenity and lighting.

6.36 The proposal will have limited impact upon the wider landscape in terms of visual amenity. Most of the required infrastructure is already in situ. The proposed additional infrastructure would be minor and largely screened in views from the Public Right of Way by the existing hanger. The Council's Tree and Landscape Officer has commented that in terms of the impact of the development on the local landscape character the new structures would be relatively well associated with the existing farm buildings. As such the development would not have a significant adverse impact on the character or appearance of the area. He also states a desire to see a soft landscaping scheme implemented to screen the additional infrastructure. However, given that this proposal is for a 2 year temporary period only it is not considered reasonable or necessary to request a landscaping scheme.

f) The accessibility of the site in relation to transport

6.37 The site is accessible from the B1414 Harwich Road at Great Oakley village. The B1414 runs between Harwich/Dovercourt and Little Clacton and is accessible to local centres of population. A bus route runs through the village and there are bus stops nearby in Harwich Road.

6.38 Fuel will be delivered to the site by road tanker which will refuel the proposed fuel bowser. The applicant has confirmed that for the maximum number of flights per month, using the type of helicopter under consideration and the size of bowser proposed, the fuel consumption could be met by a single road tanker delivery per month.

6.39 There is no objection to the proposal from the ECC Highways Authority.

g) Development proposals will not be allowed where they would compromise the existing use of the districts' airfields or airstrips.

6.40 This criterion does not apply directly to the proposal, which relates to use of the airfield itself. However, it reinforces the Council's aim to protect the existing airfield from proposed

uses which would be harmful to its operation. Investment in the existing airfield is one way to help ensure its continued use.

Conclusions

- 6.41 It is considered that the central issue in essence is that of noise disturbance. However, the saved local plan highlights the need to strike the right balance between potentially conflicting interests. This recognises that the wishes of the airfield owner, operators and users to vary the operation of the airfield have to be considered alongside those of others, who do not wish the use to develop as proposed.
- 6.42 It is inevitable that some noise and disturbance will result from use of the airfield by the additional helicopter movements. The noise created by helicopters is also greater than that from other aircraft which use the airfield. However, the predicted noise levels are not so great that they would be harmful to public health. Whether the noise impact likely to result from the proposal would amount to undue disturbance or be significant, in NPPF terms, or be otherwise unacceptable, so as to warrant the refusal of planning permission is therefore a matter of judgement. Officers have considered the evidence and merits of the case and consider that any adverse impacts can be suitably mitigated by condition.
- 6.43 It is considered that the proposal accords with Development Plan policy and the Council's Economic Development Strategy and that, on balance, the increased use of the airfield by helicopters associated with the Galloper Offshore Windfarm for a 2 year temporary period could be accommodated without overriding harm being caused to local and residential amenities or to any other planning interests. It is considered that granting planning permission subject to conditions would strike a reasonable balance between supporting business and public services and protecting local and residential amenities.

Background Papers

None

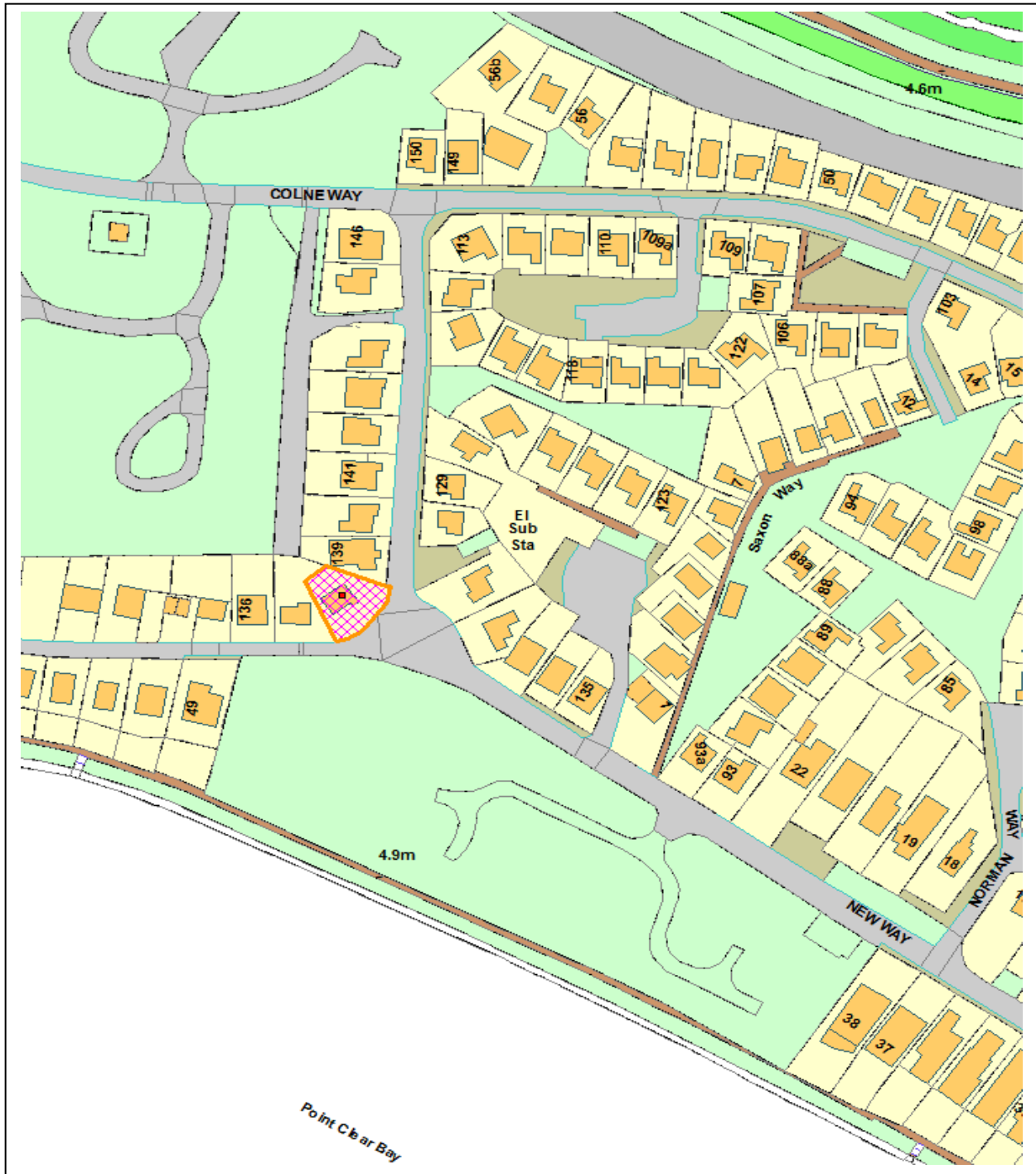
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PLANNING COMMITTEE

8 AUGUST 2017

REPORT OF THE HEAD OF PLANNING

A.7 PLANNING APPLICATION - 16/01985/FUL - 138 COLNE WAY, POINT CLEAR BAY, ST OSYTH, CO16 8LU



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Application:	16/01985/FUL	Town / Parish: St Osyth Parish Council
Applicant:	Mr M Skeels	
Address:	138 Colne Way Point Clear Bay St Osyth	
Development:	Proposed replacement dwelling following demolition of existing.	

1. Executive Summary

- 1.1 This is a full planning application to build a 3 storey two bedroom dwelling to replacement an existing single storey chalet. The planning application has been referred to Planning Committee as the applicant is an elected Councillor of Tendring District Council.
- 1.2 The application site is located in Point Clear Bay where the existing properties were predominantly built as holiday homes. Most properties are substandard by modern day expectations and are within the tidal flood zone where the risk of flooding is set to increase with the effects of climate change.
- 1.3 The replacement property would be higher and bulkier than the existing property on the plot and those surrounding the site. However, this is an area where the current standard of residential property places residents at a high risk of flooding – particularly if climate change results in rising sea levels as projected by the Environment Agency and in poor residential conditions. By including only storage, utility rooms and parking on the ground floor the development would bring about a net improvement in flood safety.
- 1.4 With this in mind, Officers are advising the Committee to consider whether this approach is justified and to set aside normal planning concerns in order to facilitate a development that could help set the tone for the future regeneration of the area. If the Committee agrees that this approach is acceptable, this development provides an example to other property owners who might consider redevelopment to a more resilient, lower flood risk form of development.
- 1.5 Therefore in the absence of any objections from the Environment Agency and Essex County Council Highways and in weighing up the advantages of the development against the disadvantages, the application is recommended for approval.
- 1.6 **At the Planning Committee on 13th June 2017 Members considered the original plans and requested that the application is deferred to enable officers to negotiate a building of less bulk to improve its appearance within the street scene and to reduce the impact upon neighbours. Consequently, amended plans have been received which show a building of much reduced bulk incorporating the significant inset of the second floor element. The amended plans ensure that the building would be less prominent in street scene views and would lessen the impact upon neighbours in terms of loss of outlook and light. The amended plans are considered to overcome Member’s previous concerns. All amendments to the original report are in bold font for clarity.**

Recommendation: Approve

Conditions:

1. Standard 3 year time limit for commencement.
2. Accordance with approved plans.
3. Garage available for use prior to occupation and retained as approved for parking purposes only.
4. Submission of flood evacuation plan.
5. Submission of flood proofing/building flood resilience measures report.
6. Ground floor shall only be used for purposes as shown on plans and retained (parking, storage and wet room/utility room).
7. Details of materials/surface finishes.
8. Obscure glazing to rear staircase windows
9. Removal of permitted development rights (extensions/outbuildings and windows).

2. Planning Policy

**NPPF National Planning Policy Framework
National Planning Practice Guidance**

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 Uses
HG1 Housing Provision
HG9 Private Amenity Space
HG12 Extensions to or Replacement of Dwellings outside Settlement Development Boundaries
HG14 Side Isolation
HG20 Plotland Development
TR1A Development Affecting Highways
TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SP1 Presumption in Favour of Sustainable Development
SPL1 Managing Growth
SPL2 Settlement Development Boundaries
SPL3 Sustainable Design
LP1 Housing Supply
LP2 Housing Choice
LP3 Housing Density and Standards
LP4 Housing Layout
PPL1 Development and Flood Risk

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice
Essex Design Guide

Status of the Local Plan

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. As of 14th July 2016, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document. As this plan is currently at an early stage of preparation, some of its policies can only be given limited weight in the determination of planning applications, but the weight to be given to emerging policies will increase as the plan progresses through the later stages of the process. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

3. Relevant Planning History

16/01985/FUL	Proposed replacement dwelling following demolition of existing.	Current
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4. Consultations

ECC Highways Dept	I have had a look at the details of this application and having regard to the fact that the proposal is a like for like replacement the Highway Authority does not wish to submit a formal recommendation
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Environment Agency	We have no objection to this planning application as the site is currently defended and the Essex and South Suffolk Shoreline Management Plan (SMP) policy for this area has an aspiration for "hold the line."
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5. Representations

5.1 St Osyth Parish Council reaffirms its comments of 19th January and 18th May 2017, in that there are objections on the basis that the application as submitted is not in keeping with similar dwellings in the vicinity. Additionally, the proposed site plan would suggest overdevelopment of a small site, given that the new dwelling would seemingly extend to the physical boundary of the property, which it is believed would impede the vision of road users. The Parish Council would be minded to accept additional plans, if they address the issue of appearance and the proposed dwelling were moved back from the road.

6. Assessment

The main planning considerations are:

- Site Context
- Proposal
- Principle of Development
- Flood Risk
- Design/Visual Impact
- Residential Amenities
- Highway Considerations

Site Context

- 6.1 The application site is located on a prominent corner plot on the western side of the junction between Western Promenade and Colne Way within the Point Clear Bay area. The area comprises of a mixture of private dwellings and holiday chalets of differing age, scale and design.
- 6.2 The application site currently accommodates a small holiday chalet partly brick built with a shallow felted pitched roof. The chalet appears to have been constructed in the 1950's and, due to the presence of a restrictive occupation condition, cannot be occupied in the winter months (November through to April).
- 6.3 The front of the property is laid to grass and there are no formal parking arrangements. To the rear is a small grassed garden area. The boundaries are marked by bushes and low level timber fencing.
- 6.4 The site is located within a Flood Risk Zone 3 but is protected by current sea defences.

Proposal

- 6.5 This application proposes the replacement of the existing chalet with a 3 storey permanent dwelling. **The property would comprise of 2 bedrooms with a dining/kitchen area at first floor and a smaller inset element at second floor accommodating a living area and front balcony.** The ground floor would accommodate a double garage and small utility room and wet room.
- 6.6 **The dwelling would comprise of facing brickwork at ground level with the first floor and second floor consisting of fibre cement boarding. The roof of the property would be flat and comprise of a fibre glass GRP finish. The property would measure 7.7m in height and 11.2m in width by 7.5m in depth.**
- 6.7 It is proposed that the property would be lived in all year round and not just on a holiday basis as per the existing chalet.

