



## PLANNING COMMITTEE

**DATE:** Tuesday 1 May 2018  
**TIME:** 6.00 pm  
**VENUE:** Council Chamber, Council Offices,  
Thorpe Road, Weeley, CO16 9AJ

### MEMBERSHIP:

|  |                              |
|--|------------------------------|
| <b>Councillor White (Chairman)</b>       | <b>Councillor Cawthron</b>   |
| <b>Councillor Heaney (Vice-Chairman)</b> | <b>Councillor Everett</b>    |
| <b>Councillor Alexander</b>              | <b>Councillor Fowler</b>     |
| <b>Councillor Baker</b>                  | <b>Councillor Hones</b>      |
| <b>Councillor Bennison</b>               | <b>Councillor McWilliams</b> |
| <b>Councillor M Brown</b>                |                              |

Most Council meetings are open to the public and press.

Agendas and Minutes are published on the Council's website [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk). Agendas are available to view five working days prior to the meeting date and the Council aims to publish Minutes within five working days of the meeting.

Meeting papers can be provided, on request, in large print, in Braille, or on disc, tape, or in other languages.

For further details and general enquiries about this meeting, contact Katie Sullivan on 01255686585

**DATE OF PUBLICATION: FRIDAY 20 APRIL 2018**

## 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 - 6)**

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on 28 March 2018.

### **3 Declarations of Interest**

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

### **4 A.1 - Planning Application - 16/00500/OUT - Tamarisk, 19 The Street, Kirby-le-Soken, CO13 0EE (Pages 7 - 28)**

Erection of 4 bungalows and 6 houses, following demolition of no.21 The Street and alterations to no.19 The Street.

### **5 A.2 - Planning Application - 17/01310/DETAIL - Land South West of Horsley Cross Roundabout, Clacton Road, Horsley Cross, CO11 2NZ (Pages 29 - 54)**

Submission of reserved matters pursuant to outline planning permission 13/00745/OUT with details pursuant to Conditions 1 (appearance, landscaping, layout and scale), 3 (Strategic Phasing Plan), 4 (Design Code), 5 (phasing arrangements), 6 (levels), in part 7 (external materials), in part 12 (roundabout), 15 (landscaping), 18 (loading, turning and parking) and in part Schedule 7 (details of an air quality monitoring programme) of Legal Agreement for the development of the site to provide a new industrial park for B2 and B8 uses.

### **6 A.3 - Planning Application - 15/00578/FUL - 26 Rosemary Road, Clacton-on-Sea, CO15 1NZ (Pages 55 - 74)**

Demolition of all existing buildings (use classes C1 Hotels, A3 Restaurants, A4 Drinking Establishments and Sui Generis Nightclub). Construction of building fronting Rosemary Road containing three A1 retail/A3 restaurant units at ground floor with 17 holiday flats above; Construction of 34 holiday flats in an up to six storey building to the rear; and construction of basement cycle and car parking access from rear service road (off Beach Road), and egress onto Rosemary Road.

**Date of the Next Scheduled Meeting**

*The next scheduled meeting of the Planning Committee is to be held in the Council Chamber at 6:00 pm on Wednesday 30 May 2018.*

## **Information for Visitors**

**FIRE EVACUATION PROCEDURE**

There is no alarm test scheduled for this meeting. In the event of an alarm sounding, please calmly make your way out of any of the fire exits in the hall and follow the exit signs out of the building.

Please heed the instructions given by any member of staff and they will assist you in leaving the building and direct you to the assembly point.

Please do not re-enter the building until you are advised it is safe to do so by the relevant member of staff.

Your calmness and assistance is greatly appreciated.

# Tendring District Council



## PLANNING COMMITTEE MEETINGS PUBLIC SPEAKING SCHEME May 2017

This Public Speaking Scheme is made pursuant to Council Procedure Rule 38 and gives the opportunity for a member of the public and other parties identified below to speak to Tendring District Council's Planning Committee when they are deciding a planning application.

### TO WHICH MEETINGS DOES THIS SCHEME APPLY?

Usually any public meeting of the Council's Planning Committee, which are normally held every 4 weeks in the Council Chamber at the Council Offices, Thorpe Road, Weeley CO16 9AJ beginning at 6.00 pm. In some instances, the Planning Committee may be held at the Town Hall, Station Road, Clacton-on-Sea CO15 1SE and the public are encouraged to check the venue on the Council's Website before attending.

### WHO CAN SPEAK & TIME PERMITTED? All speakers must be aged 18 or over:

1. One member of the public who wishes to comment on or to speak in favour of the application or someone who produces a signed, written authority to speak on their behalf. A maximum of 3 minutes is allowed;
2. One member of the public who wishes to comment on or speak against the application or someone who produces a signed, written authority to speak on their behalf. A maximum of 3 minutes is allowed;
3. Where the proposed development is in the area of a Parish or Town Council, one Parish or Town Council representative. A maximum of 3 minutes is allowed;
4. All District Councillors for the ward where the development is situated ("ward member") or (if the ward member is unable to attend the meeting) a District Councillor appointed in writing by the ward member. Member(s) of adjacent wards or wards impacted by the proposed development may also speak with the agreement of the Chairman. Permission for District Councillors to speak is subject to the Council's Code of Conduct and the declarations of interest provisions will apply. A maximum of 5 minutes is allowed;
5. In accordance, with Council Procedure Rule 34.1, this Public Speaking Scheme takes precedence and no other Member shall be entitled to address or speak to the Planning Committee under Rule 34.1;
6. The applicant, his agent or representative; or (where applicable) one person the subject of the potential enforcement action or directly affected by the potential confirmation of a tree preservation order, his agent or representative. A maximum of 3 minutes is allowed; and
7. A member of the Council's Cabinet may also be permitted to speak on any application but only if the proposed development has a direct impact on the portfolio for which the Cabinet member is responsible. The Leader of the Council must approve the Cabinet Member making representations to the Planning Committee. A maximum of 3 minutes is allowed.

Any one speaking as a Parish/Town Council representative maybe requested to produce written evidence of their authority to do so, by the District Council's Committee Services Officer (CSO). This evidence may be an official Minute, copy of standing orders (or equivalent) or a signed letter from the Clerk to the Parish/Town Council and must be shown to the DSO before the beginning of the Planning Committee meeting concerned.

No speaker, (with the exception of Ward Members, who are limited to 5 minutes) may speak for more than 3 minutes on any agenda items associated with applications (such as a planning application and an associated listed building consent application). Speakers may not be questioned at the meeting, nor can any public speaker question other speakers, Councillors or Officers. Speakers are not permitted to introduce any photograph, drawing or written material, including slide or other presentations, as part of their public speaking.

All Committee meetings of Tendring District Council are chaired by the Chairman or Vice-Chairman (in their absence) whose responsibility is to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community. The Chairman of the Planning Committee therefore, has authority to use their discretion when applying the Public Speaking Scheme to comply with this duty.

### **WHICH MATTERS ARE COVERED BY THIS SCHEME?**

Applications for planning permission, reserved matters approval, listed building consent, conservation area consent, advertisement consent, hazardous substances consent, proposed or potential enforcement action and the proposed or potential confirmation of any tree preservation order, where these are the subject of public reports to the Planning Committee meeting.

### **HOW CAN I FIND OUT WHEN A MATTER WILL BE CONSIDERED?**

In addition to the publication of agendas with written reports, the dates and times of the Planning Committee meetings are shown on the Council's website. It should be noted that some applications may be withdrawn by the applicant at short notice and others may be deferred because of new information or for procedural reasons. This means that deferral takes place shortly before or during the Planning Committee meeting and you will not be able to speak at that meeting, but will be able to do so at the meeting when the application is next considered by the Planning Committee.

### **DO I HAVE TO ATTEND THE PLANNING COMMITTEE MEETING TO MAKE THE COMMITTEE AWARE OF MY VIEWS?**

No. If you have made written representations, their substance will be taken into account and the Committee report, which is available to all Planning Committee Councillors, will contain a summary of the representations received.

### **HOW DO I ARRANGE TO SPEAK AT THE MEETING?**

You can:-

Telephone the Committee Services Officer ("CSO") (01255 686585) during normal working hours on any weekday after the reports and agenda have been published,

**OR**

On the day of the Planning Committee meeting, you can arrive in the Council Chamber at least 15 minutes before the beginning of the meeting (meetings normally begin at 6.00pm) and speak to the DSO.

If more than one person wants to speak who is eligible under a particular category (e.g. a member of the public within the description set out in numbered paragraph 1 above), the right to speak under that category will be on a "first come, first served" basis.

Indicating to the Chairman at a site visit that you wish to speak on an item is NOT formal notification or registration to speak; this must be made via the Committee Services Officer in the manner set out above.

### **WHAT WILL HAPPEN WHEN THE MATTER CONCERNED IS CONSIDERED?**

- Planning Officer presents officer report
- Public speaking takes place in the order set out above under the heading "WHO CAN SPEAK?"
- Officer(s) may respond on factual issues arising from public speaking and may sum up the key policies and material planning considerations relevant to the application
- Committee Members may ask Officers relevant questions and may move, debate and vote

Normally, the Committee then determines the matter, but sometimes the Councillors decide to defer determination, to allow officers to seek further information about a particular planning issue. If a matter is deferred after the public speaking, the Committee will not hear public speaking for a second time, unless there has been a substantial change in the application which requires representations to be made. The Executive Summary section of the Planning Committee Report will identify whether public speaking is going to be permitted on an application being reconsidered after deferral. If there is an update since the Report was published, the Council's website will confirm this information.

### **WHAT SHOULD I SAY AT THE MEETING?**

Please be straightforward and concise and try to keep your comments to planning matters which are directly relevant to the application or matter concerned. Planning matters may include things such as planning policy, previous decisions of the Council on the same site or in similar circumstances, design, appearance, layout, effects on amenity, overlooking, loss of light, overshadowing, loss of privacy, noise or smell nuisance, impact on trees, listed buildings or highway safety.

Matters such as the following are not relevant planning matters, namely the effect of the development on property value(s), loss of view, personality or motive of the applicant, covenants, private rights or easements and boundary or access disputes.

Please be courteous and do not make personal remarks. You may wish to come to the meeting with a written statement of exactly what you want to say or read out, having checked beforehand that it will not overrun the 3 minutes allowed.

### **WHO DO I CONTACT FOR MORE INFORMATION?**

The Council's website will help you and you can also contact the relevant planning Case Officer for the matter. The name of the Officer is on the acknowledgement of the application or in the correspondence we have sent you.

Tendring District Council, Planning Services, Council Offices, Thorpe Road, Weeley,  
CLACTON-ON-SEA, Essex CO16 9AJ Tel: 01255 686161 Fax: 01255 686417  
Email: [planningservices@tendringdc.gov.uk](mailto:planningservices@tendringdc.gov.uk) Web: [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk)

It always helps to save time if you can quote the planning application reference number.

**Monitoring Officer**  
**Tendring District Council**  
**in consultation with Head of Planning and**  
**Chairman of the Planning Committee**  
**(Council Procedure Rule 38)**  
**May 2017**

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,  
HELD ON WEDNESDAY 28 MARCH, 2018 AT 6.00 PM  
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY**

|                       |   |
|-----------------------|---|
| <b>Present:</b>       | Councillors White (Chairman), Heaney (Vice-Chairman), Alexander, Baker, Bennison, M Brown, Cawthron, Everett (except minute 107), Fowler, Hones and McWilliams  |
| <b>Also Present:</b>  | Councillors B E Brown (except minutes 105 (part) and 106 - 108), Callender (except minutes 105 (part) and 106 - 108), Davis (except minute 108) and Nicholls (except minutes 107 – 108)   |
| <b>In Attendance:</b> | Ewan Green (Corporate Director (Planning and Regeneration)), Charlotte Parker (Solicitor (Property, Planning and Governance)), Alison Newland (Planning Team Leader), Robin Forrester (Agency Planner) (except minutes 106 - 108) and Katie Sullivan (Committee Services Officer) |

**102. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

**103. MINUTES OF THE LAST MEETING**

It was moved by Councillor Hones, seconded by Councillor Alexander and **RESOLVED** that the minutes of the last meeting of the Committee, held on 6 March 2018, be approved as a correct record and signed by the Chairman, subject to planning condition number two in the resolution to minute 95 being amended to read as follows:-

“No development shall commence until the footpath and highways works as shown on Drawing No. S161/216 Rev. C have been provided (entirely at the developer’s expense).”

**104. DECLARATIONS OF INTEREST**

Councillor Everett declared an other interest in Planning Application 18/00175/FUL, insofar as he knew the details of the application and informed the meeting that therefore he would withdraw from the meeting whilst the Committee deliberated on the application and reached its decision.

**105. A.1 - PLANNING APPLICATION - 17/02168/OUT - LAND WEST OF LOW ROAD, DOVERCOURT, CO12 3TR**

It was reported that this application had been referred to the Planning Committee at the request of Councillor Callender, 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 Agency Planner (RF) in respect of the application which included a verbal update that an additional email of

objection had been received shortly before the meeting and outlined the contents of the same.