Principle of Development

- 6.8 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.
- 6.9 The site comprises existing development outside of any defined settlement boundary contained in the saved or emerging local plans. However, as the site already accommodates a dwelling and the application represents a replacement property there is a general presumption in favour of development in principle.
- 6.10 However, this part of Point Clear Bay falls within Flood Zone 3a, therefore the Council is still required to give special consideration to flood risk issues and the requirements of the NPPF i.e. the 'sequential' and 'exceptions' tests. These are considered in more detail later in this report.
- 6.11 In the saved local plan the Point Clear Bay area falls within an area controlled by saved policy HG20 which is aimed at limiting development on Plotland sites such as this. The preamble to the policy states, amongst other things, that it is recognised that many plotland dwellings offer substandard living accommodation and usually located on small sites. The

purpose of the policy is therefore to ensure that the impact upon the landscape, street scene and residential amenity is minimalised and to assist in controlling the demand on local services and infrastructure. The main content of saved policy HG20 states that the replacement of lawful plotland dwellings will be allowed provided that the cubic content of the replacement dwelling does not exceed that permitted for the original dwelling under the tolerances of the General Permitted Development Order. This policy is however clearly out of date as the General Permitted Development Order has since changed and permitted development rights for extensions are no longer calculated on a cubic content basis.

- 6.12 Furthermore, as in Jaywick, the policy aimed at strictly controlling development has failed to bring about any positive changes in the area particularly in respect of flood risk. Since the NPPF has given Councils more freedom to apply planning policies to better reflect local circumstances the Council, the Environment Agency and other partners have agreed that lifting some of the planning restrictions and moving towards flexible policies aimed at encouraging developers to provide high-quality, resilient and innovative new homes in the area is a better approach. This is reflected by the fact that the plotland policy has not been carried forward within the 2016 Preferred Options Draft.
- 6.13 Saved Policy HG12 concerns the replacement of dwellings outside settlement development boundaries. This policy is criteria based and in particular sets out that new development should be well related to the original dwelling, is not visually intrusive, is not detrimental to highway safety, would not adversely affect the residential amenities of adjoining neighbours and sufficient spacing is retained around the dwelling to protect its setting.
- 6.14 Again as stated above a more flexible approach is required in assessing the development against this policy. It is evident that the dwelling will be significant larger than the existing property and higher to incorporate flood resilient measures which is consistent with the Council's approach in Jaywick. As such the principle of replacing the existing building with a larger property is acceptable in principle. Consideration therefore turns to the detailed design of the proposal.

Flood Risk

- 6.15 The site, and the rest of this part of Point Clear Bay, is in Flood Zone 3 - the highest area of risk due to its low-lying position on the coast. The NPPF, as supported by relevant policies in the adopted and emerging Local Plans, requires a 'sequential approach' to the location of new development which seeks to direct new development to the locations at lowest risk. In Tendring, there are clearly many locations of lower risk where a single dwelling could be located however as this development relates to the replacement of a single storey chalet in a poor state of repair a more flexible approach is justified where new development can assist in the regeneration of the area and helping to reduce the risk of flooding to life and property overall.
- 6.16 The NPPF and Local Plan policies refer to the 'Exception Test' which must apply if a development in a higher risk area is being considered having undertaken the sequential test. Paragraph 103 of the NPPF requires such developments to be informed by site-specific flood risk assessment and to demonstrate that:
- Within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and
 - Development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.

- 6.17 The application is accompanied by a site-specific flood risk assessment which, as advised by the Environment Agency, provides sufficient information for the Council to make an informed decision. The conclusions and recommendations in the assessment are summarised as follows:
- The site is currently protected by flood defences with an effective crest level of 4.5m AOD which is above the present-day 0.5% (1 in 200) annual probability flood level of 4.3m AOD. Therefore the site is not at risk of flooding in this event. The current defences will continue to offer protection over the lifetime of the development, provided the hold the line policy is followed and the defences are raised in line with climate change, which is dependent on future funding.
 - If the SMP policy is not followed then at the end of the development lifetime, the 0.5% (1 in 200) annual probability including an allowance for climate change flood level of 5.41m AOD, would overtop the existing defences and the actual risk depth of flooding on site using the minimum site level of 1.96 m AOD would be 3.42m deep and within the building using the proposed finished floor levels of 2.11 m AOD, 3.27m deep.
 - Finished ground floor levels have been proposed at 2.11m AOD. This is below the 0.5% annual probability breach flood level including climate change of 5.38m AOD and therefore is at risk of flooding by 3.27m depth in this event.
 - Flood resilience/resistance measures have been proposed.
 - Finished first floor levels have not been provided and there may be refuge above the 0.1% (1 in 1000) annual probability breach flood level of 5.77m AOD.
 - A Flood Evacuation Plan has not been provided and is necessary to ensure the safety of the development.
- 6.18 The submission of an evacuation plan can be secured through a planning condition. The submitted plans show living accommodation at first and second floor levels which in the event of the SMP not being followed and a 1 in 200yr and 1 in 1000yr breach would allow for the safe refuge of residents. **Details of flood proofing/resilience measures will also be secured through a condition to ensure the proposed building incorporates construction measures that can withstand potential flood waters.**
- 6.19 Overall, it is considered that the development would meet with the NPPF Exception Test and when considering the lightweight construction and single storey nature of the current property on site would represent a significant improvement in terms of flood risk to future residents.

Design/Visual Impact

- 6.20 **The original plans for the proposed dwelling showed a full three storey high property with asymmetrical openings. The second floor element on the original plans extended the whole width of the property giving the building a significantly bulky appearance.**
- 6.21 **At the Planning Committee on 13th June 2017 Members considered the original plans and requested that the application is deferred to enable officers to negotiate a building of less bulk to improve its appearance within the street scene and to reduce the impact upon neighbours. Consequently, amended plans have been received which show a building of much reduced bulk incorporating the significant inset of the second floor element.**

- 6.22 **Therefore whilst the proposed replacement property would still be significantly larger in terms of its height and bulk than the existing chalet dwelling on the site, the reduced size of the second floor section assists in reducing the bulk of the building to acceptable levels. The property would be visible in views along Western Promenade particularly as the building would occupy a prominent corner plot that forms a vista in views from the east. However, the height and scale of properties in the area is mixed. To the west of the site is a tall chalet style dwelling with large dormers to the roof space and to the north is a brick built bungalow with a high ridge line. To the west along Western Promenade are some examples of three storey high properties of considerable bulk.**
- 6.23 The design of properties in the locality is mixed. There are traditional brick built properties but there are also examples rendered and boarded buildings too. Consequently the flat roofed contemporary style design proposed incorporating cement boarding and fibre glass roofing would represent an appropriate response to the eclectic appearance of the area.
- 6.24 It is acknowledged by Officers that the dwelling would be significantly higher and bulkier than the existing property on site. However, this is an area where the current standard of residential property places residents at a high risk of flooding – particularly if climate change results in rising sea levels as projected by the Environment Agency and in poor residential conditions. Because of this the development contains no living accommodation on the ground floor to reduce the risk to residents in the event of a flood. As a result the building is required to be higher to allow for safe refuge in an event of a flood. The amended plans sought reduce the overall bulk of the building whilst ensuring that 1m side isolation is retained to the boundaries.
- 6.25 With this in mind, Officers are advising the Committee to consider whether this approach is justified and to set aside normal planning concerns in order to facilitate a development that could help set the tone for the future regeneration of the area. If the Committee agrees that this approach is acceptable, this development provides an opportunity for other property owners to consider redevelopment to a more resilient, lower flood risk form of development.

Residential Amenities

- 6.26 The proposed dwelling would be three stories high, albeit with a recessed second floor element, and therefore has the potential to impact upon the amenities of those residents living nearby. To the north no.139 has an entrance door and associated window within its facing flank wall. As these are located northwards of the development and are not primary windows the impact upon light received by these openings would be minimal. In terms of outlook, no.139 has a small rear garden from which the development would be visible and fairly imposing. However, the distance and angle of the new property would reduce any impact in this regard.
- 6.27 To the west is no.137 which has an entrance door at first floor level accessed via a spiral staircase and a small high level window within its facing flank. These are not primary openings and therefore are not affected by the development. To the rear the property is served by a conservatory. It is conceded that the conservatory would lose some light and outlook as a result of the development; however the conservatory faces north and receives limited light at present. **In this respect, the amended plans sought would significantly reduce the impact upon neighbours in terms of loss of outlook and light, as the removal of large section of building at second floor level would make it appear less imposing to residents. Moreover, the identified impact upon the amenities of neighbouring residents is not outweighed by the potential flood risk/regeneration benefits as outlined above.**

- 6.28 In terms of overlooking, the front balcony faces south-east over an existing open grassed area and the frontage of properties on the opposite side of the road. Therefore views would be limited to public areas only. **The windows to the rear of the building would serve the staircase and therefore would be at high level reducing overlooking concerns.**

Highway Considerations

- 6.29 Essex County Council Highways have confirmed that they have no comments to make upon the proposals as the proposed development is for the replacement of an existing property.
- 6.30 In terms of parking provision, the double garage at ground floor provides space for 2 vehicles. This is sufficient for a two bedroom property and accords with the current parking standards.

Background Papers

None

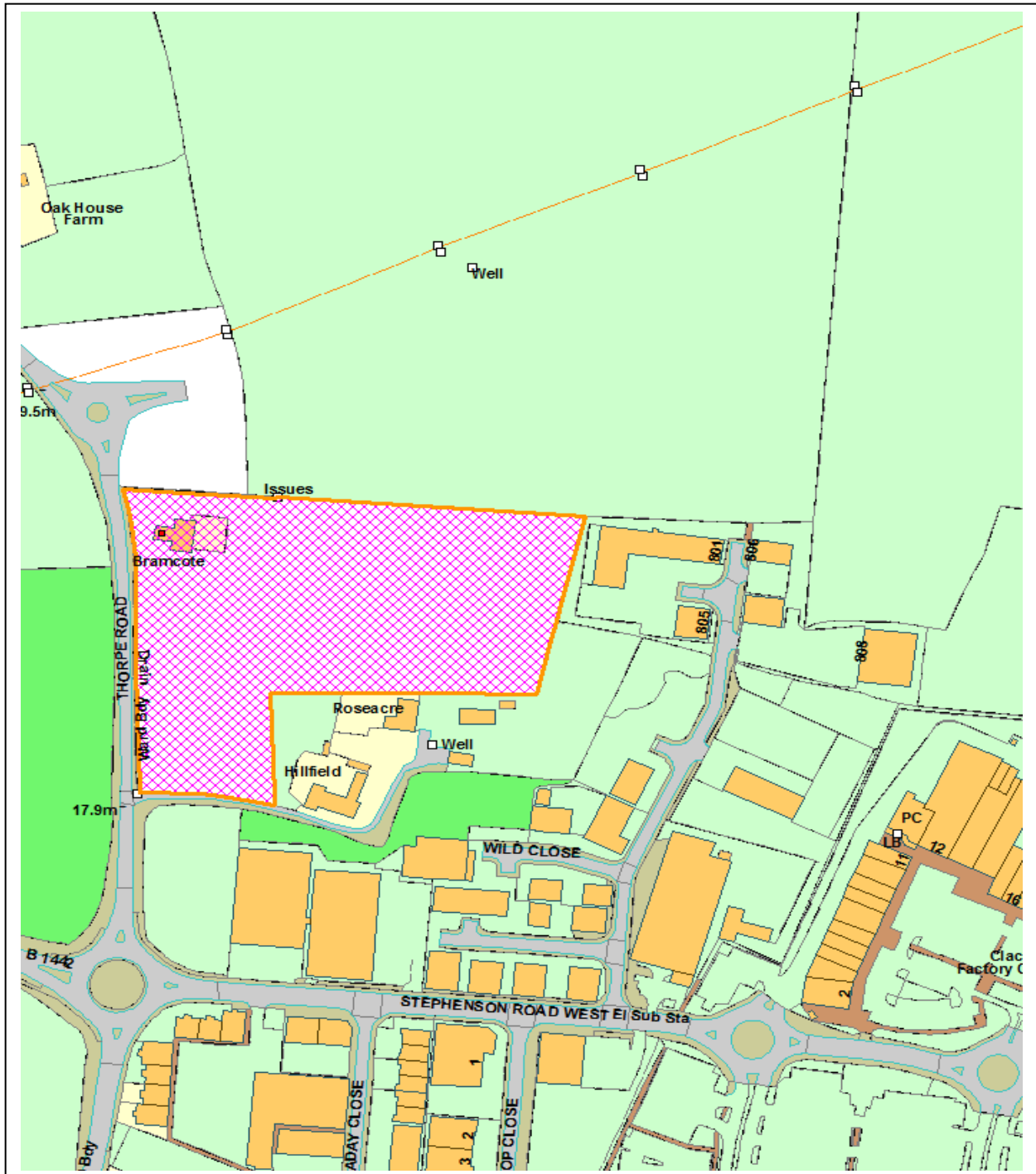
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PLANNING COMMITTEE

8 AUGUST 2017

REPORT OF THE HEAD OF PLANNING

A.8 PLANNING APPLICATION - 16/02107/FUL - BRAMCOTE, THORPE ROAD, CLACTON-ON-SEA, CO16 9SA



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Application:	16/02107/FUL	Town / Parish: Clacton Non Parished
Applicant:	Mr West - Bramwood Property Development Ltd	
Address:	Bramcote Thorpe Road Clacton On Sea CO16 9SA	
Development:	Demolition of existing dwelling and erection of 47 no. bungalows and 2 no. houses with garages, access and public open space.	