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

- (1) Three typographical errors in the report;
- (2) Consultation responses received from TDC Housing Department, Anglian Water, ECC SuDS and Natural England;
- (3) One additional letter of objection received;
- (4) Two further letters of objection received;
- (5) Comments received from Essex Wildlife Trust;
- (6) Comments received from the Local Highway Authority; and
- (7) A revised recommendation provided by Officers.

Gordon Smith, a local resident, spoke against the application.

Councillor Pam Morrison, representing Harwich Town Council, spoke against the application.

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

Following discussion by the Committee and advice provided by Officers, it was moved by Councillor Everett, seconded by Councillor Alexander and unanimously **RESOLVED:-**

(a) that consideration of this application be deferred for the following reasons:

- To enable Officers to chase up on all outstanding consultation responses from Consultees.
- To enable Officers to discuss with Highways the possibility of moving the southern access point opposite existing access and also the possible addition of a roundabout.
- To enable Officers to discuss with Essex County Council Archaeology the possibility of war graves on the application site.

(b) that this application be not resubmitted to the Committee until the final comments from Statutory Consultees, particularly ECC Highways, have been received.

**106. A.2 - PLANNING APPLICATION - 17/02136/FUL & 17/02119/ADV - THE COTTAGE SITE, IPSWICH ROAD, COLCHESTER, CO4 9HB**

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

Members were informed that the planning application proposal related to the erection of a fast food restaurant and drive-through including associated parking, delivery bay, footpaths and landscaping.



Members were further informed that the advertisement consent concerned illuminated signage to the proposed building, an illuminated totem sign to the front of the site and various information/direction signs within the site.

It was reported that the site was previously the subject of an approved planning application in 2009 for a car showroom with associated offices and servicing areas (08/00046/FUL). Works to the site access and the discharge of related planning conditions had ensured that this permission had now been implemented and remained live.

It was further reported that, in December 2012, planning application 12/01411/FUL and associated advertisement consent application 12/01412/ADV were submitted proposing the erection of a fast-food restaurant and 'drive-thru' with associated access road, parking for cars, cycles and motor-cycles, delivery bay, footpaths and associated landscaping, whilst the advertisement consent application proposed both elevational and freestanding internally illuminated signage.

Members were informed that, following the Council's failure to determine either planning application 12/01411/FUL or the associated advertisement consent application 12/01412/ADV, within the statutory timescales, non-determination appeals had been submitted to the Planning Inspectorate. In May 2014, both the planning appeal and the associated express advertisement consent appeal had been determined by the Planning Inspectorate. Whilst the advertisement consent appeal had been allowed, the planning appeal had been dismissed. The sole reason for the dismissal of the planning appeal was that the proposal was considered to significantly harm the living conditions of the occupants of Lion and Lamb Cottage, due to the noise and disturbance associated with the day-to-day operations of the proposed development.

Members were further informed that it was important to note that whilst the description of the 2012 proposals was similar to what was now being proposed, both the site area and layout, as well as the positioning of the proposed building, were now significantly different to the earlier applications. In the Officer's view the re-location of the restaurant unit, the re-configuration of the parking layout and the provision of a robust landscaping buffer were considered to overcome the Planning Inspector's previous concerns.

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 (AN) in respect of the application.

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

- (1) a revised set of recommended conditions from Officers;
- (2) an additional representation received from Colchester Borough Councillor Gerard Oxford; and
- (3) an additional representation received from Ardleigh Parish Council.

Stephanie Dass, a local resident, spoke against the application.

Rodney Dass, on behalf of Ardleigh Parish Council as authorised by the Chairman of the Parish Council Mr Tim M. Barrott, spoke against the application.

Adam Beamish, 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 Everett and unanimously **RESOLVED** that, contrary to the Officer's 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:-

- The proposed development is considered contrary to the National Planning Policy Framework (2012), saved Policies QL11 and COM22 of the Tendring District Local Plan (2007) and emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- The National Planning Policy Framework states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings and that planning decisions should protect areas of tranquillity which have remained relatively undisturbed by noise. Saved Policies QL11 and COM22 and emerging Policy SPL3 state all new development should be compatible with surrounding land uses and minimise any adverse environmental impacts; development will only be permitted if it will not have a materially damaging impact on the privacy or other amenities of occupiers of nearby properties. Furthermore, the policies states that noisy development should be located away from sensitive developments unless adequate provision has been made to mitigate the adverse effects of noise likely to be generated or experienced by others.
- The application site runs along the side and rear boundaries of a property known as 'Lion and Lamb Cottage'. The site is also situated directly to the front of a Premier Inn Hotel and numerous ground floor and first floor windows which serve guest rooms.
- In this instance it is considered that the proximity of the proposed parking areas to the rear garden of the cottage and noise associated with users of those parking spaces along with vehicles using access routes within the site, combined with the hours of operation (6am-11pm) would have a significant adverse effect on the quality of life that the occupants of Lion and Lamb Cottage currently enjoy.
- In addition, the proximity of the drive-through lane to the south-eastern facing flank of the adjacent hotel, which contains numerous openable windows which serve guest rooms at both ground floor and first floor level, along with the proposed early morning/late evening opening hours, would cause significant harm to the amenity of hotel guests in respect of noise from traffic utilising the lanes and ordering systems.
- Consequently the proposed development would be significantly detrimental to the amenity of the neighbouring residents at the Lion and Lamb Cottage and users of the hotel contrary to the aims and aspirations of the aforementioned national and local planning policies.

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

1. Advertisement Conditions (5 Standard)

- No advertisement is to be displayed without the permission of the owner of the site.
- No advertisement shall be sited or displayed so as to
  - (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
  - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
  - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
- Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
- Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.
- Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

2. Development to be carried out strictly in accordance with submitted plans.

3. Maximum Luminance of any signage shall not exceed 300 Candelas per square metre (300 cd/m<sup>2</sup>).

4. Illuminated signs to be switched off when restaurant/drive-thru is closed to the public.

**107. A.3 - PLANNING APPLICATION - 18/00175/FUL - 18 POPLAR WAY, KIRBY CROSS, FRINTON-ON-SEA, CO13 0QX**

Councillor Everett had earlier declared an other interest in Planning Application 18/00175/FUL, insofar as he knew details of the application. Councillor Everett thereupon withdrew from the meeting whilst the Committee deliberated on the application and reached its decision.

It was reported that this application had been referred to the Planning Committee at the request of Councillor Davis, 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 (AN) in respect of the application.

Jackie Gilbody, a local resident, spoke against the application.

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

Following discussion by the Committee and advice provided by Officers, it was moved by Councillor Hones, seconded by Councillor McWilliams 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. Three Year Time Limit.
2. Approved Plans.

**108. A.4 - PLANNING APPLICATION - 18/00071/FUL - FORMER PUBLIC CONVENIENCES, MARINE PARADE, DOVERCOURT, CO12 2RA**

It was reported that this application had been referred to the Planning Committee as the land was owned by Tendring District Council.

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 (AN) in respect of the application.

Following discussion by the Committee, it was moved by Councillor Alexander, seconded by Councillor Everett 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. Commence within 3 years.
2. Development in Accordance with Approved Plans.
3. Materials.
4. Extraction and ventilation details.
5. Opening times: 07.30am till 20.00pm Monday - Sundays including Bank Holidays.
6. No sound amplification in external areas.

The meeting was declared closed at 8.50 pm

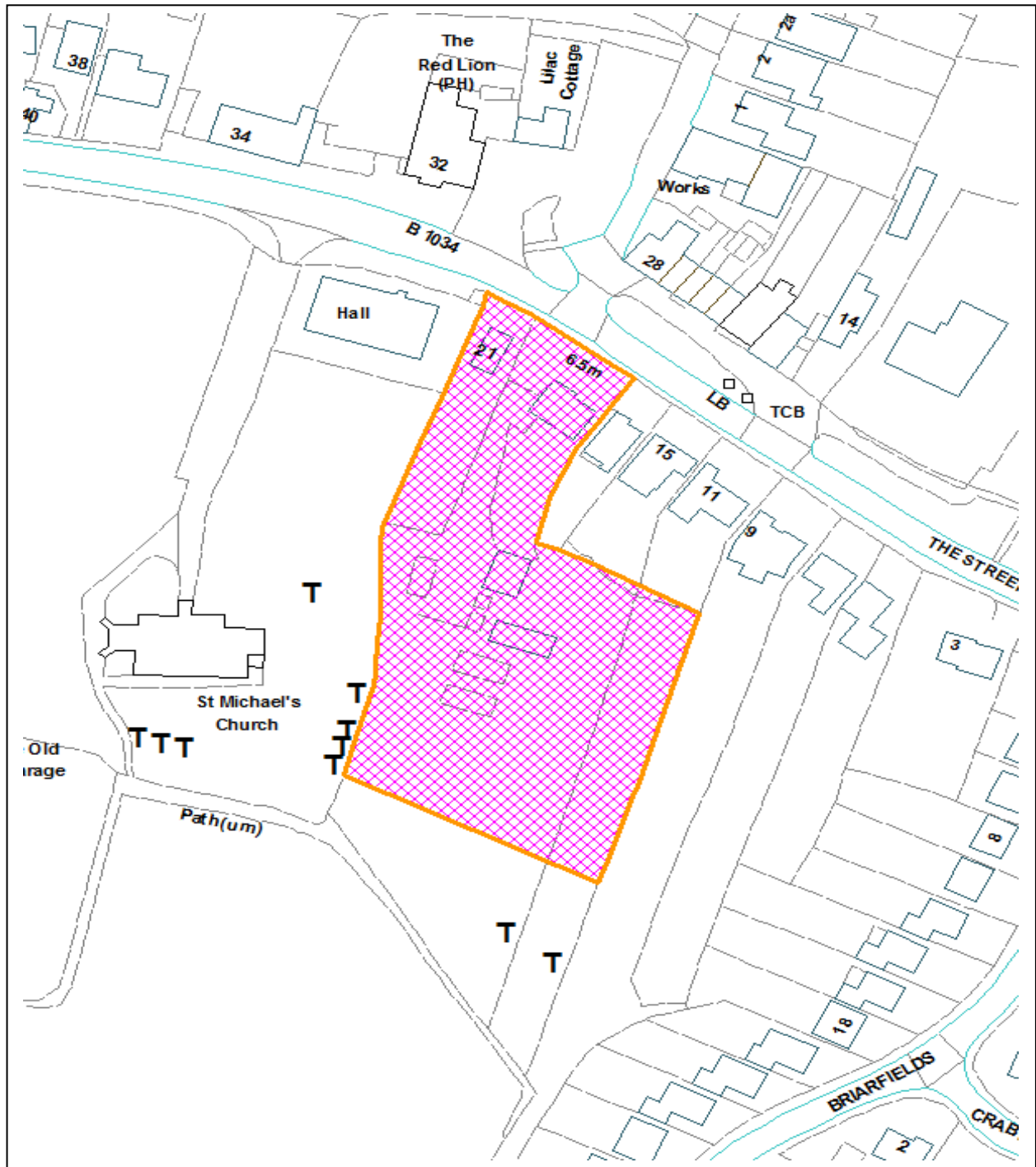
**Chairman**

## PLANNING COMMITTEE

1 MAY 2018

### REPORT OF THE HEAD OF PLANNING

#### A.1 PLANNING APPLICATION - 16/00500/OUT – TAMARISK, 19 THE STREET, KIRBY-LE-SOKEN, CO13 0EE



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|                     |  |   |
|---------------------|--|---|
| <b>Application:</b> | 16/00500/OUT   | <b>Town / Parish:</b> Frinton & Walton Town Council |
| <b>Applicant:</b>   | Bluerok Ltd  |   |
| <b>Address:</b>     | Tamarisk 19 The Street Kirby Le Soken CO13 0EE   |   |
| <b>Development:</b> | Erection of 4 bungalows and 6 houses, following demolition of no.21 The Street and alterations to no.19 The Street |   |

## 1. Executive Summary

- 1.1 A report regarding planning application 16/00500/OUT was included in the 31 October 2017 Planning Committee agenda. The item was not discussed and was deferred to allow further assessment of information by officers.
- 1.2 The description of development for this application has been amended to properly reflect the plans submitted for consideration. The amended description is the 'Erection of 4 bungalows and 6 houses, following demolition of no.21 The Street and alterations to no.19 The Street'.
- 1.3 The Phase 1 Habitat Survey, August 2017, made a series of recommendations. The majority of these, such as including a native species rich hedgerow along the southern boundary and installation of bat boxes, can be satisfied through consideration of the details of the reserved matters that will be submitted in the future. However, the recommendation in respect of newts was that the pond located south west of the site is to be subjected to a great crested newt habitat suitability assessment. It went on to say that, if the pond is deemed suitable for crested newts, presence surveys would be needed to identify potential impacts and to inform mitigation where required.
- 1.4 A further survey has therefore been undertaken to identify and analyse any potential impacts to great crested newts and to provide recommendations about suitable mitigation where appropriate. The survey concludes that impacts to great crested newts and their habitats is highly unlikely as a result of the proposed development. However, a precautionary method statement is recommended to avoid any impacts. An additional condition is recommended to require compliance with the method statement.
- 1.5 This is a full planning application for a total of 9 additional dwellings located on what is current garden land or land used in association with dwellings fronting The Street. Number 21 the Street will be demolished to facilitate site access and replaced with a semi-detached dwelling. The application is in outline form with appearance, landscaping and scale as reserved matters. Access and layout is committed as part of the current application.
- 1.6 The site is located outside but adjoining the settlement development boundary for Kirby Le Soken and within a Green Gap under the current adopted Local Plan. The site also adjoins St Michaels Church, a grade II\* listed building and the Conservation Area. Within the Tendring District Local Plan 2013-2033 and Beyond Publication Draft, the site is no longer identified as being within a Green Gap and is located within the settlement development boundary, where development would normally be acceptable. Kirby Le Soken is identified as a 'smaller rural settlement' in the emerging Local Plan where small scale developments of upto 10 dwellings would normally be supported.
- 1.7 Although the site adjoins but is outside of the settlement development boundary in the adopted Local Plan, some weight can be given to the fact that the site is within the

development boundary of the emerging Local Plan. Consideration however must be given to the impact on existing character, the listed church and on the Conservation Area.