1. Executive Summary

- 1.1 **This application was deferred from Planning Committee on 13th June to enable the applicant to undertake an up to date habitat assessment and to consider the provision of footpaths within the development. Updates to the original report are provided in bold font.**
- 1.2 **The habitat assessment was carried out on 22nd June 2017 and found the site to still be of low ecological value with no requirement for species specific surveys. The applicant has declined to amend the layout to provide additional footpaths within the site as this would result in a loss of units and there is no objection from the Highway Authority to the current level of footpath provision.**
- 1.3 This application is referred to Planning Committee as it is contrary to the Development Plan proposing housing outside of the settlement development boundary in the 2007 adopted plan. The application proposes 49 dwellings on a site which lies outside, but abutting to the northern and southern boundaries, the settlement development boundary of the 2007 adopted plan. The site lies wholly within the settlement development boundary of the emerging plan and is allocated for residential development. To the immediate north outline planning permission has been granted at Oakwood Park under 12/01262/OUT (approved November 2015) for up to 250 dwellings and B1c employment units. On the opposite side of the road lies a proposed employment allocation within the emerging plan and beyond Oakwood Park to the north east lies a large proposed mixed use allocation within the emerging plan.
- 1.4 To the south east, set at least 80 metres back from the highway, lie two existing dwellings at Roseacre and Hillfield with employment units beyond. The existing dwelling, Bramcote, on the application site is demolished as part of the redevelopment.
- 1.5 The application proposes two houses at the site access with 47 bungalows and three areas of public open space within the site. The proposal is considered acceptable in terms of detailed design, parking provision and highway safety. The application has been amended to improve the relationship to the neighbour at Roseacre and is now considered to result in no material harm to residential amenity.
- 1.6 A section 106 legal agreement is required to provide £93,116 for education, three gifted affordable dwellings, a shared use cycleway/footway on the eastern side of Thorpe Road, and provision and maintenance of the on-site public open space. Approval is recommended subject to completion of the S106.

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):
- Education contribution of £93,116.
 - Three gifted dwellings for affordable housing.
 - Provision of shared use cycleway/footway on eastern side of Thorpe Road between the existing facilities located at the two roundabouts to the north and south.
 - On site public open space provision to LAP standard and maintenance.
- 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 commencement
 2. Accordance with approved plans
 3. Details of construction materials
 4. Highways conditions (as recommended by the Highway Authority)
 5. Hard and soft landscaping plan/implementation
 6. Details of public open space equipment
 7. Construction method statement
 8. Details of boundary treatments
 9. Tree protection as detailed in tree report
 - 10. Erection of bird and bat nest boxes and hedgehog friendly fencing and homes as detailed within Ecological Scoping Survey**
 - 11. Four conditions as required by ECC Suds**
- 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 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:

- an economic role;

- a social role; and
- an environmental role.

- 2.2 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.
- 2.3 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.

Local Plan

Tendring District Local Plan (2007)

QL1: Spatial Strategy

QL2: Promoting Transport Choice

QL3: Minimising and Managing Flood Risk

QL9: Design of New Development

QL10: Designing New Development to Meet Functional Needs

QL11: Environmental Impacts

QL12: Planning Obligations

HG1: Housing Provision

HG3a: Mixed Communities

HG4: Affordable Housing in New Developments

HG6: Dwellings Size and Type

HG7: Residential Densities

HG9: Private Amenity Space

COM6: Provision of Recreational Open Space for New Residential Developments

COM26: Contributions to Education Provision

COM31a: Sewerage and Sewage Disposal

EN1: Landscape Character

EN6: Biodiversity

EN6a: Protected Species

EN13: Sustainable Drainage Systems

TR1a: Development Affecting Highways

TR3a: Provision for Walking

TR5: Provision for Cycling

TR7: Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SP1 Presumption in Favour of Sustainable Development

SP2 Meeting Housing Needs

SP4 Infrastructure and Connectivity

SP5 Place Shaping Principles

SP6 Spatial Strategy for North Essex

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP4 Open Space, Sports and Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP5 Affordable and Council Housing

PP12 Improving Education and Skills

- PPL1 Development and Flood Risk
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- CP1 Sustainable Transport and Accessibility
- CP2 Improving the Transport Network

Status of the Local Plan

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. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. As this plan is yet to be examined, its policies cannot carry the full weight of adopted policy. However, because the plan has reached publication stage its policies can carry some weight in the determination of planning applications. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

3. Relevant Planning History

15/30308/PREAPP	Pre application for outline planning permission for up to 48 three bedroom bungalows with single access/egress onto Thorpe Road.	13.04.2016
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4. Consultations

ECC SuDS Team **Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission based on the following:**

Condition 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 should include but not be limited to:

- Limiting discharge rates to the Greenfield 1 in 1 for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- Infiltration testing in line with BRE 365 should be carried out.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753.

- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.
- The final outfall location for the site should be established, if it is found that the site will discharge to a sewer network then confirmation of connectivity from the water company should be provided.
- Modelling must be carried out to demonstrate the safety of the proposed development from off-site flooding.
- It must be demonstrated that discharge from the site does not increase the risk of flooding offsite.

The scheme shall subsequently be implemented prior to occupation.

Condition 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 and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

Condition 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.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Condition 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.

Anglian Water Services Ltd	Anglian Water has assets within or close to the site and request informatives to this effect. Available capacity for foul drainage. Surface water strategy submitted is unacceptable. Request conditions for foul water strategy and surface water management strategy.
TDC Housing	Clacton is the area of highest demand in the district and just over 50% of all applicants on the housing register would prefer to live in Clacton. Therefore, there is a need for affordable housing to be delivered on sites such as this in the Clacton area. The applicant has expressed on their application that 3 of the properties (all 3 beds) will be delivered as affordable housing on the site and I am happy with this provided they are gifted to the Council.
TDC Open Space	There is currently a deficit of 41.08 hectares of equipped play areas in the Clacton/Holland area. The nearest play area is off Chingford Avenue (1.1km) and is not accessible from the development on foot so an on site play area is required to LAP standard in accordance with Policy COM6.

TDC Environmental Health	<p>Due to proximity to existing commercial units require a report from a competent acoustic consultant to consider background noise levels from the commercial site and any necessary mitigation. A full construction method statement will be required to show any noise/dust/light/vibrations/odour from the demolition and construction will be dealt with and hours of operation.</p> <p>Satisfied with the submitted noise assessment and have no comments to make.</p>
TDC Tree & Landscape Officer (Original plans)	<p>The main body of the application site has been cleared of all significant vegetation. In order to establish the extent of the constraint that the remaining trees are on the development potential of the land and to show their Root Protection Areas (RPA's) the applicant has provided a Tree Survey and Report that is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction; Recommendations.</p> <p>The tree report makes provision for retention and physical protection of the trees included in the tree report. In terms of the layout of the site there appears to be little scope for new tree planting and or soft landscaping. It would be desirable to re-consider the element of the design where properties abut Thorpe Road ' soft landscaping along the boundary of the application site adjacent to Thorpe Road would improve the appearance of the development. If planning permission is likely to be granted then details of soft landscaping; including tree, shrub and hedgerow planting should be secured by condition to soften and enhance the appearance of the development and to ensure that it is satisfactorily assimilated into its setting.</p>
ECC Highways Dept	<p>No objection subject to 11 conditions:</p> <ol style="list-style-type: none"> 1) Visibility splay of 2.4mx70m at access 2) provision of vehicular parking and turning as shown prior to occupation 3) no unbound materials within 6m of highway boundary 4) Vehicular access to have adoptable carriageways min 5.5m wide, 2x2m footways on both sides of adoptable road, appropriate pedestrian crossing facilities where new road adjoins highway, shared use carriageways min 6m wide, kerb radii measuring 10.5m 5) Means to prevent surface water discharge onto highway 6) details of wheel cleaning facility within the site for duration of construction period 7) Timings of estate road carriageway and footway levels 8) Vehicular hardstandings to be 5.5x2.9m retained in perpetuity 9) Garage dimensions: single 3x7m, double 6x7m, tandem 3x12m 10) Provision of residential travel packs 11) Provision of a shared use cycleway/footway min 3m wide on eastern side of Thorpe Road between the existing facilities located on the two roundabouts north and south of the development.
Environment Agency	<p>Holding objection on foul drainage grounds as not confirmed. First presumption should be connection to public sewer. The applicant can overcome our objection by confirming that the development will be connected to the main sewer.</p> <p>The application forms have been amended to confirm that drainage will be to mains sewer therefore overcoming the Environment Agency's holding objection.</p>
ECC Schools Service	<p>Development of this size will generate the need for up to 2.3 early years and childcare (EY&C) places, 7.6 primary school and 5.1 secondary school places. According to childcare sufficiency data there is sufficient capacity to</p>

accommodate children from this development.

Primary: Priority admissions area for Burrsville Infant Academy and Great Clacton CE Junior School which offer 420 places in total and will both be full. Overall deficit in this Clacton forecast area (group 2) is 213 places for 2020. Additional primary school places are therefore necessary costing £93,116.

Secondary: Priority admissions area for Clacton County High which is full and forecasts deficit of 314 places by 2020 increasing to 476 when looking at wider area. Restrictions on the pooling of contributions mean it is impractical to request contributions where pupil generation is less than 6. Also not seeking school transport contributions.

5. **Representations**

3 letters of objection have been received summarised as follows: (with response in brackets where not addressed in the report)

- Contrary to local plan does not respect local context, design or scale of surrounding development which is typically large dwellings on large plots
- Insufficient information regarding the public open spaces (the most central of the three open spaces (between plots 5 and 49) will be a Local Area of Play with equipment to be agreed by the Council, the other two open spaces are likely to contain only soft landscaping as informal areas of public open space full details will be secured by condition).
- Development is cramped with insufficient soft landscaping and small gardens
- Loss of privacy and quiet and safe environment
- Inadequate surface water drainage strategy
- Is access road to south serving Hillfield and Roseacre to be used for the proposed development? (this road lies outside of the application site so does not form part of the development. The Construction Method Statement will agree details such as construction access and parking areas).
- Contrary to PPS1 and PPS3 as detrimental to quality, character and amenity value of the area (PPS1 and PPS3 have been superseded by the NPPF. The concerns raised have been addressed within the report)
- Hours of operation should be controlled and construction parking unloading etc
- Widening Thorpe Road would encourage greater speed (Thorpe Road is not proposed for widening as part of the application).
- Bungalows likely to attract older residents less likely to walk to shops (this will be market housing available to any prospective occupants)
- Local schools and surgeries at capacity (A financial contribution towards education is required. The application falls below the threshold for comment by the NHS).
- More competition for local jobs (not a material planning consideration)
- Creeping urbanisation which will result in Great Clacton joining Little Clacton (the site forms part of a draft housing allocation with wider mixed use allocations in the area representing a planned expansion of this part of Clacton. Land to the west of Thorpe Road is designated as Strategic Green Gap to ensure that the settlements remain separate).
- Noise survey dates are incorrect (this has been corrected)

6. **Assessment**

The main planning considerations are:

The main planning considerations are: Principle of development; design and visual impact, impact on residential amenity, highway safety, surface water, and legal agreement.

Site location

- 6.1 The application site lies outside, but abutting to the northern and southern boundaries, the settlement development boundary of the 2007 adopted plan. The site lies wholly within the settlement development boundary and is allocated for residential development in the emerging plan. To the immediate north outline planning permission has been granted at Oakwood Park under 12/01262/OUT for up to 250 dwellings and B1c employment units. On the opposite side of the road lies a proposed employment allocation within the emerging plan, and beyond Oakwood Park to the north east lies a large proposed mixed use allocation within the emerging plan.
- 6.2 To the south east lie two existing dwellings at Roseacre and Hillfield with employment units beyond. The existing dwelling, Bramcote, on the application site is demolished as part of the redevelopment.
- 6.3 The site is generally flat and cleared of any significant vegetation with existing hedgerow and trees to the site boundaries and close boarded fencing to the boundary with the two neighbouring dwellings.