- 1.8 In the absence of objections from statutory consultees the proposed scheme is considered a suitable infill development, is sustainable and will not harm the character of the locality. The application is recommended for approval – as the total number of additional dwellings does not exceed 10 there is no requirement for affordable housing but an open space contribution is sought under a s106 agreement.

**Recommendation:** Approve

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

- a) Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):
- Off-site open space/play equipment.
- b) Conditions:
1. Standard conditions for submission of reserved matters and time limit for commencement.
  2. Accordance with approved plans.
  3. Highways conditions (as recommended by the Highway Authority).
  4. Surface water drainage/foul drainage scheme.
  5. SuDS maintenance/monitoring plan.
  6. Hard and soft landscaping plan/implementation.
  7. Tree protection plan.
  8. Details of lighting, materials and refuse storage/collection points.
  9. Broadband connection.
  10. Contamination.
  11. Noise.
  12. Emission Control.
  13. Archaeology – Trial Trenching.
  14. Compliance with the Great crested nest assessment and precautionary method statement'.
- 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**

NPPF National Planning Policy Framework  
National Planning Practice Guidance

- 2.1 The National Planning Policy Framework (March 2012) sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.2 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise.

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

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

2.3 These dimensions have to be considered together and not in isolation. The NPPF requires Local Planning Authorities to positively seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. Where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits.

2.4 Section 6 of the NPPF relates to delivering a wide choice of quality new homes. It requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years worth of deliverable housing land against their projected housing requirements (plus a 5% or 20% buffer to ensure choice and competition in the market for land). If this is not possible, housing policies are to be considered out of date and the presumption in favour of sustainable development is engaged with applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At present it is considered that the Council cannot demonstrate a 5 year housing land supply.

2.5 Paragraph 187 of the NPPF states "*Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area*".

#### Local Plan Policy:

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

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

QL1: Spatial Strategy: Directs most new development toward urban areas and seeks to concentrate development within settlement development boundaries.

QL2: Promoting Transport Choice: Requires developments to be located and designed to avoid reliance on the use of the private car.

QL3: Minimising and Managing Flood Risk: Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.



QL9: Design of New Development: Provides general criteria against which the design of new development will be judged.

QL10: Designing New Development to Meet Functional Needs: Requires development to meet functional requirements relating to access, community safety and infrastructure provision.

QL11: Environmental Impacts: Requires new development to be compatible with its surrounding land uses and to minimise adverse environmental impacts.

QL12: Planning Obligations: States that the Council will use planning obligations to secure infrastructure to make developments acceptable, amongst other things.

HG1: Housing Provision: Sets out the strategy for delivering new homes to meet the need up to 2011 (which is now out of date and needs replacing through the new Local Plan).

HG3: Residential Development Within Defined Settlements: Supports appropriate residential developments within the settlement development boundaries of the district's towns and villages.

HG3a: Mixed Communities: Promotes a mix of housing types, sizes and tenures to meet the needs of all sectors of housing demand.

HG4: Affordable Housing in New Developments: Seeks up to 40% of dwellings on large housing sites to be secured as affordable housing for people who are unable to afford to buy or rent market housing.

HG6: Dwellings Size and Type: Requires a mix of housing types, sizes and tenures on developments of 10 or more dwellings.

HG7: Residential Densities: Requires residential developments to achieve an appropriate density. This policy refers to minimum densities from government guidance that have long since been superseded by the NPPF.

HG9: Private Amenity Space: Requires a minimum level of private amenity space (garden space) for new homes depending on how many bedrooms they have.

COM2: Community Safety: Requires developments to contribute toward a safe and secure environment and minimise the opportunities for crime and anti-social behaviour.

COM6: Provision of Recreational Open Space for New Residential Developments: Requires residential developments on sites of 1.5 hectares or more to provide 10% of the site area as public open space.

COM21: Light Pollution: Requires external lighting for new development to avoid unacceptable impacts on the landscape, wildlife or highway and pedestrian safety.

COM23: General Pollution: States that permission will be refused for developments that have a significant adverse effect through the release of pollutants.

COM26: Contributions to Education Provision: Requires residential developments of 12 or more dwellings to make a financial contribution, if necessary, toward the provision of additional school places.

COM29: Utilities: Seeks to ensure that new development on large sites is or can be supported by the necessary infrastructure.

COM31a: Sewerage and Sewage Disposal: Seeks to ensure that new development is able to deal with waste water and effluent.

EN1: Landscape Character: Requires new developments to conserve key features of the landscape that contribute toward local distinctiveness.

EN2: Local Green Gaps  
Seeks to prevent coalescence between settlements.

EN4: Protection of the Best and Most Versatile Agricultural Land: Seeks to ensure that where agricultural land is needed for development, poorer quality land is used as priority over higher quality land.

EN6: Biodiversity: Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

EN6a: Protected Species: Ensures protected species including badgers are not adversely impacted by new development.

EN6b: Habitat Creation: Encourages the creation of new wildlife habitats in new developments, subject to suitable management arrangements and public access.

EN12: Design and Access Statements: Requires Design and Access Statements to be submitted with most planning applications.

EN13: Sustainable Drainage Systems: Requires developments to incorporate sustainable drainage systems to manage surface water run-off.

EN17: Conservation Areas  
Requires development within Conservation Areas to preserve or enhance the character or appearance of the Conservation Area.

EN23: Development within the proximity of a Listed Building – seeks to preserve setting and appearance of listed buildings.

EN29: Archaeology: Requires the archaeological value of a location to be assessed, recorded and, if necessary, safeguarded when considering development proposals.

TR1a: Development Affecting Highways: Requires developments affecting highways to aim to reduce and prevent hazards and inconvenience to traffic.

TR3a: Provision for Walking: Seeks to maximise opportunities to link development with existing footpaths and rights of way and provide convenient, safe attractive and direct routes for walking.

TR4: Safeguarding and Improving Public Rights of Way: Encourages opportunities to expand the public right of way network.

TR5: Provision for Cycling: Requires all major developments to provide appropriate facilities for cyclists.

TR6: Provision for Public Transport Use: Requires developments to make provision for bus and/or rail where transport assessment identifies a need.

TR7: Vehicle Parking at New Development: Refers to the adopted Essex County Council parking standards which will be applied to all non-residential development.

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

Relevant policies include:

SP1: Presumption in Favour of Sustainable Development: Follows the Planning Inspectorate's standard wording to ensure compliance with the NPPF.

SP4: Infrastructure and Connectivity: Requires the provision of infrastructure, services and facilities that are identified to serve the needs arising from new development.

SP5: Place Shaping Principles: Requires the highest standards of built and urban design and sets out the key principles that will apply to all new developments.

SPL1: Managing Growth: Identifies Kirby Le Soken as a 'Smaller Rural Settlement' within a hierarchy of settlements designed to direct future growth to the most sustainable locations.

SPL2: Settlement Development Boundaries: Seeks to direct new development to sites within settlement development boundaries.

SPL3: Sustainable Design: Sets out the criteria against which the design of new development will be judged.

HP1: Improving Health and Wellbeing: Requires a Health Impact Assessment on all development sites deliver 50 or more dwellings and financial contributions towards new or enhanced health facilities where new housing development would result in a shortfall or worsening of health provision.

HP4: Open Space, Sports and Recreation Facilities: Requires new developments to contribute to the district's provision of playing pitches and outdoor sports facilities and also requires larger residential developments to provide land as open space with financial contributions toward off-site provision required from smaller sites.

LP1: Housing Supply: Sets out the broad location of where new housing is proposed to be built to over the next 15-20 years to meet objectively assessed needs. This application site is not included in the emerging Plan for housing.

LP2: Housing Choice: Promotes a range of house size, type and tenure on large housing developments to reflect the projected needs of the housing market.

LP3: Housing Density: Policy requires the density of new housing development to reflect accessibility to local services, minimum floor space requirements, the need for a mix of housing, the character of surrounding development and on-site infrastructure requirements.

LP4: Housing Layout: Policy seeks to ensure large housing developments achieve a layout that, amongst other requirements, promotes health and wellbeing; minimises opportunities for crime and anti-social behaviour; ensures safe movement for large vehicles including emergency services and waste collection; and ensures sufficient off-street parking.

LP5: Affordable and Council Housing: Requires up to 30% of new homes on large development sites to be made available to the Council or a nominated partner, at a discounted price, for use as Affordable Housing or Council Housing.

PP12: Improving Education and Skills: Requires the impacts of development on education provision to be addressed at a developer's costs and also requires applicants to enter into an Employment and Skills Charter or Local Labour Agreement to ensure local contractors are employed to implement the development and that any temporary or permanent employment vacancies (including apprenticeships) are advertised through agreed channels.

PPL1: Development and Flood Risk: Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

PPL3: The Rural Landscape: Requires developments to conserve, where possible, key features that contribute toward the local distinctiveness of the landscape and include suitable measures for landscape conservation and enhancement.

PPL4: Biodiversity and Geodiversity: Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

PPL5: Water Conservation, Drainage and Sewerage: Requires developments to incorporate sustainable drainage systems to manage surface water run-off and ensure that new development is able to deal with waste water and effluent.

PPL7: Archaeology: Where developments might affect archaeological remains, this policy requires proper surveys, investigation and recording to be undertaken.

PPL8: Conservation Areas

Requires that new development within a designated Conservation Area, or which affects its setting, will only be permitted where it has regard to the desirability of preserving or enhancing the special character and appearance of the area.

PPL9: Listed Buildings: Seeks to protect setting of listed buildings.

CP1: Sustainable Transport and Accessibility: Requires the transport implications of development to be considered and appropriately addressed.

CP3: Improving the Telecommunications Network: Requires new development to be served by a superfast broadband (fibre optic) connection installed on an open access basis and that can be directly accessed from the nearest British Telecom exchange and threaded through resistant tubing to enable easy access for future repair, replacement or upgrading.

Other Guidance

Essex Design Guide

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 16<sup>th</sup> June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. Part 1 was examined in January 2018

with the Inspector's report awaited and whilst its policies cannot yet carry the full weight of adopted policy, they 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

|                 |  |           |            |
|-----------------|--|-----------|------------|
| 03/00652/OUT    | New residential development.   | Refused   | 02.07.2003 |
| 04/01127/OUT    | Proposed re-development of part of 19 The Street etc. with 9 dwellings, garages, road etc                              | Refused   | 01.09.2004 |
| 05/02063/FUL    | Residential development of eight dwellings   | Withdrawn | 17.02.2006 |
| 06/00732/FUL    | Residential development. Demolition of existing property and erection of six dwellings.                                | Withdrawn | 27.06.2006 |
| 06/01374/FUL    | Demolition of existing dwelling house and erection of replacement dwelling together with seven new dwellings.          | Withdrawn | 19.03.2007 |
| 14/30020/PREAPP | Erection of 8 units.   | Refused   | 18.03.2014 |
| 14/01860/OUT    | Erection of 4 no. bungalows / houses.  | Refused   | 26.03.2015 |
| 16/00500/OUT    | Erection of 3 bungalows and 7 houses, following demolition of No. 21 The Street, and alterations to No. 19 The Street. | Current   |            |

### 4. Consultations

|                                     |  |
|-------------------------------------|--|
| Building Control and Access Officer | Confirmation required that a fire fighting appliance can reach within 45m of all parts of all the dwellings.   |
| Environmental Health                | A full contaminated land survey needs to be carried out and submitted in writing to this authority to protect end users of site.<br>A full construction method survey would need to be submitted taking into account the following advice:<br><br>Demolition & Construction<br><br>The developer is referred to the advisory notes below for the avoidance of pollution during the demolition & construction phases. Should the applicant require any further guidance they should contact |

Environmental Control prior to the commencement of the development.

The following information is intended as guidance for applicants/developers and construction firms. In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, Pollution and Environmental Control recommends that the following guidelines are followed. Adherence to this advisory note will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control.

#### Best Practice for Demolition Sites

Although the following notes are set out in the style of planning conditions, they are designed to represent the best practice techniques for the site. Therefore, failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974)

Prior to the commencement of any demolition works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Pollution and Environmental Control. In addition to the guidance on working hours, plant specification, and emission controls given above, the following additional notes should be considered when drafting this document: -

#### ' Noise Control

- 1) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.
- 2) No vehicle connected with the works to arrive on site before 06:30 or leave after 19:30 (except in the case of emergency). Working hours to be restricted between 07:00 and 19:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.
- 3) The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228:1984.
- 4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- 5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.
- 6) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.

#### Emission Control

- 1) All waste arising from the demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
- 2) No materials produced as a result of the site development or clearance shall be burned on site. All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.
- 3) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Tree & Landscape Officer

As described in earlier comments the most important trees that could, potentially, be affected by the development proposals are the single Oak in the south eastern corner of the application site that is covered by Tree Preservation Order TPO/06/17 and the trees situated close to the western boundary and within the grounds of the adjacent St Michaels Church. These are mainly Sycamore, Poplar and Hawthorn. The applicant has now submitted a Tree Survey and Report to show the extent of the constraint that the trees are on the development potential of the land. The report also indicates the possible impact of the development on the trees, both on the application site and on adjacent land. This information is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction:

#### Recommendations

The Tree Report contains a Tree Constraints Plan showing the extent of the area around the trees that will be protected to ensure that the trees are not harmed by the development proposal.

In respect of the Oak covered by the above TPO the information provided adequately demonstrates that the development proposal could be implemented without causing harm to the tree. It also shows that the adjacent Lombardy Poplar will not be harmed.

In terms of G9 of the tree report the site layout plan shows a clear incursion into the RPA of these trees. This has the potential to cause harm to them by disturbance to their roots. However it is important to note the position of the overhead power cables that run along this boundary that have, and will continue to, necessitate regular pruning works to cut back branches from the power lines. Taking into account the likely need to carry out future works to maintain a safety separation distance between the trees and the power cables and balancing the impact of the works to the crowns of the trees against likely root pruning required to construct the access road; it is considered that the implementation of the development, as shown on the indicative site layout plan, would be unlikely to cause the trees significant or permanent harm.

A condition could be attached to secure details of where specialist construction techniques will be required to minimise harm to the roots of the trees. Should permission be likely to be granted then details of soft landscaping, including new tree planting should be secured as a reserved matter.

ECC Highways Dept

All housing developments in Essex which would result in the creation

of a new street (more than five dwelling units communally served by a single all purpose access) will be subject to the Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway by the ECC.

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

1) Prior to the first occupation of the development, the proposed estate road, at its bellmouth junction with The Street shall be provided with 10.5m. radius kerbs returned to an access road carriageway width of 5.5m. and flanking footways 2m. in width returned around the radius kerbs which shall connect to the existing footways. The new road junction shall be constructed at least to binder course prior to the commencement of any other development including the delivery of materials.

Reason: To ensure that all vehicular traffic using the junction may do so in a controlled manner and to provide adequate segregated pedestrian access, in the interests of highway safety and in accordance with Policy DM 1 and 6 of the Highway Authority's Development Management Policies February 2011.

2) Prior to the proposed access being brought into use, minimum vehicular visibility splays of 60m by 2.4m by 60m as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be maintained in perpetuity free from obstruction clear to ground.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

3) Each internal estate road junction shall be provided with a clear to ground level visibility splay with dimensions of 25m by 2.4m by 25m on both sides. Such visibility splays shall be provided before the road is first used by vehicular traffic and shall be retained free from obstruction clear to ground.

Reason: To ensure a reasonable degree of intervisibility between drivers of vehicles at and approaching the road junction, in the interests of highway safety and in accordance with Policy DM 1 and 6 of the Highway Authority's Development Management Policies February 2011.

4) Prior to commencement of the proposed development, a vehicular turning facility for service and delivery vehicles of at least size 3 dimensions and of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction in perpetuity.



Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

5) Prior to commencement of the proposed development, a vehicular turning facility for motor cars for each dwelling of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction in perpetuity.

Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

6) No unbound materials shall be used in the surface treatment of the proposed vehicular accesses within 6m of the highway boundary or proposed highway boundary or throughout.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

7) Prior to the first occupation of each dwelling on the proposed development, the individual proposed vehicular access for that dwelling shall be constructed at right angles to the highway boundary and to a width of 3.7m and each shared vehicular access shall be constructed at right angles to the highway boundary and to a width of 5.5m and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

8) The gradient of the proposed vehicular access /garage drive/ hardstanding shall be not steeper than 4% (1 in 25) for at least the first 6m. from the highway boundary and not steeper than 8% (1 in 12.5) thereafter.

Reason: To ensure that vehicles using the access both enter and leave the highway in a controlled manner, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

9) All carriageways should be provided at 5.5m between kerbs or 6.0m where vehicular access is taken but without kerbing.

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety and in accordance with Policy DM 1 and 6 of the Highway Authority's Development Management Policies February 2011.

10) All footways should be provided at no less than 2.0m in width.

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety and in accordance with Policy DM 1 and 6 of the Highway Authority's

Development Management Policies February 2011.

11) All off street car parking shall be in precise accord with the details contained within the current Parking Standards.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

12) Any garage provided with its vehicular door facing the highway or proposed highway, shall be sited a minimum of 6m from the highway boundary.

Reason: To ensure that the vehicle to be garaged may be left standing clear of the highway whilst the garage door is opened and closed, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

13) Prior to commencement of the proposed development, details of the provision for the storage of bicycles for each dwelling, of a design this shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted and shall be maintained free from obstruction at all times for that sole purpose in perpetuity.

Reason: To promote the use of sustainable means of transport in accordance with Policy DM 1 and 9 of the Highway Authority's Development Management Policies February 2011.

14) 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.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies February 2011.

Design Informative:

1. There should be no vehicular access over any radius kerbs.
2. The new carriageways should be provided with a centreline bend radius of 13.6m together with adequate forward visibility.
3. Any trees provided within the adoptable highway will attract a commuted sum of no less than £750 per tree.
4. The applicant should be requested to consider the provision and location of street lighting columns, particularly at road junctions, these should be within the adoptable areas.
5. Refuse freighters are unlikely to manoeuvre over Private Drives.
6. Any new access onto The Street should be provided with a 1.5m x 1.5m pedestrian visibility splay to that access

Informative1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

SMO1 ' Essex Highways  
Colchester Highways Depot,  
653 The Crescent,  
Colchester.  
CO4 9YQ.

|                                     |   |
|-------------------------------------|---|
| Historic England                    | Recommend that although there is some modest impact to the Conservation Area and the listed church the layout is designed in a way which seeks to minimise that harm by responding to the character of the place. In this sense the harm would be justified should the principle of development be accepted (NPPF para 132) and the harm weighed against the public benefit in accordance with NPPF para 134. |
| ECC SuDS Consultee                  | No objection subject to surface water conditions.   |
| Essex County Council<br>Archaeology | No objection but require a programme of trial trenching secured by condition.   |
| Natural England                     | Natural England has no comments to make on this application.  |

## 5. **Representations**

- 5.1 Frinton and Walton Town Council recommend refusal as they consider the scheme backland development, overdevelopment, opposite a busy junction and poor visibility splays particularly to the west.
- 5.2 The application has been called into Committee by Cllr Bucke who also submitted an objection to the application. The following comments have been made:

Outline application only, with no detail.

Front elevations are flank walls of proposed dwellings. Poor.

Planning statement is inaccurate.

Briarfields is NOT a comparable development.

Sensitive site, adjacent to Conservation Area.

Adjacent to Historic Asset, Norman church and churchyard.

Demolition of an affordable home.

Opposite busy junction to Malting Lane civic amenity site serving over 20,000 residents.

High volume of 4-day vehicle journeys to site.

Opposite Red Lion car park, and next to church car park.

Very busy road B1034 being one of only two service roads to Frinton and Walton seaside towns.

Former brownfield site of local commercial activity. 10 dwellings will create unacceptable high level of residential activity.

Constant flooding of The Street at that location through failure of surface water drainage services.

Highways dangers arising from poor sightlines to east and west when emerging from the development site.

Overdevelopment of 'backland' site extending behind existing residential dwellings.

Encroachment within Local Green gap.

5.3 21 individual objections have been submitted in response to this planning application which include the following concerns:

- Overdevelopment
- Highway dangers
- Potential damage to existing property due to increased traffic movement
- Poor access
- Impacts on sewage
- Flood risk
- Lack of local infrastructure
- Impact on church and Conservation Area
- Impact on wildlife
- Previous refused applications noted
- Loss of privacy
- Impact of cumulative developments within the village.

## 6. **Assessment**

6.1 The main planning considerations are:

- The principle of development;
- Proposed layout
- Residential amenity
- Highways, transport and accessibility;
- Landscape, visual impact and trees;
- Flood risk and drainage;
- Ecology;
- Heritage;
- Contamination
- Overall planning balance.

### **Principle of development**

6.2 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.

6.3 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 June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Publication Draft. This version of the emerging Local Plan can be given 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 planning decisions. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

- 6.4 Sustainable Development', as far as the NPPF is concerned, is development that contributes positively to the economy, society and the environment and under the 'presumption in favour of sustainable development', authorities are expected to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted.
- 6.5 One of the NPPF's core planning principles is to *"actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable"*. With this in mind, Policy SPL1 in emerging Local Plan includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations.
- 6.6 The site lies outside of the settlement development boundary of the adopted Local Plan but within the settlement development boundary of the emerging local plan.
- 6.7 'Sustainable Development', as far as the NPPF is concerned, is development that contributes positively to the economy, society and the environment and under the 'presumption in favour of sustainable development', authorities are expected to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted.
- 6.8 Kirby Le Soken is categorised as a 'smaller rural settlement' where the emerging plan envisages a small increase in housing stock over the plan period to 2033. To allow this to happen, settlement development boundaries have been drawn flexibly, where practical, to accommodate a range of sensible sites both within and on the edge of the villages defined as small rural settlements and thus enabling them to be considered for small-scale residential 'infill' developments. The emerging plan provides that larger developments will not be permitted unless there is local support from the Town or Parish Council, an approved Neighbourhood Plan that advocates additional growth or an identified local need for affordable housing that could be addressed through a 'rural exception site' (for which there is a specific policy LP6).
- 6.9 Whilst the policies in the emerging Local Plan cannot carry the full weight of adopted policy at this early stage in the plan-making process, the approach taken in the settlement hierarchy and the extent of land being allocated for housing demonstrates strong alignment with the core planning principles in the NPPF to meet objectively assessed housing needs and to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and to focus significant development in locations which are or can be made sustainable.
- 6.10 As this site is located within the proposed settlement development boundary for the village and no longer zoned within the Green Gap area officers consider that the proposed development complies with emerging planning policy and the NPPF.

#### Proposed Layout

- 6.11 As noted the proposed scheme involves the demolition of 21 The Street to facilitate development – this dwelling and associated land is to be redeveloped as a pair of semi-detached two storey dwellings fronting The Street. The applicant has submitted an indicative elevation which shows the frontage dwellings will be designed to a high standard reflecting the character of the locality and adjoining Conservation Area.

- 6.12 The main access drive is set adjacent to the boundary with the church grounds and leads to the rear of the site where it provides vehicular access to the majority of the proposed dwellings. Again indicative drawings show that the dwellings will be designed to a high standard with the siting and suggested design respecting the adjoining listed church. The suggested design was noted by Historic England in their positive response.
- 6.13 The site area is 0.54 hectares providing a density of development of 20 dwellings per hectare. In this relatively sensitive location this represents a low density development and is considered appropriate subject to suitable landscaping and tree protection measures.

#### Residential Amenity

- 6.14 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 SPL3 in the emerging Local Plan 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'.
- 6.15 The proposed layout has been carefully considered and although Officers note the concerns raised by adjoining neighbours, it is considered that adequate separation has been provided between proposed and existing dwellings avoiding the creation of adverse impacts. At detail stage the scale, appearance and position of fenestration will be considered but it is clear from the submitted layout plan that this can be achieved without having adverse impacts on existing amenity.
- 6.16 There will be some impact to neighbours during the construction period but conditions would be applied to the development to minimise impacts if the Committee is mindful to approve the application.

#### Highways, transport and accessibility

- 6.17 Paragraph 32 of the NPPF relates to transport and requires Councils, when making decisions, to take account of whether:
- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
  - safe a suitable access to the site can be achieved for all people; and
  - improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.18 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. Although the site is located in one of the district's smaller rural settlements that have limited, the location benefits from an existing bus service giving access to nearby towns – in addition village shops and services are located in close proximity to the site.

- 6.19 As noted the site is served by a single access from The Street with a single feeder road serving the development. The Highway Authority have not raised objection subject to the imposition of a number of detailed planning conditions (see above). Safe access can therefore be gained to the site and highway safety will not be compromised.