Principle of development

- 6.4 The application is referred to Planning Committee as it is contrary to the Development Plan proposing housing outside of any defined settlement development boundary in the 2007 saved plan. However, the site forms a housing allocation and lies within the settlement development boundary of the emerging local plan. It is also located adjacent to land benefiting from outline planning permission for residential and employment development at Oakwood Park and wider mixed use and employment allocations in the immediate vicinity in the emerging plan. These draft allocations indicate that the Council considers this to be a sustainable location for growth on the edge of the urban settlement of Clacton-on-Sea.
- 6.5 The Council can now identify a five year supply of deliverable housing sites so is no longer automatically expected to approve planning applications for housing that run contrary to the Local Plan, as per the government's 'presumption in favour of sustainable development'.
- 6.6 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: economic, social and environmental and these are assessed below:

Economic

- 6.7 The proposal meets the economic dimension in providing employment through construction of the properties and through future residents supporting local businesses.

Social

- 6.8 The site is located on the edge of the town of Clacton-on-Sea which is the most sustainable settlement type in the District providing a wide range of employment opportunities, public transport links, services and facilities. The site is therefore considered to be socially sustainable.

Environmental

- 6.9 The site is not subject to any landscape designations or in close proximity to any heritage assets. The trees on the site have been subject to an arboricultural assessment with the majority of trees retained as part of the proposals. Additional landscaping has been added

to the development with hedgerow to the Thorpe Road boundary and northern boundary to the Oakwood Park site. Three separate areas of public open space are proposed with soft landscaping. Originally every property had a detached garage and amendments were made to significantly reduce this to allow for a more spacious layout with more soft landscaping particularly to the Thorpe Road frontage. The proposed dwellings are typically located close to the roads with little space available for soft landscaping to the frontage, but given the edge of town centre location and the need to promote an efficient use of land this is considered acceptable.

- 6.10 A habitat assessment has been carried out which found the site to be of low ecological value. Standard advice is recommended in terms of timing of clearance to protect nesting birds and erection of nest boxes to compensate for loss of potential nesting sites. Four trees were found to have bat roosting potential but no bats were recorded using these trees.
- 6.11 **The original habitat assessment was undertaken in September 2015 which was prior to the site being largely cleared of vegetation. Members deferred the application to allow an up-to-date assessment to be undertaken given the time that has passed and the change in vegetation on site potentially making it more suitable for reptiles. The second habitat assessment was carried out on 22nd June 2017 and found the site to still be of low ecological value with negligible potential to support roosting bats within the existing building or remaining trees. The site was not found to provide suitable reptile habitat as it comprises mainly of tall ruderals. No further surveys are required. Recommendations to enhance the sites biodiversity include erection of bird and bat boxes, and hedgehog friendly fencing and homes as detailed within the submitted report. The recommended condition has been amended to reflect this updated advice.**
- 6.12 The residential redevelopment of this land will be viewed in the wider context of existing employment uses to the south and east, and at a later date the Oakwood Park development to the north. It is not considered that the proposed development would result in any material harm to the character of the surrounding area subject to the recommended conditions relating to tree protection and soft landscaping provision.
- 6.13 A contamination assessment confirms no remedial action is required. At the request of the Council a noise assessment has also been submitted due to the close proximity to the neighbouring employment uses and Environmental Health are satisfied and raise no objection.
- 6.14 The proposal is therefore considered to represent sustainable development and the principle for residential development is accepted subject to the detailed considerations below.

Design and visual impact

- 6.15 The application proposes two houses either side of the access drive with the remaining 47 dwellings being bungalows. Eight units have two bedrooms and 41 have three bedrooms. Amendments have been made to reduce the number of detached garages to create a more spacious development, and to reduce the number and close proximity of proposed bungalows along the boundary with the neighbour at Roseacre. The density is around 21.6 dph and each dwelling is provided with at least the minimum private amenity space required by saved Policy HG9 with most properties exceeding this level.
- 6.16 There are a variety of different dwelling designs across the development, which although relatively plain incorporate visual interest through the use of bay windows and porches. All the bungalows and the majority of the detached garages have hipped roofs creating some

uniformity across the development and subject to a condition requiring approval of external materials the detailed design is considered acceptable.

- 6.17 Although existing dwellings in the immediate vicinity are large dwellings on spacious plots this would not represent an efficient use of land for the proposed site in this sustainable location. The Oakwood Park development to the North is likely to be of comparable density to the current proposal and the application site would be viewed in conjunction with that site with the existing residential dwellings to the south set at least 80 metres back from the highway.

Impact on residential amenity

- 6.18 To the north lies the permission for 250 dwellings at Oakwood Park and to the eastern corner lies employment units. The only residential neighbours to the site are Roseacre and Hillfield which lie to the south.
- 6.19 Roseacre lies around 3 metres south of plot 43 with its main garden to the south of plots 48 and 49. There is further garden land and a swimming pool to the south of plots 41 and 42 and the smallest of the three areas of public open space. Hillfield lies to the south of Roseacre with its main garden around 9 metres from the rear boundary of Plot 3.
- 6.20 The proposed dwellings (excluding the two at the site access) are all bungalows of 5.5-5.7 metres high with hipped roofs so there will be no harm in terms of loss of light or privacy. The amended proposal results in a better separation (minimum 13 metres) between Roseacre and proposed dwellings to the north preserving the outlook for the neighbouring occupiers.
- 6.21 A condition will be imposed requiring a construction method statement to control hours of construction, location of storage and parking areas etc in the interests of residential amenity.

Highway safety

- 6.22 Each dwelling is provided with two off street parking spaces plus 19 visitor parking spaces (9 of which are located within individual dwelling plots). This is sufficient to meet the needs of the development. 25 dwellings have garages to incorporate cycle storage and the remaining plots have ample private amenity space to provide storage for cycles.
- 6.23 The Highway Authority has no objection subject to conditions as detailed above which are all considered reasonable and necessary in the interests of highway safety.
- 6.24 **The applicant has declined to amend the layout to provide additional footpaths within the site as requested by Members in deferring the application for amendment. The applicant states this would result in a loss of units and there is no objection from the Highway Authority to the current level of footpath provision. Footpaths are provided both sides of the proposed adopted road (around 80 metres into the site) and along the site frontage to Thorpe Road.**

Surface water

- 6.25 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 PPL1 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.

- 6.26 A Flood Risk Assessment and sustainable drainage strategy has been provided with the application. The site lies within Flood Zone 1 and is therefore at low risk of flooding from rivers and the sea. Surface water from the development must be adequately managed to prevent runoff and risk of flooding elsewhere.
- 6.27 **Amended information has been provided to overcome the objection from Essex County Council Suds and there is now an adequate surface water drainage strategy subject to the four requested conditions from ECC Suds.**
- 6.28 **The application forms have been amended to confirm connection to the main sewer and this overcomes the Environment Agency's holding objection.**
- 6.29 Anglian Water also confirm the **original** surface water drainage strategy is unacceptable and request a condition to require approval of this. **This matter has now been resolved to the satisfaction of ECC Suds as Lead Local Flood Authority.** Anglian Water also request a condition for a foul water strategy, **however this is not necessary as connection to mains sewer has been confirmed** and Anglian Water have already confirmed sufficient capacity.

Legal agreement

- 6.30 In order to make the development acceptable a S106 legal agreement is required. This has yet to be drafted and the recommendation is to approve after its completion.
- 6.31 Policy QL12 in the adopted Local Plan and Policy PP12 in the emerging Local Plan require that new development is supported by the necessary infrastructure which includes education provision. The advice of Essex County Council, in its role as the local education authority, is that there is sufficient capacity for early years and childcare. However, the existing primary schools at Burrsville Infant Academy and Great Clacton CE Junior School would not be able to accommodate the expected number of additional pupils likely to be generated by this proposal and a contribution of £93,116 is therefore required. Clacton County High does not have capacity to accommodate pupils likely to be generated by this proposal and there is a requirement for 5.1 secondary places. However restrictions on the pooling of contributions mean it is impractical for ECC to request contributions where pupil generation is less than 6 so a secondary contribution is not requested. They are also not seeking school transport contributions.
- 6.32 Policy QL2 in the adopted Local Plan and Policy CP1 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport. Highways have requested provision of a shared use cycleway/footway of minimum 3 metres in width to be provided on eastern side of Thorpe Road between the existing facilities located at the two roundabouts to the north and south.
- 6.33 Policy HG4 in the adopted Local Plan requires large residential developments to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy LP5 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 30% of new dwellings on large sites to be made available for affordable or Council Housing. The Housing team have confirmed that Clacton is the area of highest demand for affordable housing. The applicant has offered three three-bedroom dwellings on the site to be gifted to the Council for affordable housing and this is satisfactory.

- 6.34 Policy COM6 in the adopted Local Plan and Policy HP4 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 Council's Open Space Team has commented on the application and has identified a deficiency of equipped play areas in the Clacton/Holland area with the nearest play area not accessible on foot from the development. Due to the size of the site at least 10% should be laid out as open space to a LAP standard.
- 6.35 If the on-site open space is to be transferred to Tendring District Council for future maintenance, an additional financial contribution towards maintenance will also need to be secured through a s106 legal agreement. Open space is incorporated as part of the development and discussions regarding maintenance are currently ongoing.

Conclusion

- 6.36 The proposal for 49 dwellings is considered to represent sustainable development, on the edge of an urban settlement, and in an area benefiting from planning permission for residential development at Oakwood Park to the immediate north and as proposed allocations for residential and employment development within the emerging Local Plan.
- 6.37 Subject to completion of the S106 legal agreement the application is recommended for approval.

Background Papers

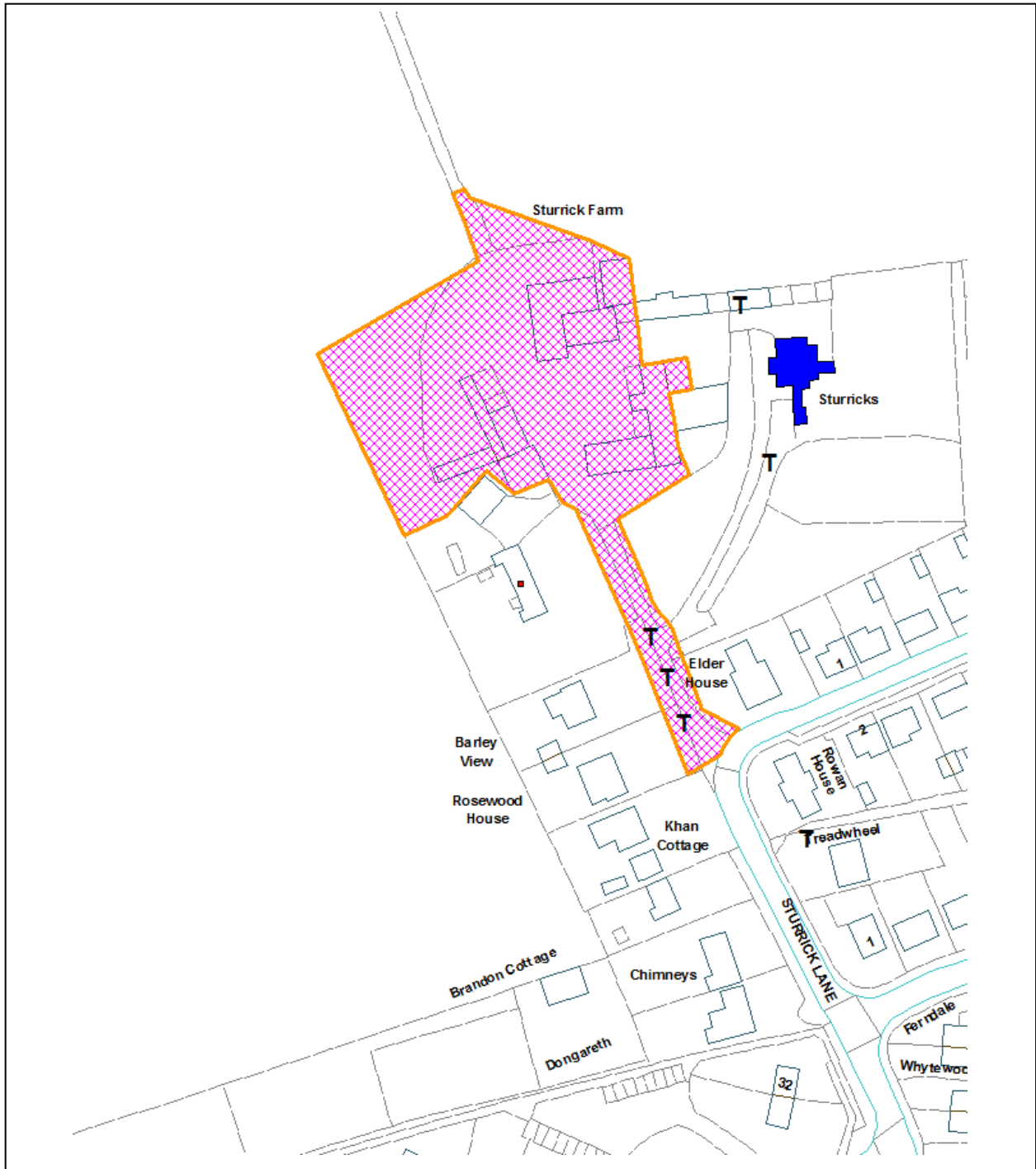
None

PLANNING COMMITTEE

8 August 2017

REPORT OF THE HEAD OF PLANNING

A.9 PLANNING APPLICATION - 17/00456/FUL - STURRICKS FARM, STURRICK LANE, GREAT BENTLEY, CO7 8PT



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Application:	17/00456/FUL	Town / Parish: Great Bentley Parish Council
Applicant:	Mr G Bradfield	
Address:	Sturricks Farm Sturrick Lane Great Bentley CO7 8PT	
Development:	Erection of eight two-storey dwellings following demolition of and alteration to existing buildings.	