#### Landscape, visual impact and trees

- 6.20 Policy EN1 of the adopted Local Plan and Policy PPL3 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. Policy EN2 (Local Green Gaps) seeks to keep identified areas free from development in order to prevent coalescence between settlements and protect the rural setting. As noted this designation has been removed from the application site area in the emerging Local Plan – the site in any event provides little contribution in terms of preventing coalescence. 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.
- 6.21 The site is currently used as a mix of garden land with a small amount of commercial activity. Development is not considered to have a significant impact in terms of landscape and public views of the site are to a certain extent restricted. Although a number of trees will be removed to facilitate development these are not protected. As noted by the Councils Tree and Landscape officer a protected oak tree will remain unaffected by the proposed development. Although there is some incursion into root protection areas for a small number of trees this is considered unlikely to cause the trees significant or permanent harm. Details of new landscaping and tree planting can be secured under a future reserved matters application.

#### Flood risk and drainage

- 6.22 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 require any development proposal on sites 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. The applicant has submitted a Flood Risk Assessment which has been considered by Essex County Council as the authority for sustainable drainage. ECC have reviewed the FRA and do not object to the grant of outline planning permission subject to conditions. These relate to the submission and subsequent approval of a detailed Surface Water Drainage Scheme before development can take place, control of surface water during the construction phase, maintenance of the surface water drainage system and retention of annual logs detailing maintenance undertaken in accordance with the maintenance plan.

#### Ecology

- 6.23 Paragraph 118 of the NPPF requires Councils, when determining planning applications, to aim to conserve and enhance biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission. Policy EN6 of the adopted Local Plan and Policy PPL4 of the emerging Local Plan give special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for.

- 6.24 The applicant has submitted an ecology report The Phase 1 Habitat Survey, August 2017, made a series of recommendations. The majority of these, such as including a native species rich hedgerow along the southern boundary and installation of bat boxes, can be satisfied through consideration of the details of the reserved matters that will be submitted in the future. However, the recommendation in respect of newts was that the pond located south west of the site is to be subjected to a great crested newt habitat suitability assessment. It went on to say that, if the pond is deemed suitable for crested newts, presence surveys would be needed to identify potential impacts and to inform mitigation where required.
- 6.25 A further survey has therefore been undertaken to identify and analyse any potential impacts to great crested newts and to provide recommendations about suitable mitigation where appropriate. The survey concludes that impacts to great crested newts and their habitats is highly unlikely as a result of the proposed development. However, a precautionary method statement is recommended to avoid any impacts. An additional condition is recommended to require compliance with the method statement.

### Heritage

- 6.26 The enduring physical presence of the historic environment contributes significantly to the character and 'sense of place' of rural and urban environments. Some of this resource lies hidden and often unrecognised beneath the ground in the form of archaeological deposits, but other heritage assets are more visible. Policy PPL7 of the draft Local Plan requires archaeological evaluation to be undertaken for schemes affecting sites that do or might contain archaeological remains. Policy PPL8 of the emerging Local Plan requires development within or affecting the setting of a Conservation Area to only be permitted where they have regard to the desirability of preserving or enhancing the special character and appearance of the area.
- 6.27 The NPPF is clear that when determining applications, Local Planning Authorities (LPA's) should require the applicant to describe the significance of a heritage asset affected, including any contribution made by their setting. The level of detail should be proportionate to the asset's importance and no more than is sufficient to understand the potential impact of the proposal on their significance.
- 6.28 The NPPF further states that where a site includes or has the potential to include heritage assets with archaeological interest, LPA's should require developers to submit an appropriate desk-based assessment and where necessary a field evaluation. In this instance the County Council Historic and Built Environment Manager has requested that if members are minded to approve the application then a condition is applied requiring a programme of trial trenching followed by open area excavation.
- 6.29 As noted the site adjoins the Kirby Le Soken Conservation Area and the listed church to the west of the application site. The Committee will note the comments of Historic England who although acknowledging there will be some impact on the locality it is not so significant that permission should automatically be refused. In this case it is considered that the proposed layout does take into account the adjoining heritage assets and in line with paragraph 132 of the NPPF the impact is not considered significant. The provision of additional housing is therefore considered acceptable.

### Contamination

- 6.30 Policy QL11 requires new developments to take into account the possibility of existing contamination or pollution and any necessary remediation strategies. The Environmental



Health team have requested conditions requiring contamination assessment and these would be attached to the Planning Permission.

#### Open Space and Play

- 6.31 Policy COM6 in the adopted Local Plan and Policy PEO22 of the emerging Local Plan require residential developments of over 1.5 hectares to provide at least 10% of land as public open space or otherwise make financial contributions toward off-site provision. In this case the site is less than 1.5 hectares and it is more appropriate to seek an off-site financial contribution.
- 6.32 The Council's Open Space team has requested that due to a shortfall in open space provision a financial contribution is to be secured by s106 agreement and this money would be spent at the closest play area located at Halstead Road, Kirby.

#### Conclusion

- 6.33 The proposed development is considered to comply with policy contained within the NPPF, the adopted Local Plan and emerging Local Plan policy contained within the Publication Draft document.
- 6.34 It is confirmed that safe highway access and egress to and from the site is achievable and that safe access can be provided to facilities within the village. The proposed layout will not adversely impact on adjoining dwellings or property and is a relatively low density development on the edge of the village. Protection of existing trees and the requirement for a detailed landscape to mitigate the impact of the development will be secured by condition.
- 6.35 The impact on adjoining heritage assets has also been taken into account and it is considered that the impact of development is not significant and in any event satisfactory mitigation measures in terms of ensuring high quality design and landscaping can be implemented. Although acknowledging the concerns raised by local residents, officers consider that the proposed scheme meets all technical and policy requirements and the application is therefore recommended for approval subject to a s106 legal agreement and a range of planning conditions.

#### Background Papers

None

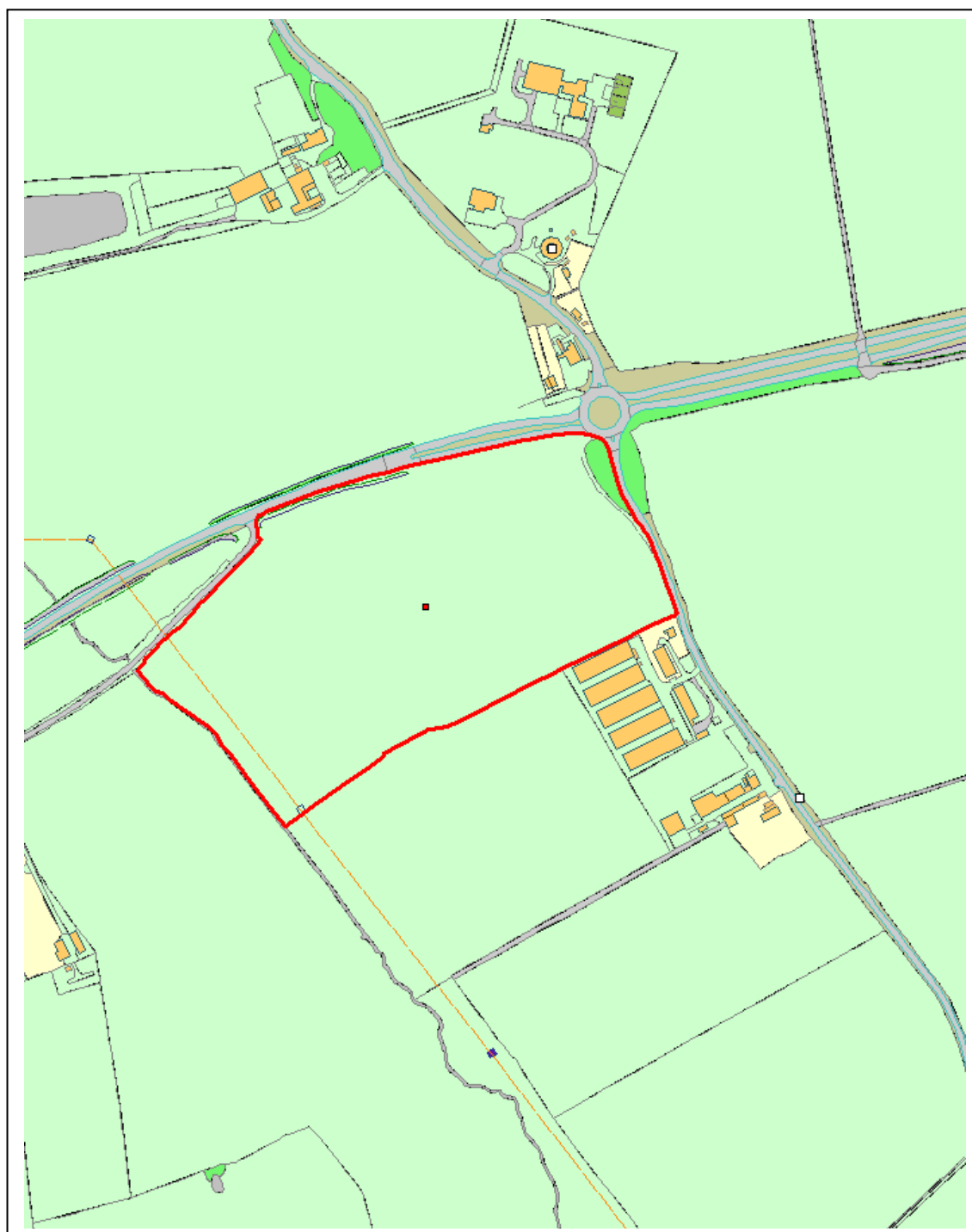
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## PLANNING COMMITTEE

1 May 2018

### REPORT OF THE HEAD OF PLANNING

**A.2 PLANNING APPLICATION - 17/01310/DETAIL - LAND SOUTH WEST OF HORSLEY CROSS ROUNDABOUT, CLACTON ROAD, HORSLEY CROSS, CO11 2NZ**



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|---------------------|--|--|
| <b>Application:</b> | 17/01310/DETAIL  | <b>Town / Parish:</b> Mistley Parish Council |
| <b>Applicant:</b>   | Robert Fairley Ltd   |  |
| <b>Address:</b>     | Land South West of Horsley Cross Roundabout, Clacton Road, Horsley Cross, CO11 2NZ   |  |
| <b>Development:</b> | Submission of reserved matters pursuant to outline planning permission 13/00745/OUT with details pursuant to Conditions 1 (appearance, landscaping, layout and scale), 3 (Strategic Phasing Plan), 4 (Design Code), 5 (phasing arrangements), 6 (levels), in part 7 (external materials), in part 12 (roundabout), 15 (landscaping), 18 (loading, turning and parking) and in part Schedule 7 (details of an air quality monitoring programme) of Legal Agreement for the development of the site to provide a new industrial park for B2 and B8 uses. |  |

## 1. Executive Summary

- 1.1 The application site is approximately 11.2 ha and is presently open agricultural land, with part of the site being used for weekly car boot sales during March to October. It is in a rural area in the centre of the District and to the immediate south west of the A120/B1035 roundabout at Horsley Cross. Colchester is about 8 miles to the west and Harwich is about 9 miles to the east.
- 1.2 Outline planning permission (13/00745/OUT) on the site was approved by the Council on 4 August 2014 for *“Development of site to provide a new industrial park with up to 28,280m<sup>2</sup> of floorspace for B2 and B8 uses, a bus depot and 30m high telecommunications mast. All with associated access, landscaping, parking and highway improvements”*.
- 1.3 The submitted application seeks the approval of Reserved Matters for Appearance, Landscaping, Layout, and Scale, pursuant to condition 1 imposed upon the grant of 13/00745/OUT; together with details pursuant to conditions 3, 4, 5, 6, 7 (in part), 12 (in part), 15, 18 and Schedule 7 (in part) of the Unilateral Undertaking for the development.
- 1.4 The detailed design is considered acceptable, which includes the provision of a Bus Depot within plot 06 as required by condition 3 of 13/00745/OUT; and Schedule 3 of the Unilateral Undertaking (UU) which was submitted by the original applicant, pursuant to S106 of the Town and Country Planning Act 1990.
- 1.5 The proposal would result in no material harm to interests of acknowledged importance and would facilitate substantial economic development within the District. The application is recommended for approval.

**Recommendation: Approve**

**Conditions:**

1. Development to be carried out in accordance with the approved plans.

## 2. Planning Policy

### National Policy

#### *National Planning Policy Framework (NPPF)*

- 2.1 The NPPF 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'.
- 2.3 The NPPF defines 'sustainable development' as having three dimensions:
- an economic role;
  - a social role; and
  - an environmental role.
- 2.4 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.
- 2.5 Section 1 of the NPPF relates to building a strong, competitive economy. Paragraph 20 requires Councils to plan proactively to meet the development needs of business and support an economy fit for the 21<sup>st</sup> century.
- 2.6 Section 7 of the NPPF relates to design. Paragraph 56 states that government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 2.7 Paragraph 187 of the NPPF states "Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area".

#### *National Planning Practice Guidance (PPG)*

- 2.8 The PPG provides additional planning guidance from Central Government on a range of issues, including, but not limited to: Air Quality; Climate Change; Design, Flood risk and coastal change; Light Pollution; Natural Environment; Noise; and Travel Plans, Transport Assessments and Statements.

### Local Plan Policy

- 2.9 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.

- 2.10 As of 16<sup>th</sup> June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. Part 1 was examined in January 2018 with the Inspector's report awaited and whilst its policies cannot yet carry the full weight of adopted policy, they 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.

*Tendring District Local Plan (2007)* – as 'saved' through a Direction from the Secretary of State.

Relevant policies include:

QL2: Promoting Transport Choice - requires developments to be located and designed to avoid reliance on the use of the private car and promote travel choice, other than in exceptional circumstance; in which case measures to improve the accessibility of development, particularly by walking, cycling and public transport, can be required.

QL3: Minimising and Managing Flood Risk - requires applications for development involving sites of 1 hectare or more, even within areas of low flood risk, to be accompanied by a Flood Risk Assessment to consider potential drainage and surface water flooding issues.

QL9: Design of New Development - Provides general criteria against which the design of new development will be judged.

QL10: Designing New Development to Meet Functional Needs - Requires development to meet functional requirements relating to access, community safety and infrastructure provision.

QL11: Environmental Impacts - Requires new development to be compatible with its surrounding land uses and to minimise adverse environmental impacts.

COM1: Access for All - Requires publically accessible buildings to provide safe and convenient access for visitors, customers and employees of all abilities.

COM2: Community Safety - Requires developments to contribute toward a safe and secure environment and minimise the opportunities for crime and anti-social behaviour.

COM21: Light Pollution - Requires external lighting for new development to avoid unacceptable impacts on the landscape, wildlife or highway and pedestrian safety.

COM22: Noise Pollution - Requires noise-sensitive developments including houses and schools to be either located away from, or protected from (through mitigation measures) existing sources of noise.

COM23: General Pollution - States that permission will be refused for developments that have a significant adverse effect through the release of pollutants.

COM29: Utilities - Seeks to ensure that new development on large sites is or can be supported by the necessary infrastructure.

COM31a: Sewerage and Sewage Disposal - Seeks to ensure that new development is able to deal with waste water and effluent.

EN1: Landscape Character - Requires new developments to conserve key features of the landscape that contribute toward local distinctiveness.

EN6b: Habitat Creation – states that consideration will be given to the potential for new wildlife habitats in new development.

EN12: Design and Access Statements - Requires Design and Access Statements to be submitted with most planning applications.

EN13: Sustainable Drainage Systems - Requires developments to incorporate sustainable drainage systems to manage surface water run-off.

TR1a: Development Affecting Highways - Requires developments affecting highways to aim to reduce and prevent hazards and inconvenience to traffic.

TR3a: Provision for Walking - Seeks to maximise opportunities to link development with existing footpaths and rights of way and provide convenient, safe attractive and direct routes for walking.

TR5: Provision for Cycling - Requires all major developments to provide appropriate facilities for cyclists.

TR6: Provision for Public Transport Use - Requires developments to make provision for bus and/or rail where transport assessment identifies a need.

TR7: Vehicle Parking at New Development - Refers to the adopted Essex County Council parking standards which will be applied to all non-residential development.

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

Relevant policies include:

SPL3: Sustainable Design - Sets out the criteria against which the design of new development will be judged.

PPL1: Development and Flood Risk – Requires development proposals to include appropriate measures to respond to the risk of flooding on and/or off site and with the Flood Zone.

PPL3: The Rural Landscape - Requires developments to conserve, where possible, key features that contribute toward the local distinctiveness of the landscape and include suitable measures for landscape conservation and enhancement.

PPL4: Biodiversity and Geodiversity - Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

PPL5: Water Conservation, Drainage and Sewerage - Requires developments to incorporate sustainable drainage systems to manage surface water run-off and ensure that new development is able to deal with waste water and effluent.

CP1: Sustainable Transport and Accessibility – states that proposals for new development must be sustainable in terms of transport and accessibility and therefore should include and

encourage opportunities for access to sustainable modes of transport, including walking, cycling and public transport.

CP2: Improving the Transport Network - States that proposals which would have any adverse transport impacts will not be granted planning permission unless these are able to be resolved and the development made acceptable by specific mitigation measures which are guaranteed to be implemented.

CP3: Improving the Telecommunications Network - Requires new development to be served by a superfast broadband (fibre optic) connection installed on an open access basis and that can be directly accessed from the nearest British Telecom exchange and threaded through resistant tubing to enable easy access for future repair, replacement or upgrading.

#### *Supplementary Guidance*

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

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

### **3. Relevant Planning History**

|              |   |  |            |
|--------------|---|--|------------|
| 06/00891/OUT | <p>1) Use of agricultural land for employment purposes by formation of seven plots and the erection of buildings to enable relocation and expansion of existing businesses in North East Tendring District (one in Colchester) as follows:-<br/>PLOT 3 - 0.7ha, building 2,500sq. m, manufacture/refurbishment of filling and packing machinery contract packing operation, Class B2.<br/>PLOT 4A/4B, 1.3 ha, total.<br/>PLOT 4A, (building 2,000 sq. m, logistics depot serving Tendring District, Class B8.<br/>PLOT 4B, (building 1,775 sq. m, storage involving manufacture of specialist brick related products for the construction industry, Class B8/B2.<br/>PLOT 5 - 1.0 ha, building 1,900 sq. m, logistics depot national and international, Class B8.<br/>PLOT 6A - 0.5 ha, (ancillary building) 240sq. m, car transporter depot.<br/>PLOT 7 - 0.75 ha, 1,900sq. m, labelling operation, Class B2.<br/>PLOT 8 - 0.75 ha, 1,900sq. m, logistics depot, Class B8.<br/>2) PLOT 1 - 1.3ha, erection of 80 bedroom hotel.<br/>3) Remainder of the site to be comprehensively landscaped.</p> | Called in by<br>Secretary of<br>State –<br>Appeal<br>Dismissed | 18.09.2008 |
|--------------|---|--|------------|



PLOT 6B, waste recycling centre (to be the subject of a separate application for full planning permission to Essex County Council).

|                 |   |          |            |
|-----------------|---|----------|------------|
| 13/00745/OUT    | Development of site to provide a new industrial park with up to 28,280m <sup>2</sup> of floorspace for B2 and B8 uses, a bus depot and 30m high telecommunications mast. All with associated access, landscaping, parking and highway improvements. | Approved | 04.08.2014 |
| 14/01296/DETAIL | Erection of 30m telecommunications mast.  | Approved | 01.12.2014 |

#### 4. Consultations

**Building Control and Access Officer**

No adverse comments to make at this time.

**Environmental Protection**

They are satisfied with the information submitted relating to Schedule 7 of the S106 agreement pursuant to 13/00745/OUT - details of an Air Quality Monitoring programme to be submitted.

**Tree & Landscape Officer**

The details relating to the soft landscaping of the site comprehensively address the level of new planting required to, as far as is possible, screen the site.

The possible exception to this is on land forming the lowest part of the site, to the west, where it may be possible to strengthen landscaping by planting additional trees in the grassed area adjacent to Holland Brook. It is clear that consideration will need to be given to the potential effect on the overhead power cables on this part of the site.

The internal planting will also help to screen the site by breaking up the mass of the grouped buildings and will contribute to the softening in the appearance of the development.

**Essex County Council (ECC) Archaeology**

Highlight that the Outline permission has an archaeological condition attached to it which has not been discharged (Condition 26); the implementation of a programme of archaeological work is required to satisfy the condition. The fieldwork required has not been completed and no Written Scheme of Investigation (WSI) has been submitted with this application, which does not provide any details with regard to the archaeological condition which will need to be discharged in advance of the development commencing.

*Officer Note - Condition 26 requires appropriate details to be submitted to and approved in writing by the Council prior to development taking place (other than the mast); and*

*therefore does not need to be discharged at this stage.*

**ECC Flood and Water Management**

Currently a holding objection is in place in regard to the discharge of condition 23 of 13/00745/OUT.

*Officer Note - this aspect has been deleted from the description of development by the applicant. As Condition 23 requires appropriate details to be submitted to and approved in writing by the Council prior to the implementation of the development (other than the mast); the details do not need to be approved at this stage.*

**ECC Highways**

The following comments have been received from the Strategic Development Engineer on the proposal as originally submitted:

- This development will be serviced by HGVs and other commercial vehicles and the proposed drainage solution for much of the estate road network relies on soft verge filter drains and planters. There is concern that the large vehicles are likely to over-run these soft areas adjacent to the carriageways and cause failure of these drainage features.
- The drainage strategy limits the rates of discharge from the various storm events to previously agreed figures. The main surface water outfall from the development is from an attenuation basin near the south-western boundary. The Environment Agency flood mapping indicates an area of Flood Zone 3 flooding associated with the Holland Brook and it should be noted that the attenuation basin must be located outside the extent of this Flood Zone 3. This is likely to have been considered but there is no reference to it in the documentation.

**Environment Agency**

Within their letter dated 21 September 2017 they stated that the site is located in a non-sewered area with the nearest public mains foul sewer being over 1km away. Consequently, a package treatment plant is an acceptable means of foul drainage. They were therefore satisfied with the development using a package treatment plant in principle, but raised a holding objection until further details had been provided, noting that that foul drainage is also covered by condition 24 of 13/00745/OUT.

*Officer Note - This aspect has also been deleted from description of development by the applicant, as condition 24 requires appropriate details to be submitted to and approved in writing by the Council prior to the commencement of the development (other than the mast); the details do not need to be approved at this stage.*

In respect of Flood risk, the Environment Agency stated that the site boundary includes a small area of Flood Zone 3 adjacent to the Holland Brook at the east of the site. No development is proposed in this area, and it does not impede safe access and egress. They are therefore satisfied

that the proposed development has been sequentially sited within Flood Zone 1.

**Health & Safety  
Executive**

State that this application does not fall within the Consultation Distance Zones of either a Major Hazard Site or Major Accident Hazard Pipeline. They therefore have no comment to make.

**Natural England**

With regard to statutory nature conservation sites they raise no objection, having assessed the application using the Impact Risk Zones data (IRZs). They advise that the proposal, if undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the interest features for which Stour and Orwell Estuary SPA and Ramsar site have been classified. Natural England therefore advises that the Council is not required to undertake an Appropriate Assessment to assess the implications of this proposal on the site's conservation objectives.

In addition, Natural England are satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the Stour Estuary SSSI has been notified. They therefore advise that this SSSI does not represent a constraint in determining this application.

**5. Representations**

**Little Bentley Parish  
Council**

The Parish Council object to this application, for the following reasons:-

The condition of the roads locally, both surface and width, within Little Bentley and Ravens Green are far from ideal to deal with a large increase in traffic that such a development would bring on a daily basis through the villages. There is no direct link to the population of the District from where employees at the development will come and these roads will be used as shortcuts to the development.

Visual impact of the development would be significant, in its position at one of the highest points in Essex and concerns over light pollution in the Horsley Cross area as a result of the increasing traffic were voiced. As a result there may be additional infrastructure required with no or few rail or bus links nearby.

There appears to be no strategic plan for development within the District and apparently random warehousing and industrial development largely developed on greenfield sites are being seriously considered for permission despite falling outside of the remit outlined in the recently commissioned Local Plan.

There is already a huge purpose built industrial park at

Severalls Colchester which is continuing to grow up to and around the Community Stadium Area, and granted developments at Elmstead Market, all of which will serve the District well for transport links and make appropriate use of the County and District roads.

It is acknowledged that such development may encourage further investment in infrastructure with the villages - including broadband provision, although this wider picture is not evident from the application.

**Little Bromley Parish Council**

Little Bromley Parish Council object to the proposed planning application. Whilst accepting that the site did get planning permission some years ago, that was based on the promise of hundreds of jobs immediately coming into the district which was clearly untrue and the site has been for sale on rightmove.com for years now. It appears that this application may simply be a delaying mechanism to keep the permission 'alive' rather than a genuine attempt to develop the site. Specific planning objections are:

1. The design should be amended so is more in keeping with its countryside setting.
2. It should be made more aesthetically pleasing, and in natural materials ie. not look so industrial in appearance as it relates to an entirely rural location with no history of previous development. The buildings proposed would look completely out of place.
3. The site should be developed as a whole not piecemeal – conditions should be imposed if approval is considered to ensure that this does not become a building site for the next 50 years.
4. Concern as to the height of these units – some being 12m.

**Mistley Parish Council**

Support this planning application and note the importance of the telecommunications mast and also the colour scheme of the units in the industrial park.