1. Executive Summary

- 1.1 This application is referred to Planning Committee as it is contrary to the Development Plan proposing housing outside of the settlement development boundary in the 2007 adopted plan.
- 1.2 The application was originally submitted for demolition of all buildings on site and erection of eight houses and two bungalows. Concerns were raised by the case officer regarding the impact upon the setting of the neighbouring listed building, historic buildings proposed for demolition, loss of employment land and absence of a barn owl survey. The application has been amended and has been subject to full reconsultation which expire before the Planning Committee meeting. Comments received in relation to the original application from ECC Suds Team, TDC Open Space, Anglian Water and TDC Housing have not been included within the report because the reduction in numbers from 10 to 8 means the application is no longer a 'major' application so they are no longer statutory consultees/there is no requirement for affordable housing/public open space contributions.
- 1.3 The application site lies outside (around 95 metres north of) the settlement development boundary for Great Bentley of the 2007 adopted plan but wholly within the settlement development boundary in the emerging plan. The NPPF defines 'sustainable development' as having three dimensions: economic, social and environmental. The proposal is considered to represent sustainable development in terms of the NPPF's 'presumption in favour of sustainable development' and the principle of residential development is therefore accepted. The loss of the employment use is considered justified as the site benefitted from temporary permissions which expired around 15 years ago; the units require substantial investment to bring them up to modern standards; and two small units are retained for potential employment use.
- 1.4 The application proposes the erection of eight houses following demolition of a number of existing buildings. Two of these buildings will be retained and made good where adjoining buildings are demolished and a listed building consent application 17/01088/LBC has been submitted for these works as they adjoin the curtilage listed buildings and wall of the neighbouring Grade II Listed Building Sturricks.
- 1.5 The detailed design and scale of the proposed development is considered acceptable and would moderately enhance the setting of the neighbouring Grade II listed building with no material harm to residential amenity, biodiversity or highway safety.

Recommendation: Approve

Conditions:

1. Standard 3 year time limit for commencement

2. Accordance with approved plans
3. Details of construction materials
4. Vehicular parking and turning as shown to be provided prior to occupation
5. No unbound materials to be used within 6 metres of highway boundary
6. Hard and soft landscaping plan/implementation
7. Construction method statement
8. Details of boundary treatments
9. Retained buildings to be made good as shown prior to occupation of dwellings
10. Tree protection as detailed in tree report
11. Submission of Arboricultural Method Statement
12. Phase 2 contamination assessment
13. Demolition and construction restricted to 07:00 - 19.00hrs Monday to Friday, 08.00 - 13.00hrs Saturdays and no permitted works on Sundays and Bank Holidays.

Note regarding need to apply for planning permission/lawful development certificate to confirm use of the two remaining buildings; and as requested by the Highway Authority.

2. Planning Policy

National Planning Policy Framework (NPPF)

- 2.1 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:

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

Local Plan

Tendring District Local Plan (2007)

QL1: Spatial Strategy

QL9: Design of New Development

QL10: Designing New Development to Meet Functional Needs

QL11: Environmental Impacts

ER3: Protection of Employment Land

HG9: Private Amenity Space

ER3 Protection of Employment Land

EN1: Landscape Character

EN6: Biodiversity

EN6a: Protected Species

EN23: Development within the Proximity of a Listed Building

TR1a: Development Affecting Highways

TR7: Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SP1	Presumption in Favour of Sustainable Development
SP2	Meeting Housing Needs
SP3	Providing for Employment
SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
PPL4	Biodiversity and Geodiversity
PPL9	Listed Buildings
CP1	Sustainable Transport and Accessibility
CP2	Improving the Transport Network

Status of the Local Plan

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. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. As this plan is yet to be examined, its policies cannot carry the full weight of adopted policy. However, because the plan has reached publication stage its policies can carry some weight in the determination of planning applications. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

3. Relevant Planning History

98/00044/FUL	Building to be used for making garden slabs and one building for storage of the necessary materials	Approved Expired 30/04/2000	28.04.1998
98/00047/FUL	Part A of site for use as a store for parts, tools, etc Part B of site for use as a workshop for the purpose of vehicle fitting and maintenance	Approved Expired 30/04/2000	28.04.1998
00/00670/FUL	Storage of building materials and equipment (Renewal of planning permission TEN/98/0046)	Approved Expired 18/07/2003	07.07.2000
00/00671/FUL	For use as a workshop and store for making/refitting caravans and camper vans (Renewal of TEN/98/0045)	Approved Expired 18/07/2003	07.07.2000
00/00672/FUL	Use of building for storage of	Approved	07.07.2000

	building materials and double glazing (Renewal of planning permission TEN/98/0038)	Expired 18/07/2003	
00/00673/FUL	Use of building by vehicle fitter for storing vehicles, equipment and machinery as well as the use of one building as a workshop (Renewal of planning permission TEN/98/0048)	Approved Expired 18/07/2003	07.07.2000
01/02168/FUL	Part C of site, for use as a store for parts, tools etc and as a workshop for the purposes of vehicle fitting and maintenance (Renewal of planning permission 00/00674/FUL)	Approved Expired 18/07/2003	06.02.2002
02/00215/FUL	Workshop/store for double glazing (Dutch Barn)	Approved Expired 18/7/2003	08.03.2002
14/00244/FUL	Erection of two 1.5 storey cottages with associated access and shared garage.	Approved	17.04.2014
14/00431/FUL	Erection of 32 dwellings with associated outbuildings and landscaping, with a new access from Sturrick Lane.	Allowed at Non Determination Appeal	21.08.2014
14/01415/TPO	T1 - Oak - reduce crown on southern side by 1.5m removing sub-laterals only. Remove 2 sub-laterals. T2 - Oak -remove dead wood. Remove 1 sub-lateral	Approved	28.10.2014
17/01088/LBC	Proposal to detach the supportive buildings which border Sturricks listed building from the underused industrial units and undergo repair and minor modification to the buildings as necessary.	Current	

4. Consultations

TDC Tree & Landscape Officer The main body of the application site is occupied by redundant commercial buildings and hard standing. Several trees on land forming part of Sturricks are formally protected by a Tree Preservation Order (TPO/92/55).

The Existing Site Plan shows the trees to be removed and those to be retained along with the Root Protection Areas (RPA's) of the retained trees. The information provided, in relation to the trees on the application site and adjacent land provides an accurate description of their health and condition. The tree survey and report has been carried out in accordance with BS5837 2012 Trees in relation to designs, demolition and construction: Recommendations and

adequately demonstrates that the development of the land could take place without causing harm to the protected trees.

In the north western corner of the application site there is a line of poor quality Poplar trees and single early mature Oak on a low bund running north to south. The Poplars do not merit retention and although the Oak is a good quality tree, in isolation, it has only moderate visual amenity value which could be relatively easily replicated and improved upon by replacement planting.

The site layout plan also shows the retention of trees on the northern boundary. Whilst the Sycamore, in this location, seem to be reasonable specimens some of the trees are Poplar; which were probably planted as a windbreak and are not good specimen trees. Should planning permission be granted then details of soft landscaping should be secured, by condition, to screen and enhance the appearance of the development.

The tree report makes reference to the poor condition of the Poplars and although some are shown as retained the amenity of the locality and the appearance of the development would probably be best served by their removal and replacement with new trees.

Should planning permission be granted then a condition should be attached to secure the provision of an Arboricultural Method Statement (AMS) to show how the recommendations contained in the tree report will be implemented during the construction phase of the development.

No additional comments on amended plans.

ECC Highways

Comments on original proposal for 10 dwellings: This Authority has assessed the highway and transportation impact of the proposal and has taken regard to the following information;

- 1) The industrial and commercial units could already realise vehicles associated with staff, customers, servicing and deliveries.
- 2) The level of vehicular activity associated with the site is likely to reduce under the proposal.
- 3) The reduction in vehicular traffic is beneficial to users of the Bridleway (Bridleway 2, Great Bentley)

This Authority therefore does not wish to raise an objection to the above application subject to the following:

- 1) Prior to occupation of the development the vehicular parking and turning facilities, as shown on the submitted plan shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.
- 2) No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
- 3) Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, retained in perpetuity.
- 4) Any single garages should have a minimum internal measurement of 7m x 3m. All garages shall be retained for the purposes of vehicle parking in perpetuity
- 5) Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.

Natural England No comments to make. Impact on protected species should be assessed using Standing Advice.

TDC Pollution Prior to the commencement of the development proposals, a phase 2 site investigation shall be carried out, as outlined in the desk study contamination report already submitted (compiled by Provectus Remediation Limited, report number 100994/001/DS). Investigations shall be carried out to establish whether any remedial works are required. If the investigations reveal contamination of the site, a further scheme shall be agreed in writing by the Local Planning Authority, setting out measures to ensure that the entire area of the site, in relation to soil conditions resulting from such contamination, will not be harmful or detrimental to human health, animal health, normal plant health or growth, to buildings, building surfaces or amenities. Such agreed measures shall be implemented and completed to the satisfaction of the Local Planning Authority prior to the commencement of any development of the site.

The following should be implemented in regards to the site management and would suggest the condition be applied which restricts construction times whilst works are being carried to: 07:00 - 19.00hrs Monday to Friday, 08.00 - 13.00hrs Saturdays and no permitted works on Sundays and Bank Holidays.

5. Representations

5.1 Great Bentley Parish Council objected to the original proposal for ten dwellings based on the impact of traffic on Sturrick Lane (a road that already has increased traffic use as a result of the recent development of 32 dwellings) and also the cumulative impact on the village. The Parish Council's comments on the amended plans will be updated via the update sheet/at the meeting.

5.2 1 letter of objection to original proposal for ten dwellings has been received summarised as follows: (with response in brackets where not addressed in the report)

- Outside the Local Plan and adds to 400 plus dwellings already approved in the village (each case must be assessed on its merits).
- Roads, schools, and doctors cannot take any more residents (the impact on highway safety has been addressed in the report. The development is below the number where financial contributions towards education and health can be required).
- Commercial units have not been in full-time use for some time and traffic has been slight.
- Abrey Close objection to traffic increase stands because people have to walk in the lane (a Public Right of Way passes through the centre of the site and traffic is light leading to only farm land beyond).

5.3 1 letter of objection to amended proposal has been received summarised as follows: (with response in brackets where not addressed in the report)

- Although reduced will still add to the strain in the village.
- All 3 and 4 bedroom dwellings which will not help people start on the property ladder.

6. Assessment

The main planning considerations are: The principle of development, design and visual impact, heritage impact, impact on residential amenity, and highway safety.

Site location

- 6.1 The application site lies outside (around 95 metres north of) the settlement development boundary of the 2007 adopted plan. The site lies wholly within the settlement development boundary in the emerging plan which includes the recent Abrey Close development to the south east which was allowed at appeal under reference 14/00431/FUL.
- 6.2 To the north and west lies agricultural land, to the south lies dwellings including two approved under 14/00244/FUL and Abrey Close to the south east, to the east lies the Grade II listed Sturricks which also contains protected trees. A Public Right of Way runs through the centre of the site along the existing farm road.
- 6.3 The site contains former agricultural buildings which have been converted to employment uses and are now vacant.

Principle of development

- 6.4 The application is referred to Planning Committee as it is contrary to the Development Plan proposing housing outside of any defined settlement development boundary in the 2007 saved plan. However, the site lies within the settlement development boundary of the emerging local plan which includes the recent residential development of 32 dwellings at Abrey Close.
- 6.5 The Council can now identify a five year supply of deliverable housing sites so is no longer automatically expected to approve planning applications for housing that run contrary to the Local Plan, as per the government's 'presumption in favour of sustainable development'.
- 6.6 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: economic, social and environmental and these are assessed below:

Economic

- 6.7 Saved Policy ER3 (protection of employment land) requires proof that existing employment sites are no longer suitable for alternative employment use before they will be considered for other uses. The proposal includes demolition of some existing buildings on the site. These buildings have been converted to workshop/storage uses for double glazing, building materials, vehicle fitting, and garden slabs. These uses were granted temporary planning permissions which have all long since expired as shown in the planning history. The employment uses therefore appear to have ceased in terms of their lawful planning uses and the site is now vacant. It is therefore difficult to argue that the proposal represents a loss of employment land. The existing buildings are also in a poor state of repair, with no wcs and requiring substantial investment to bring them up to modern standards. The proposal retains two buildings at the rear of the site which abut the boundary to the listed building Sturricks. These buildings could therefore be used for a low key storage or B1 use subject to a separate application to confirm their lawful use.
- 6.8 The proposal will provide employment through construction of the properties and through future residents supporting local businesses. It is therefore considered that the economic dimension of sustainability is met.