**6. Assessment**

Site Context

- 6.1 The application site is approximately 11.2 ha and is presently open agricultural land, with part of the site being used for weekly car boot sales during March to October. It is in a rural area in the centre of the District and to the immediate south west of the A120/B1035 roundabout at Horsley Cross. Colchester is about 8 miles to the west and Harwich is about 9 miles to the east.
- 6.2 There is a small cluster of buildings, including The Cross Inn pub; a farm and some cottages to the north and to the south is Kelly's Poultry Farm, but most notable in terms of its visual impact is the nearby water tower. The A120 is dualled for a short section either side of the roundabout and the B1035 is a single carriageway road.

- 6.3 The surrounding landscape within the immediate vicinity of the site is characterised by large open fields, occasionally broken up by small groups of/individual buildings. The site is near the top of a plateau and is roughly rectangular in shape. It has a northern boundary with the A120; a southern boundary to Kelly's Farm; the eastern boundary is shared with the B1035; and the western boundary to Holland Brook (this part of the site is crossed by electricity pylons). There is a fall of approximately 15 metres between the middle of the site and the western boundary.
- 6.4 The site is largely devoid of any significant vegetation, but there are some existing trees adjacent to the A120 roundabout and extending for a short distance down the B1035, in addition to where adjoining the A120 closer to the brook.

#### Proposal

- 6.5 The submitted application seeks the approval of Reserved Matters for Appearance, Landscaping, Layout, and Scale, pursuant to condition 1 imposed upon the grant of outline planning permission 13/00745/OUT on 4 August 2018; together with details pursuant to conditions 3, 4, 5, 6, 7 (in part), 12 (in part), 15, 18 and Schedule 7 (in part) of Unilateral Undertaking for the development of the site to provide a new industrial park for B2 and B8 uses.
- 6.6 The description of development for 13/00745/OUT as approved by the Council was: *"Development of site to provide a new industrial park with up to 28,280m<sup>2</sup> of floorspace for B2 and B8 uses, a bus depot and 30m high telecommunications mast. All with associated access, landscaping, parking and highway improvements"*. A copy of the decision notice and the conditions attached upon it can be found in Appended to this report.
- 6.7 The Unilateral Undertaking (UU) which was submitted by the original applicant, pursuant to S106 of the Town and Country Planning Act 1990, set out a range of planning obligations with the following heads of terms:
- Schedule 1 – Amenity Areas (and maintenance thereof);
  - Schedule 2 – Telecommunications Mast (and permitting its use by Broadband suppliers and Telecommunications companies on reasonable commercial terms). Details of the mast were approved under application 14/01296/DETAIL.
  - Schedule 3 – Bus Depot (to be utilised with Bus Depot Scheme for the provision of passenger transport services);
  - Schedule 4 – Bus Service (a minimum service of every 60 minutes between the hours of 0700 and 1900 inclusive, seven days a week, between the site and Manningtree Rail Station, Harwich Quay, Pier Avenue Clacton on Sea, and High Street Colchester);
  - Schedule 5 – Land Usage (not to permit more than 25% of the commercial floorspace, excluding the site of the mast and Bus Depot to be utilised for B8 storage and distribution);
  - Schedule 6 – Highway Land (not to carry out development upon and transfer strip of land when required to do so by ECC or the Highways Agency, to enable widening of the A120);
  - Schedule 7 – Air Quality Monitoring (submission of and adherence to a scheme, including provision of an Air Quality Monitoring Station);
  - Schedule 8 – Travel Plan Monitoring Fee (£3,000 to be paid to ECC for monitoring purposes).

- 6.8 The detailed matters, the subject of this application, have been provided in a suite of plans and supporting documents, which include:
- Completed planning application forms;
  - Location Plan;
  - Topographical Survey;
  - Site Layout Plan;
  - Level strategy arrangement;
  - Horizontal highway arrangement;
  - Vertical Road Alignment plans;
  - Illustrative long site sections;
  - Landscape Strategy Plan;
  - Detailed Hard and Soft Landscape Proposals plans;
  - Elevations and Floor Plans for each unit;
  - Planning Statement;
  - Design Code;
  - Air quality monitoring scheme;
  - Landscape and visual constraints and opportunities report;
  - Services appraisal;
  - Extended phase 1 survey; and
  - Drainage Strategy.
- 6.9 The submission shows the construction of 15no commercial buildings (13 of which would be for B2 (general industrial) use, including the bus depot, the remaining 2no for B8 (storage and distribution) equating to 24.98% of total floorspace. They would be served via a central spine road, accessed via the new B1035 roundabout and would range in floor areas from 407 sq.m to 3,535 sq.m. Each unit would be served by its own dedicated parking area for cars (including for the disabled), vans, powered two wheelers and cycles, in addition to loading bays for HGVs where proposed.
- 6.10 They would be of a portal frame construction, clad in profiled steel cladding to the roofs and walls, and of a contemporary appearance. With the exception of plots 12-15 (across the back/south eastern boundary of the site) having a maximum ridge height of 12m, all other units would be no higher than 10m high. Soft landscaping would be provided throughout the site, as well as to the site's boundaries, with a surface water attenuation basin to be provided on the low ground within the western-most tip where between Holland Brook and the overhead power line.

#### Principle of Development

- 6.11 The principle of development in the location proposed, as well as the access thereto, has already been established through the grant of outline planning permission (13/00745/OUT). Whilst the grant of permission was a departure from the adopted Local Plan, the proposal was considered in a positive light, particularly bearing in mind the significant potential to deliver new employment opportunities on a site with good access to the A120. The report to Planning Committee on 4<sup>th</sup> February 2014 considered the following:
- National and Local Plan Policy;
  - Highways and transport issues and sustainability;
  - Design principles and landscape impact;
  - Nature conservation, flood risk and heritage issues; and
  - S106 planning obligations.
- 6.12 The site had been allocated in the 2012 draft of the emerging Local Plan in recognition of the need for employment and the limited supply of commercially attractive sites elsewhere in the District. These factors were considered to outweigh concerns raised at the time over

the site's location in the open countryside, some distance from established centres of population. Although the promoters of the development at the time of the outline application had indicated that there had been significant business interest in the site, clearly the development has not been implemented to date.

- 6.13 The Council's latest evidence on employment land prepared in support of the new Local Plan, the 2016 Employment Land Review, recommended that the site should not be carried forward into the Local Plan because no transactions with businesses had progressed, the site remained unserviced and had a number of constraints, primarily in relation to sustainability and infrastructure that brought the viability of future development into question. The site no longer features therefore as an employment allocation in the emerging Local Plan.
- 6.14 However, the submission of this reserved matters application within the three year time limit indicates that there is a prospect of business activity on the site and it is understood that new investors are involved in the project who are keen to build the scheme and bring new businesses into the Tendring area. Officers have therefore approached the application positively, working with the applicants to ensure the details of appearance, landscaping, layout and scale are approved so the development can proceed smoothly and the economic and employment benefits of the development can be realised. This stance is supported by the NPPF which in paragraph 20 states that to help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.
- 6.15 Therefore, as the principle of development of, and access to the site, including to the public highway has already been approved at the outline stage, the outstanding reserved matters (and therefore the main planning considerations) to be assessed are Layout, Scale, Appearance and Landscaping, in addition to the requirements of the planning conditions and obligations imposed upon the outline planning permission which are discussed below.

#### Layout, Scale and Appearance

- 6.16 Paragraph 56 of the NPPF states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. NPPF Paragraph 58 states that developments should aim to *“establish a strong sense of place, using streetscapes and buildings to create attractive comfortable places to live, work and visit; and respond to local character and history and reflect the identity of local surroundings and materials”*. The spirit of the NPPF is reflected within the design focussed policies of the Development Plan which are listed above.
- 6.17 In paragraph 6.61, the committee report for 13/00745/OUT highlighted that *“The design will be controlled by set parameters in terms of phasing; height; use of materials and incorporation of sustainable features. It is acknowledged that the scale of the development will, however, have an adverse visual impact on the landscape due its scale and the defining characteristics of the open and flat landscape as it exists today. However, this has to be weighed against the overarching aim of the NPPF that seeks to support sustainable social; economic and environmental growth wherever possible and the numerous other benefits that will be delivered if the scheme were to be approved. Members will need to assess whether the proposed mitigation measures combined with these benefits are sufficient to outweigh the adverse impact on the landscape qualities bearing in mind that it is not a protected landscape or high quality agricultural land.”* Members agreed with the Officer recommendation and imposed a number of conditions upon the outline planning permission to mitigate the visual impact of the proposal upon the surrounding area.
- 6.18 Condition 3 of 13/00745/OUT, amongst other things, required details of the Bus Depot, internal access ways, estate roads, parking and servicing areas to be provided within a Strategic Phasing Plan in conjunction with the submission of the first of the reserved

matters (criteria ii) & vii)). The applicant has explained that the roll out of the development will not be phased, with the submission of reserved matters that is before Members covering the whole site. Furthermore, in regard to the submission of a Design Code as required by condition 4 imposed upon 13/00745/OUT, the applicant explains that at the time of the outline approval, it was considered that the development would be undertaken in a series of phases, therefore the need for a Design Code was deemed necessary. As this scheme is now to be developed in a comprehensive manner, with all reserved matters forming part of a single submission, the requirement for a separate Design Code is largely unnecessary. Nevertheless, a statement setting out the design codes embraced within the scheme form part of the submission.

- 6.19 The layout of the site has evolved since the Indicative Site Masterplan was approved, and as with the matters of appearance, scale and landscaping, has been the subject to pre-application discussions between Officers and the applicant, as well as having been revised further during the processing of the current application. Consequently, the layout has broadly, but not exclusively been formed by taking into account the approved indicative layout and the existing trees, hedging and landscaping that are situated along the site's boundaries.
- 6.20 The latest version of the submitted Site Layout plan identifies that plot 06 would be utilised as the Bus Depot and demonstrates the parking and turning areas that would serve it. The drawing also includes the internal access ways, estate roads, parking and servicing areas (also pursuant to condition 18 of 13/00745/OUT) that would serve the development. These details ensure that the scheme would have a maximum floorspace of 28,280m<sup>2</sup>, to be laid out in a logical manner that would comply with the approved indicative layout and also clarifies that the proposed use of the site is for B2 and B8 commercial purposes with a maximum of 25% of the floorspace to be used for B8 purposes. This is in compliance with Schedule 5 of the Unilateral Undertaking.
- 6.21 In terms of scale, condition 8 of 13/00745/OUT stipulates that no building on the northern boundary of the site shall exceed 10 metres in height, with all of the other buildings restricted to no more than 12m in height. The schedule found upon the Site Layout plan, and the submitted detailed elevational drawings demonstrate that the buildings to be constructed on plots 1-11 (those adjacent to the A120 and the B1035) would have a maximum ridge height of 10m. The other four buildings proposed to be erected on plots 12-15 across the rear of the site are shown to have a maximum ridge height that also complies with condition 8.
- 6.22 Condition 7 of 13/00745/OUT requires samples and precise details of the external facing and roofing materials to be used in the construction of the development to be submitted to the Council prior to its commencement. In response to this and the requirements of the Design Code (condition 4), the applicant confirms that the buildings would have a contemporary design, with the use of low pitched or barrel roofs. Consideration has been given to reducing the bulk of the buildings, particularly the B8 units (nos 14&15), with the use of a sympathetic colour scheme. The drawings identify that the new units would be predominantly finished in green cladding to their elevations, with the colouring ranging from dark green (Fir Green – RAL 9009) at the bottom band to Grey White (RAL 9002) at the top, with a white fascia (Signal White – RAL 9003). The roofs would be finished in Goosewing Grey – RAL 080 70 50).
- 6.23 It is acknowledged that Little Bromley Parish Council have raised concerns with regard to the design and use of materials proposed in what amounts to be a countryside setting. However, the outline planning permission set out parameters to govern what could be built upon the site, and bearing in mind that the scheme is for general industrial and storage/distribution uses adjacent to and served by the A120, the design of the buildings as proposed is appropriate. Admittedly, natural materials and buildings of an appearance more in tune with the Essex vernacular could be considered to be more sympathetic to a



rural location, however they would be impractical to utilise by future commercial occupiers. Overall, it is considered that the layout, scale and appearance of the proposal would be acceptable, and as previously, the visual impact is outweighed by the economic benefits to the local economy of Tendring District.

#### Landscaping

- 6.24 Part 11 of the NPPF indicates that development should contribute to and enhance the natural environment and that impacts on biodiversity should be minimised.
- 6.25 As quoted above, paragraph 6.61 of the committee report for 13/00745/OUT acknowledged that the scale of the development would have an adverse visual impact on the landscape due its scale and the defining characteristics of the open and flat landscape as it exists today. However, it was also stressed by Officers at that time that the adverse impact on the landscape needed to be assessed within the context of the site not falling within a protected landscape or upon high quality agricultural land.
- 6.26 Conditions 3 (iii, iv & viii), 4, 6 and 15 of 13/00745/OUT are concerned with earthworks, strategic landscaping, as well as biodiversity enhancements. Some regrading of the land is proposed, although this would not be significant and in response to the scheme of landscaping submitted, the Tree and Landscape Officer has stated that the details comprehensively address the level of new planting required to, as far as is possible, screen the site. They also state that the internal planting would also help to screen the site, by breaking up the mass of the grouped buildings and by contributing to the softening in the appearance of the development.
- 6.27 With respect to biodiversity, condition 25 of 13/00745/OUT requires a scheme to be submitted to the Council that seeks to minimise the potential impacts upon wildlife present on site, as well as including opportunities to enhance the ecological value of the site. As highlighted above, such a scheme does not need to be submitted at this stage, provided that it has been prior to the commencement of development.
- 6.28 It is considered that the reserved matter of landscaping is acceptable to enable the planning process to proceed.