Social

- 6.9 The site is located on the edge of Great Bentley which is classed as a Rural Service Centre under emerging policy SPL1 providing opportunities for smaller-scale growth. The settlement has a reasonable range of public transport links, services and facilities and the site is therefore considered to be socially sustainable.

Environmental

- 6.10 The draft settlement development boundary includes the application site and existing houses to the south plus the new residential development at Abrey Close. Redevelopment of the site as proposed would be in keeping with the pattern of surrounding development and would not protrude into the open countryside.
- 6.11 The site is not subject to any landscape designations. There are trees subject to a Tree Preservation Order within the curtilage of the neighbouring Listed Building Sturricks. A Tree Survey has been provided to demonstrate that the proposal will not harm the existing trees. The plans show front gardens with soft landscaping and the appearance of the development is considered acceptable.
- 6.12 The heritage impact is assessed separately below and considered to be acceptable.
- 6.13 A habitat assessment has been carried out which found the site, which is almost entirely hard surfaced, to be of low ecological value. No bat roosts were found in the buildings. A barn owl survey and Great Crested Newt presence/absence survey (neighbouring small pond) has also been carried out and no evidence of either barn owls or Great Crested Newts was found.
- 6.14 A contamination assessment has been submitted given the previous uses of the site and the presence of asbestos cladding to the buildings proposed for removal. There is a low to moderate potential for contamination at the site. Environmental Health have commented on the proposal and confirmed that a phase 2 contamination assessment is required to ensure the site is appropriate for residential use, a condition has been recommended.
- 6.15 Subject to conditions relating to provision of an Arboricultural Method Statement and details of new soft landscaping it is considered that the proposal would be environmentally sustainable.
- 6.16 The proposal is therefore considered to represent sustainable development and the principle for residential development is accepted subject to the detailed considerations below.

Design and visual impact

- 6.17 The application proposes eight detached houses which are all set back 9-16 metres from the lane creating a spacious development with generous soft landscaping areas to the front. There are four three bedroom dwellings and four four bedroom dwellings proposed all providing at least the minimum 100 square metres of private amenity space ranging from 103 square metres to 380 square metres.
- 6.18 The dwellings are of four different designs with attractive detailing incorporating chimneys, porches, plinths, brick banding, front verandas, glazing bars, and roof finials. Materials are to be agreed by condition but are shown to be brick, black weatherboarding and tile. The maximum ridge heights are 7.5-7.6 metres creating a more rural, cottage design in keeping with surrounding development. The detailed design of the development is therefore considered acceptable.

Heritage Impact

- 6.19 Sturricks, a Grade II listed building, lies to the immediate east of the application site. The listed building is not currently prominent in public views due to its significant set back from the highway and the screening provided by mature vegetation within its grounds. From within the existing complex of buildings the listed building is clearly visible and overlooks the courtyard to the two existing buildings proposed for retention. The two buildings to be retained adjoin the boundary wall and existing outbuildings to Sturricks and are seen on maps dating back before the building was listed. The smaller of the two buildings to be retained is located to the north of the site and appears as a continuous building with the outbuilding in the garden of Sturricks. It is constructed of brick and timber frame and is considered to be curtilage listed and although significantly altered in terms of sheet roofing and modern doors it is still a building of character. A separate listed building consent has been submitted for works to make good the end walls of the remaining buildings. The second building is larger and its eastern wall is built directly up from the boundary wall to Sturricks. The remainder of the building is of no historic merit and is constructed of modern materials.
- 6.20 A large building currently blocks views of the listed building from the public right of way through the site. Demolishing this building provides a 14 metre wide gap within the centre of the site providing views through to the listed building and the 18 metre tall protected Lime tree in its grounds. This will significantly enhance views of the listed building to the public and would therefore provide some enhancement to its setting.

Impact on residential amenity

- 6.21 The retention of the two closest existing buildings to the listed building Sturricks means that there is a minimum 36 metre separation between the new dwellings on Plots 7 and 8 and the listed building and around 17 metre separation between the garden boundaries. Plots 5 and 6 are sited to the north so would not have views towards Sturricks. There would therefore be no loss of amenity in terms of loss of privacy, light or outlook. The retention of the two small commercial units would enable a small scale employment or storage use to operate from the remaining site, subject to separate planning permission/lawful development certificate given the absence of a lawful use for these buildings. The scale of the buildings would significantly limit the intensity of the use and this is unlikely to result in any material harm in terms of noise or other disturbance to the occupiers of Sturricks or the proposed dwellings on plots 6, 7 and 8. A note would be added to any planning permission to confirm the need to gain planning approval prior to use of the two remaining buildings.
- 6.22 Sturrick Farm is owned by the applicant's and is located to the south of Plot 1 with its outbuildings along the boundary. There is 22 metre separation between the two dwellings so there would be no harm in terms of loss of light, outlook or privacy. Plot 8 lies opposite their access drive but the separation distance ensures no loss of amenity.
- 6.23 It is not considered that the provision of eight additional dwellings would result in any material harm to other neighbouring dwellings in terms of increased noise or vehicular movements on this brownfield site. A condition restricting demolition and construction hours has been recommended in the interests of neighbouring amenity.

Highway Safety

- 6.24 Six of the eight dwellings are provided with garages however they are all undersized in relation to the adopted parking standards. However each dwelling has at least two off street parking spaces on their driveway therefore meeting the needs of future occupiers and their visitors.

6.25 The Highway Authority commented on the proposal for ten units as detailed in full above confirming no objection subject to five conditions. The reduced proposal does not affect these comments. Recommended conditions 3 and 4 relate to garage and parking space dimensions and will not be imposed as the garages are undersized as stated above but ample off street parking to the specified dimensions is already shown on the submitted plans. Condition 5 requests Residential Travel Information Packs which is not considered reasonable for a development of only 8 dwellings so has not been imposed. Conditions 1 and 2 are included within the recommendation in the interests of highway safety. The Highway Authority also provide advice in relation to the need to protect users of the Public Right of Way which will also be included within the decision notice as informatives.

Background Papers

None

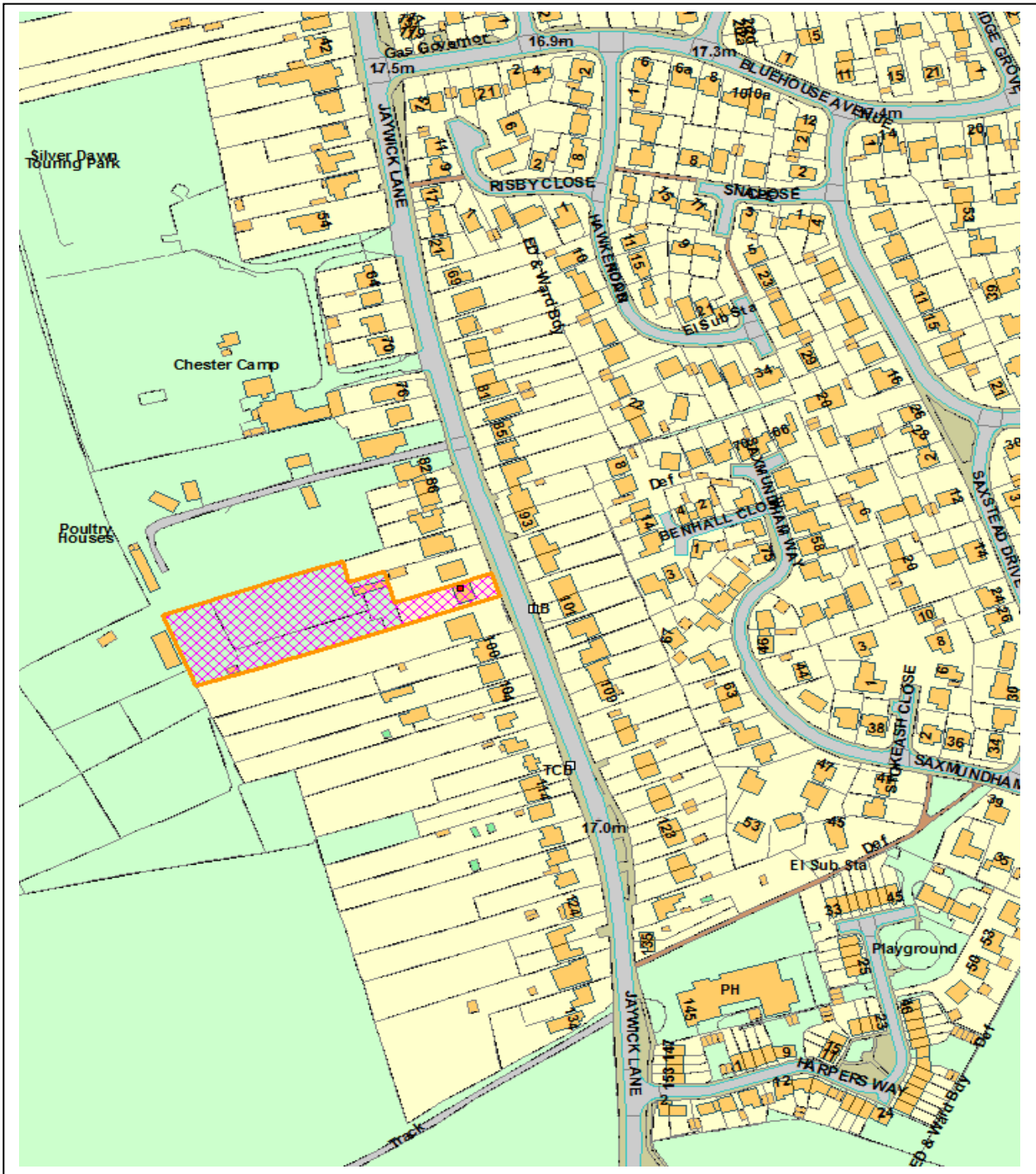
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PLANNING COMMITTEE

08 August 2017

REPORT OF THE HEAD OF PLANNING

A.10 PLANNING APPLICATION - 17/01081/OUT - 96 JAYWICK LANE, CLACTON-ON-SEA, CO16 8BB



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Application:	17/01081/OUT	Town / Parish: Clacton Non Parished
Applicant:	Mr Tulip	
Address:	96 Jaywick Lane Clacton On Sea Essex	
Development:	Proposed erection of 5 no. bungalows following demolition of existing bungalow.	

1. Executive Summary

- 1.1 The application has been called to Committee by Cllr Ted Whitmore, on the basis that the development is backland development which if approved will be setting a precedent resulting in more similar applications in this area. Also highway safety is a concern with numerous development access roads being created off Jaywick Lane, it will likely compromise road safety.
- 1.2 The application site relates to a modest development of 5 dwellings served from a private drive from Jaywick Lane, following demolition of the existing bungalow on the site.
- 1.3 The site is situated on the western side of Jaywick Lane on the outskirts of Clacton, currently outside of the settlement development limits (S.D.L), but shown within the new S.D.L as defined in the Emerging Local Plan, as part of a substantial mixed-use allocation.
- 1.4 The land to the north, west and south-west, already has permission – Ref 16/01520/FUL – for the erection of 21 bungalows and 48 supported living apartments, together with associated access, surface water drainage and other associated development.
- 1.5 The site would be surrounded by the above development and other residential development to the south, and is a logical development within an already approved housing area, and complies with the requirement within the N.P.P.F to significantly boost housing supply.
- 1.6 It is a sustainable location and the development meets the 3 arms of sustainable development as noted within the N.P.P.F.
- 1.7 It is officer's view that the character of the immediate area has already been significantly changed by the approval of the surrounding estate development – and the development would be located directly adjacent to it – and therefore the development must be viewed against that character.
- 1.8 Whilst in backland form, the proposal would be developed on 3 sides and would not result in a precedent for further backland-type developments, as it is well related to adjacent development, and the remaining land within the mixed-use allocation of the emerging plan could still be developed on a more comprehensive basis.
- 1.9 The proposed development creates a simple built-form, surrounded by other development, and therefore raises no policy concerns and would not look out-of-place in the street scene, and it is therefore recommended that permission be granted subject to conditions.

Recommendation: Approve

Conditions:

Standard Outline Conditions for:-

- 1 Submission of Reserved Matters**
- 2 Timescale For Submission of Reserved Matters**
- 3 Timescale for Commencement of Development**
- 4 Single-storey only**
- 5 Archaeology**
- 6 SUD's drainage**
- 7 Broadband**
- 8 Highway Conditions as advised by Highway Authority**

2. Planning Policy

NPPF National Planning Policy Framework

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL2 Promoting Transport Choice

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG13 Backland Residential Development

HG14 Side Isolation

EN1 Landscape Character

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

- SP1 Presumption in Favour of Sustainable Development
- SP2 Spatial Strategy for North Essex
- SP6 Place Shaping Principles
- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- LP8 Backland Residential Development
- SAMU4 Development at Rouses Farm, Jaywick Lane, Clacton
- CP1 Sustainable Transport and Accessibility

Status of the Local Plan

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. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. As this plan is yet to be examined, its policies cannot carry the full weight of adopted policy. However, because the plan has reached publication stage its policies can carry some weight in the determination of planning applications. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

3. Relevant Planning History

01/01059/FUL	Conservatory and dormers	Approved	20.09.2001
97/01121/FUL	Rear extension to provide lounge kitchen and dining area	Approved	15.10.1997
17/01081/OUT	Proposed erection of 5 no. bungalows following demolition of existing bungalow.	Current	

4. Consultations

Highway Authority

At the time of compiling this report, the Highway Authority had given a verbal indication that they would have no objections subject to conditions, and an update will be given at Committee.

5. **Representations**

None received

6. **Assessment**

The main planning considerations are:

- Principle of development
- Policy issues
- Character and form of the development
- Highway Safety
- Archaeology
- Overall planning balance

The Site

- 6.1 The site comprises the applicant's dwelling and a small parcel of paddock land to the rear (west) that is sandwiched between the frontage dwellings on Jaywick Lane, and a larger proposed housing re-development served from a new housing estate road, leading on to Jaywick Lane to the north, west and south-west.
- 6.2 The site is therefore surrounded on 3-sides by existing and proposed housing, and the existing dwelling consists of an extended bungalow, that is not of high architectural merit.
- 6.3 Apart from the obvious domestic curtilage, the majority of the site is currently un-developed open paddock land, running behind other properties on Jaywick Lane, and it reflects the long strips of land associated with the other dwellings on Jaywick Lane, further to the south.

The Proposal

- 6.4 The proposal is to demolish the existing bungalow to create space to provide an access drive, and utilise the land to the rear for the erection of 5 detached bungalows and garages on rectangular-shaped plots.
- 6.5 The development is in outline form, with all matters reserved, although the indicated access position is the only feasible location for the access (other than utilising the access road of the approved housing scheme on the adjacent land).
- 6.6 The submitted plans are purely illustrative, but show a typical shared drive arrangement with turning head, serving a linear row of bungalows all but one, having a detached double garage.
- 6.7 Each dwelling is shown with one or two garages and 2 further parking spaces.

Consideration

Principle of development

- 6.8 The approved residential development – 16/01520/FUL established the principle of development of the land to the west of frontage dwellings along Jaywick Lane, and this

location is no longer one of frontage development, as the approved development has fundamentally changed the character of the area.

- 6.9 The land to the west of Jaywick Lane, and running north to St John's Road, is included within the Emerging Local Plan as a major 'mixed-use' allocation - SAMU4 Development at Rouses Farm, Jaywick Lane, Clacton.
- 6.10 This allocation within the Publication Draft is allocated for a mix of residential development, community facilities and public open space as follows:—
- At least 850 new homes of mixed sizes and types to include affordable housing
 - A new primary school with co-located 56 place early years and childcare facility
 - A new neighbourhood centre
 - A site for a new healthcare facility to meet the primary health care needs in West Clacton;
 - A minimum of 5 hectares of public open space
 - Inclusion of a master planned approach
 - The principal points of vehicular access will be off St John's Road in the north and Jaywick Lane in the south
 - A minimum 20 metre landscaping buffer along the western edge of the site
 - To include a new spine road with a carriageway width of 6.75 metres, linking St John's Road and Jaywick Lane
 - Access restrictions to be implemented in Jaywick Lane
 - Incorporation of highway infrastructure enhancements.
 - A safe cycle path/footpath to Clacton Coastal Academy and new primary school
 - Financial contribution to early years and childcare and secondary education provision,
 - Protection and enhancement of the historic environment including the archaeological environment;
 - Upgrades to both treatment infrastructure and network and to formulate a water and drainage strategy to serve the new development.
- 6.11 Although a form of 'backland' development - the 5 new dwellings have a private drive arrangement - but when considered in relation to the approved development the proposed development would not look out-of-place.
- 6.12 The proposed dwellings would not therefore be a 'new' development introduced in to an open area of the land to the rear of frontage dwellings, but instead, needs to be considered as part of the overall redevelopment of the area, and would be viewed not in isolation, but along with the approved housing estate development that surrounds it.
- 6.11 In officer's view, the surrounding residential development sets the tone for any new development, and the issue is whether the development is acceptable in relation to this surrounding residential development.

Policy issues

- 6.12 N.P.P.F indicates that Local Planning Authorities should 'significantly boost' such supply and whilst the Council can currently demonstrate a 5-year Housing Land Supply, the development of sustainable locations such as this one is paramount for retaining that supply, and the site is being promoted via the emerging plan.
- 6.13 The current proposal relates to a logical "infill" area, surrounded by other residential development and an approved housing estate.
- 6.14 The development meets the usual standards for amenity area size, distance between dwellings and car-parking, and therefore raises no particular policy concerns, although it is

accepted that the site falls outside of the settlement development limits of the 2007 Local Plan and is therefore technically contrary to the development plan, however the surrounding 'approved' development, and that Clacton is a key housing growth area is compelling.

- 6.15 In the light of the above it is considered that a refusal based on the outdated development plan policy could not be substantiated, particularly as the surrounding development and emerging plan amply demonstrates that the Council consider the site to be a sustainable location.
- 6.16 A key issue will therefore be whether the development of this site in isolation would restrict development of the larger 'allocated' site, or sets a precedent for further 'backland' development, and the 'backland' development policies – HG13/LP8 of the Adopted and Emerging plans are discussed in the sections below.
- 6.17 Taken in conjunction with the development of the adjacent site, the 5 bungalows proposed, represent a "rounding-off" of the built-form of the approved scheme and development of this site would still allow the mixed-use allocation at Rouses Farm (Allocation SAMU4 of the emerging plan) to be developed.
- 6.18 The current site falls between the allocation, and frontage dwellings on Jaywick Lane, although the width of the site (3 times the width of other dwellings and their associated land) and the unusual layout of surrounding development, are unlikely to be replicated further along Jaywick Lane, and in that respect, the site does not set a precedent for further development.
- 6.19 In relation to the 'backland' policies, it must be noted that development of this site would meet the criteria of such policy, in that:-

Policy HG13/LP8 allows for the development of backland sites, providing stated criteria are met, and in this respect, it is noted that:-

- The site would have a safe vehicular/pedestrian access
 - It is not tandem development as the existing dwelling is to be demolished
 - Whilst not within the currently defined settlement, it is a proposed inclusion, and it would not impact on the proposed allocation within the emerging plan
 - As the existing development is to be demolished, the garden size remaining for that dwelling is irrelevant, and the new development could be designed at reserved matters stage to meet Policy HG9 in relation to garden size and HG14 in relation to side isolation
 - It would not result in an awkwardly shaped plot that would be difficult to develop, and would not compromise other sites
 - It would not result in out-of-character development or set a harmful precedent, and
 - It would not create a 'hard-edge' to the settlement as it is surrounded on 3 sides by other residential development
- 6.20 The site therefore represents an appropriate form of backland development that is not in conflict with the backland Policies of either the adopted or emerging plans.

Character and form of the development

- 6.21 Whilst the Jaywick Lane area originally had a linear form, there is a holiday park to the west, and the recently approved modern developments – which includes a substantial "in-depth" housing scheme at 82 Jaywick Lane – has fundamentally changed the character of the built-form particularly at this location, which is no longer a simple linear form.

- 6.22 As a result, the development would not appear to be out-of-character with its surroundings, and the proposed bungalows would constitute logical rounding-off with the approved new housing development.
- 6.23 Jaywick Lane has other access drives leading from it, and the proposed access drive serving 5 new bungalows could not therefore be said to be out-of-character and the density and layout is considered appropriate for its location to the rear of established frontage housing.

Highway Safety

- 6.24 The proposed access drive meets Jaywick Lane, where it is straight with good visibility splays, most being within the highway, and with a net-gain of 4 dwellings (5 proposed and one demolished), the development of the site with a modest private drive does not raise any particular highway safety concerns, and the comments of the Highway Authority will be reported in full in the Committee update.
- 6.25 The N.P.P.F states at paragraph 32, that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe, and in this instance, the resulting highway impact would not be severe.

Archaeology

- 6.26 The site lies directly adjacent to another housing site on which is known to have considerable potential for archaeological remains, and that permission was subject to an investigation – including trial trenching – and the proximity of the current site would have equal potential for finds.
- 6.27 As a result, it will be necessary to impose a similar archaeological condition to ensure that any heritage assets are safeguarded.

Overall planning balance

- 6.28 Whilst the Council can now demonstrate a 5-year housing land supply, and the housing supply policies are no longer considered to be out-of-date, the site is in a sustainable location on the edge of the principle settlement within the District, surrounded by other housing developments and a substantial mixed-use allocation, and the proposed development meets all other policy considerations.
- 6.29 The N.P.P.F still contains a presumption in favour of sustainable development, as well as requiring the Local Planning Authority to ‘significantly boost’ housing land supply.
- 6.30 The Council are given a commitment to development on the west side of Jaywick Lane, by the inclusion of the land further west as a major allocation – SAMU4 – being promoted through the Emerging Local Plan.
- 6.31 The site is a logical rounding-off of other development and the addition of 5 bungalows would not be unacceptable, and would add to the mix of dwelling types as advocated by the N.P.P.F and local policy.
- 6.32 Whilst the proposal is a form of backland development, it would not appear out-of-character, and meets the terms of the Backland Policies, and it would not form a precedent, as other land to the rear of individual properties on Jaywick Lane to the south, would not have the same circumstances – i.e. the larger plot width, and being surrounded on 3-sides by existing and approved housing development.

- 6.33 The creation of a modest access drive at this location, serving 5 bungalows, and with good visibility on to a straight road, would not cause any significant highway safety concerns.
- 6.34 On balance, the development would not cause any demonstrable harm, and is considered to be a sustainable one, where the benefits of the scheme are not out-weighted by any harmful impacts.
- 6.35 The development is therefore an appropriate one and recommended for approval.

Background Papers

None

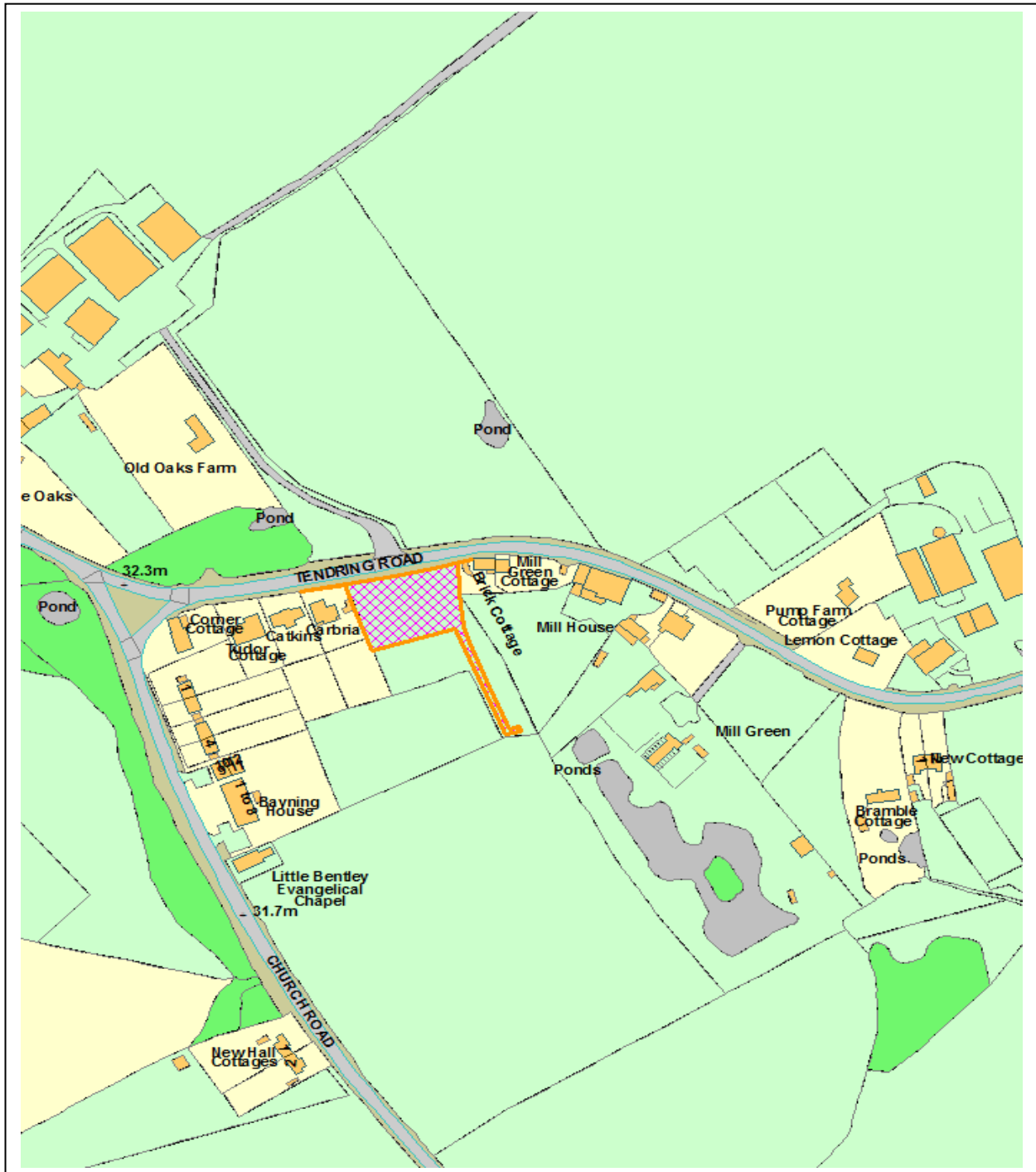
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PLANNING COMMITTEE

8 AUGUST 2017

REPORT OF THE HEAD OF PLANNING

A.11 PLANNING APPLICATION - 17/00955/FUL - LAND ADJACENT CARBRIA, TENDRING ROAD, LITTLE BENTLEY, CO7 8SH



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Application:	17/00955/FUL	Town / Parish: Little Bentley Parish Council
Applicant:	Mr Rose	
Address:	Land adjacent Carbria, Tendring Road Little Bentley	
Development:	Two proposed dwellings and gardens	

1. Executive Summary

- 1.1 Outline planning permission for 3 dwellings was refused on 07 June 2016 (16/00532/OUT), and a later application for the outline erection of 2 dwellings – all matters reserved - was approved by the Planning Committee on 02 Nov 2016. (Ref 16/01373/OUT). The current application is a full application [rather than a reserved matters submission], however it was clear that the Planning Committee wanted to review the detailed application following the approval of the outline.
- 1.2 In accordance with Members' request the current application is before Members seeking approval for a detailed scheme for the erection of 2 detached houses and garages, with a single, central access point and the retention of the feature front boundary hedge.
- 1.3 Little Bentley does not have a defined settlement boundary in the Adopted Local Plan as Policy QL1 does not define Little Bentley as a settlement for development but there is a defined settlement boundary within the emerging Local Plan, although the site lies outside of that boundary. However, the principle of residential development has been accepted by the granting of outline planning permission, which expires on 4 November 2019.
- 1.4 The site is accessed from Tendring Road with a private drive serving the 2 frontage plots. The scheme retains the substantial hedge to the northern boundary as noted within the sketch scheme submitted at the outline stage.
- 1.5 The design, siting and scale of the proposed dwellings are considered acceptable with no material harm to visual or residential amenity, or highway safety. The application is therefore recommended for approval.

Recommendation: Approve

Conditions:

1. 3 Year Time limit
2. Approved plans
3. Visibility splays
4. Vehicular parking and turning facility
5. No unbound materials in first 6m of access
6. Private drive constructed to a width of 5.5 metres
7. Soft landscaping scheme
8. Vegetation clearance to be undertaken outside of the bird nesting season
9. Continued grazing or regular cuts to grassland undertaken at a low sward height
10. Replacement of any lost hedgerows within the development

2. Planning Policy

NPPF National Planning Policy Framework

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL2 Promoting Transport Choice

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

HG1 Housing Provision

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

EN1 Landscape Character

EN6 Biodiversity

EN6a Protected Species

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016)

SP1 Presumption in Favour of Sustainable Development

SP2 Meeting Housing Needs

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP3 Green Infrastructure

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

- LP4 Housing Layout
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- CP1 Sustainable Transport and Accessibility

Status of the Local Plan

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. As of 14th July 2016, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document. As this plan is currently at an early stage of preparation, some of its policies can only be given limited weight in the determination of planning applications, but the weight to be given to emerging policies will increase as the plan progresses through the later stages of the process. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

3. Relevant Planning History

- | | | |
|--------------|--|----------|
| 16/00532/OUT | Construction of 3 detached dwellings | Refused |
| 16/01373/OUT | Outline planning application for the construction of 2 detached dwellings. | Approved |

4. Consultations

Tree and Landscapes Officer There are no trees or other significant vegetation on the, main body of the application site.

The front boundary adjacent to Tendring Road is planted with a dense established hedgerow comprising primarily of Hawthorn and Blackthorn with some Dog Rose. The hedgerow currently acts as a good screen.

If the front boundary vegetation were to be retained, except for the removal of a short section to gain access to the land, and if new soft landscaping were to be carried out broadly in accordance with that shown of the site layout plan then the development would be reasonably well assimilated into its setting.

By its very nature the development of the land would have a detrimental impact on both the character and appearance of the local landscape character. However, it is accepted that a good quality landscaping scheme that, addressed boundary treatment, would help

to soften and screen the development to mitigate the harm caused by the development.

If planning permission is likely to be granted then it will be essential to secure details of comprehensive new planting to both soften and screen the development to mitigate any potential harm to the character and appearance of the area. A soft landscaping condition should be attached to secure details of plant species and specification.

ECC Highways Dept

This Authority has assessed the highway and transportation impact of the proposal and does not wish to raise an objection to the above application subject to the following:

1. Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 43 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.
2. Prior to occupation of the development the vehicular parking and turning facilities, as shown on the submitted plan shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.
3. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
4. Prior to the first occupation of the development, the proposed private drive shall be constructed to a width of 5.5 metres to the satisfaction of the Local Planning Authority.
5. Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, retained in perpetuity.
6. Any double garages should have a minimum internal measurement of 7m x 6m. All garages shall be retained for the purposes of vehicle parking in perpetuity

5. **Representations**

Little Bentley Parish Council: No objection to the application.

Two letters of objection have been received. The points raised have been summarised below:

- Development is spoilt with a shared access, there should be two separate access points to be in-keeping with existing development;
- Separate access would be safer;
- Garden size not large enough;
- Site is not in a sustainable location;
- Younger people will be unable to afford these properties;

- Loss of privacy;
- Houses are not in proportion with that approved at outline stage and are out of character; and
- Road safety concerns.

6. **Assessment**

The main planning considerations are:

- Principle of Development
- Design
- Highway Safety
- Residential Amenity
- Protected Species

Site Context

- 6.1 The application site is located on the southern side of Tendring Road within the Parish of Little Bentley. Having regard to both the Saved Tendring District Local Plan (2007) and Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017), the site lies outside of any defined Settlement Development Boundary.
- 6.2 The site has an area of 0.15 hectares and forms part of an arable field that fronts onto Tendring Road marked by a mature hedgerow and grass verge. Either side of the application site is existing residential development in linear form that extends around the corner into Church Road. Most of the dwellings are set back from the road, behind front gardens and vary in design and scale.

Proposal

- 6.3 The application seeks permission for the development of 2 detached dwellings and garages.
- 6.4 The proposed dwellings share an access from Tendring Road to the north. Each dwelling would have a garage and at least 2 parking spaces. Both dwellings are two storey detached houses, with plot 1 serving 5 bedrooms and plot 2 serving 4 bedrooms.

Local Plan Status

- 6.5 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. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. As this plan is yet to be examined, its policies cannot carry the full weight of adopted policy. However, because the plan has reached publication stage its policies can carry some weight in the determination of planning applications. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

Principle of Residential Development

- 6.6 Whilst the site lies outside the defined settlement boundary of the emerging Local Plan and the existing plan does not recognise Little Bentley as a development village, the principle of residential development has been accepted by the grant of outline planning permission under planning reference 16/01373/OUT, which expires on 4 November 2019. Consideration under this application is therefore limited to only the general detail design matters and landscaping.

Design and Layout

- 6.7 The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.8 The proposed two storey dwellings would be located to the south of the joint access, which has been designed to give maximum visibility, with the existing boundary hedge being retained and trimmed, and they are an attractive design incorporating design features including chimney stacks, front gables, bay windows and a mix of brick, wood cladding and render. Furthermore, they measure a maximum of 8.5 metres in height, which would be in-keeping with the scale of neighbouring dwellings.
- 6.9 The dwellings would have small front gardens and substantial gardens to the rear in excess of the minimum 100 square metres required by saved policy HG9, whilst the siting of the proposed dwellings are acceptable. The existing front access to the north-east corner of the plot is to be removed and replaced with matching hedging, whilst the side and rear boundaries will be strengthened with a 1.8 metre high close boarded fence and planting.
- 6.10 The height, mass and detailed design of the dwellings, including the front elevation incorporating bay windows is appropriate for this site and provides for an attractive mix of dwelling types. The dwellings would retain sufficient spacing to the side boundaries of their plots as to not appear cramped and to safeguard the semi-rural character of the locality.

Highway safety

- 6.11 Essex County Council as the Highway Authority has been consulted on the application. They raise no objection to the principle of the development and vehicular accesses from Tendring Road in this location subject to six conditions as detailed within the report. Conditions 1-4 are included within the recommendation, however conditions 5 and 6 are not as adequate off street parking is shown on the submitted plans.
- 6.12 Furthermore, the Council's Adopted Parking Standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces are required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally.
- 6.13 The proposed garages are undersized but ample off street parking is provided on the driveways to meet the needs of residents and their visitors.

Residential Amenity

- 6.14 The NPPF, at paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition,

Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

- 6.15 Due to the siting of the proposed dwellings and the sufficient space between any surrounding dwellings there would not be any adverse impact upon future residents in respect of loss of light/outlook or the dwellings appearing imposing. Furthermore, the only first floor side elevation window that has the potential to directly overlook neighbouring properties will be served by an en-suite, a room not associated with regular habitation, whilst all first floor rear elevation windows will have views to the rear of neighbouring garden areas, which are less likely to be occupied and thereby reducing the degree of privacy lost.

Protected Species

- 6.16 The issue of protected species and habitat protection was considered at the outline stage, where a Phase 1 Habitat Survey, undertaken on 14 March 2016, was provided, and which concluded the following;
- 6.17 The site predominantly comprises of semi-improved grassland which is grazed to a low sward height, with an intact species-rich hedgerow along the northern boundary. No habitats which occur within the survey area were considered to have high ecological importance on an international, national, regional or county scale. There are suitable features, within the area to be affected by the proposed development, which may provide foraging and nesting habitat for breeding birds, in particular the hedgerow along the northern boundary. There are no signs of Water Voles, Otters and Dormice, and the site was not found to be suitable for these species. No signs of Badgers were noted on site at the time of the survey. The grassland is used for grazing and is maintained to a low sward height; therefore it is considered unlikely reptiles are present on site. There are no features on site considered suitable for roosting bats; however a small number of bats may use the site for limited foraging. Given the size of the site and availability for foraging bats in the wider area, it is unlikely the removal of habitat from site would result in a negative impact on the species. The desk study identified nine ponds within 500m of the site, most of which were not accessible at the time of the survey, due to their location on private property. Two were assessed as having average suitability to support Great Crested Newt. Given Tendring Road and Church Road act as a barrier between the site and most of the ponds in the wider area as well as the lack of suitable habitat for this species onsite, the proposed development will not have a negative impact on this species.
- 6.18 The survey recommended that to ensure that no offences occur under the Wildlife and Countryside Act it is recommended that any vegetation clearance work is undertaken outside of the bird nesting season. The bird nesting season is generally regarded to extend between March and August inclusive,(weather dependent). If this is not possible, an ecologist should check the vegetation prior to removal to ensure birds are not present. To keep the grassland unsuitable for reptiles, it is recommended that either continued grazing or regular cuts are undertaken to maintain the grassland to a low sward height. Should this not be the case, a reptile survey may be required. Any hedgerows to be lost within the development should ideally be replaced elsewhere within the development. Conditions are recommended to ensure these measures are undertaken.

Overall planning balance

- 6.19 The outline permission established the principle of development of the site for 2 dwellings, and the proposed development meets all other policy considerations.

- 6.20 The land is proposed to be developed in a manner that would add to the mix of dwelling types as advocated by the NPPF and local policy and is an attractive design which maintains ecology habitat and the roadside hedge.
- 6.21 On balance, the development would not cause any demonstrable harm, and is considered to be a sustainable one, where the benefits of the scheme are not significantly and demonstrably out-weighted by any harmful impacts.
- 6.22 The development is therefore an appropriate one and recommended for approval.

Background Papers

None

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