#### Other Matters

- 6.29 Schedule 7 of the UU required the applicant to submit an Air Quality Monitoring Scheme (AQMS) to the Council for approval not later than the date upon which the first reserved matters were submitted for approval.
- 6.30 An AQMS was submitted with the application, and Environmental Protection have confirmed that they are satisfied with the details provided.

#### Conclusion

- 6.31 The detailed design is considered acceptable, which includes the provision of a Bus Depot within plot 06 as required by condition 3 of 13/00745/OUT; and Schedule 3 of the Unilateral Undertaking (UU) which was submitted by the original applicant, pursuant to S106 of the Town and Country Planning Act 1990.
- 6.32 The proposal would result in no material harm to interests of acknowledged importance and would facilitate substantial economic development within the District. The application is therefore recommended for approval.

## APPENDIX ONE



# TENDRING DISTRICT COUNCIL

## Planning Services

Council Offices, Thorpe Road, Weeley, Clacton-on-Sea, Essex CO16 9AJ

**AGENT:** Pegasus Group - Ms Nicky  
Parsons  
3 Pioneer Court  
Chivers Way  
Histon  
Cambridge  
Cambridgeshire  
CB24 9PT

**APPLICANT:** Croland Ltd  
C/o Agent.

### TOWN AND COUNTRY PLANNING ACT 1990

**APPLICATION NO:** 13/00745/OUT

**DATE REGISTERED:** 2nd July 2013

Proposed Development and Location of Land:

**Development of site to provide a new industrial park with up to 28,280m<sup>2</sup> of floorspace for B2 and B8 uses, a bus depot and 30m high telecommunications mast. All with associated access, landscaping, parking and highway improvements.**

**Land South West of Horsley Cross Roundabout Clacton Road Horsley Cross Essex**

THE TENDRING DISTRICT COUNCIL AS LOCAL PLANNING AUTHORITY **DO HEREBY GRANT** **OUTLINE PLANNING PERMISSION** in accordance with the application form, supporting documents and plans submitted, subject to the following conditions:

- 1 Application for approval of reserved matters relating to the appearance; landscaping; layout; and scale of the development shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason - The application as submitted does not provide sufficient information for consideration of these details and to comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be begun before the expiration of two years from the date of the approval of the last of the reserved matters approved.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

- 3 In conjunction with the submission of the first of the reserved matters, other than the Mast, a Strategic Phasing Plan identifying the various elements of the development and the timing of their provision shall be submitted to and approved in writing by the Local Planning Authority. The Strategic Phasing Plan shall include details of the following:

- i) Technical design details and timing of a temporary site access (if applicable) for the construction phases of the development

- ii) Bus Depot (including details of outside working; outside working areas and hours of operation)
- iii) Earthworks and changes in existing ground levels including details of the volumes of any materials that are to be exported from or imported to the site
- iv) Strategic landscaping/planting belts
- v) Surface and foul water drainage strategy incorporating Sustainable Urban Drainage systems and attenuation methods
- vi) The provision of utilities
- vii) Internal access ways; estate roads; parking and servicing areas; and communal areas
- viii) Biodiversity enhancements and landscaping works
- ix) The order in which the phases are to be developed.

The development shall be carried out in accordance with the details of the Strategic Phasing Plan as approved.

Reason - To ensure that the scheme is brought forward in a timely and comprehensive manner in the interests of proper planning; amenity and the character and appearance of the area and to ensure a satisfactory relationship between the various components of the development and between the site and adjoining land. To ensure that construction is carried out at a suitable level having regard to drainage, access, the appearance of the development, any trees or hedgerows and the amenities of neighbouring properties. To ensure that an adequate and satisfactory means of foul drainage is provided to avoid pollution.

- 4 In conjunction with the submission of the first of the reserved matters, other than the Mast, a Design Code shall be submitted to and approved in writing by the Local Planning Authority. The Design Code shall relate to and include details of the following:

- i) Scale;
- ii) Density;
- iii) Massing;
- iv) Height;
- v) Landscape;
- vi) Layout;
- vii) Design and architectural standards;
- viii) Materials and external colours;
- ix) Signage;
- x) Access;
- xi) Land use;
- xii) Parking and servicing areas;
- xiii) Sustainability principles and energy efficiency measures; and
- xiv) Key spaces.

The development shall be carried out in accordance with the details of the Design Code as approved for the lifetime of the development.

Reason - To ensure that the scheme is brought forward in a timely and comprehensive manner in the interests of proper planning; the environment; amenity; the character and appearance of the area and highway safety.

- 5 No development shall commence in each of the phases identified within the approved Strategic Phasing Plan, other than the Mast, until reserved matters for that phase relating to the appearance; landscaping; layout; and scale of the development have been submitted to and approved in writing by the Local Planning Authority. The development of each of the phases identified within the approved Strategic Phasing Plan shall be carried out in accordance with the approved details.

Reason - The application as submitted does not provide sufficient information for consideration of these details; to comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004; and to ensure that the scheme is brought forward in a timely and comprehensive manner in the interests of proper planning; the environment; amenity; the character and appearance of the area and highway safety.

- 6 Details of the existing and proposed ground levels of each phase of the development (other than the Mast and as approved within the Strategic Phasing Plan referred to in Condition 3) including the finished floor levels; eaves levels; and ridge heights and details of all areas of cut and fill (including details of the importation and exportation of any materials) shall be submitted to the Local Planning Authority. No development within the phase that the details relate to shall begin until those details have been approved in writing by the Local Planning Authority. No building shall be occupied (whether in whole or in part) until all the works to implement the approved details have been fully completed.

Reason - To ensure a satisfactory relationship between the various components of the development and between the site and adjoining land. To ensure that construction is carried out at a suitable level having regard to drainage, access, the appearance of the development, any trees or hedgerows and the amenities of neighbouring properties.

- 7 Samples and precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in the construction of each phase of the development (other than the Mast and as approved within the Strategic Phasing Plan referred to in Condition 3 and the Design Code referred to in Condition 4) shall be submitted to and approved in writing by the Local Planning Authority. No development shall commence within the phase that the details relate to until the details have been approved in writing by the Local Planning Authority. The materials as may be approved shall be those used in the development unless otherwise first approved in writing by the Local Planning Authority.

Reason - To ensure that materials of an acceptable quality appropriate to the area are used across the application site and for the lifetime of the development.

- 8 No building on the northern boundary of the site shall exceed 10 metres in height as measured from the finished site levels immediately adjacent to the building to which it relates. No other buildings shall exceed 12 metres in height as measured from the finished site levels immediately adjacent to the building to which it relates.

Reason - In the interests of proper planning; amenity and the character of the area.

- 9 No development shall commence within each phase (other than the Mast and as approved within the Strategic Phasing Plan referred to in Condition 3) until full written details of the provision; siting; design and materials of screen walls; fences; and security gates within that phase have been submitted to and approved in writing by the Local Planning Authority. The screen walls; fences; and security gates shall be erected in accordance with the approved details before the first occupation of the building(s) to which they relate and shall at all times thereafter be retained in the approved form.

Reason - To ensure that the materials; design; height and location of the boundary treatments are of an acceptable quality appropriate to the area and that they are used across the application site for the lifetime of the development.

- 10 No street lighting, floodlighting, or other means of illuminating any part of the site outside any of the buildings hereby approved shall be erected or installed until written details of the illumination works have been submitted to and approved in writing by, the Local Planning

Authority. The works concerned shall only be carried out in accordance with the approved details.

Reason - In the interests of residential amenity; the character of the area and highway safety.

- 11 No development shall commence, other than the Mast, until details of a wheel cleaning facility within the site and adjacent to the egress onto the highway have been submitted to and approved in writing by the Local Planning Authority. The approved wheel cleaning facility shall be provided prior to commencement of any part of the development and shall be retained as such during construction of the development unless the Local Planning Authority first gives written approval to any variation.

Reason - In order to minimise the amount of mud, soil and other materials originating from the site being deposited on the highway, in the interests of highway safety and visual amenity.

- 12 No part of the development shall be occupied, other than the site for the Mast, until the roundabout on the B1035 to provide access to the proposal site has been completed to accord with the scheme illustrated by drawing no. K511/008 along with any speed management measures required by the Highway Authority details of which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason - To protect highway efficiency of movement and safety in accordance with Policy DM1, DM9 and DM10 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 13 No part of the development shall be occupied, other than the site for the Mast, until the following have been provided or completed:

a) Two new bus stops to the Local Highway Authority's latest specification (to include real time passenger information) on the B1035 between the A120 roundabout and site access roundabout and substantially in the locations illustrated by drawing no. K511/008 details of which shall have first been submitted to and approved in writing by the Local Planning Authority.

b) New sections of footway (minimum 2 metres wide) in the vicinity of the site access roundabout and two bus stops mentioned under a) above and substantially in accordance with the scheme illustrated by drawing no. K511/008 details of which shall have first been submitted to and approved in writing by the Local Planning Authority.

c) Improvements to 20 no. bus stops along the routes of the Bus Services as set out in principle in the documents accompanying the planning application, namely the Cannon Consulting Engineers Technical Note K511/TN04 Proposed Public Transport Improvements dated 16 January 2014, details of which shall have first been submitted to and approved in writing by the Local Planning Authority.

d) A Travel Plan which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason - To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with Policy DM1, DM9 and DM10 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 14 Notwithstanding the provisions of the Town and Country Planning (General Permitted

Development) Order 1995 as amended or the Town and Country Planning (use Classes) Order 1987 as amended (or any Orders revoking and re-enacting those Orders with or without modification) no building hereby approved shall be used as an office (whether in whole or in part) except as ancillary to the principal use of that building hereby approved.

Reason - In order to ensure that the development is sustainable for its lifetime in accordance with Policy MLM6 of the Tendring District Local Plan: Pre Submission Focussed Changes 2014 and because Class B1 office uses are defined as 'town centre uses' by the National Planning Policy Framework (March 2012) and the accompanying National Planning Policy Guidance: Ensuring the Vitality Viability of Town Centres (March 2014).

- 15 The submission of reserved matters relating to hard and soft landscaping required by Conditions 1, 3, 4 and 5 of this planning permission shall include full written details of strategic landscaping/planting belts. The said details shall also accurately identify the spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS5837: 2012 - Trees in Relation to Design; Demolition and Construction". The said details shall also include other areas of strategic planting belts on the perimeter of and within the site and shall also include details of the planting of new trees and shrubs of species which are indigenous and compatible with the landscape and biodiversity characteristics of the locality.

Reason - To ensure satisfactory landscape treatment of the site which will enhance the character and appearance of the site and the area and to ensure protection during construction works of trees, shrubs and hedgerows which are to be retained on or near the site in order to ensure that the character and amenity of the area are not impaired.

- 16 All changes in ground levels, hard and soft landscaping, planting, seeding or turfing shown on the landscaping details approved pursuant to Conditions 1, 3, 4 and 5 of this planning permission shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other planting season as shall first have been agreed, in writing, by the Local Planning Authority having had regard to the Strategic Phasing Plan.

Reason - To ensure satisfactory landscape treatment of the site which will enhance the character and appearance of the site and the area and to ensure protection during construction works of trees, shrubs and hedgerows which are to be retained on or near the site in order to ensure that the character and amenity of the area are not impaired.

- 17 Unless otherwise formally agreed, in writing, by the Local Planning Authority pursuant to the consideration of the reserved matters, no building (other than the Mast) on any part of the development hereby permitted shall be constructed (whether in whole or in part) until the carriageway of the said estate access road, which provides access between the buildings and the B1035, has been constructed up to and including at least road base level. Until final surfacing of the estate access road is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or bordering the footway. The carriageway, footways and footpaths in front of each building shall be completed with final surfacing by no later than 12 months after the first occupation of that building.

Reason - To protect highway efficiency of movement and safety in accordance with Policy DM1, DM9 and DM10 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 18 Prior to implementation of each phase (other than the Mast as approved within the Strategic Phasing Plan referred to in Condition 3) full written details of the areas to be provided for the loading, unloading, turning and parking of vehicles (including adequate cycle and disabled

parking spaces) for that phase shall be submitted to and approved by the Local Planning Authority. No building shall be occupied within that phase until the said areas to which it relates have been constructed in accordance with the details as so approved. The said areas shall be retained and kept available for use as such at all times thereafter.

Reason - To protect highway efficiency of movement and safety in accordance with Policy DM1, DM9 and DM10 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 19 No goods, materials or containers shall be stored, stacked or deposited on the site outside the buildings hereby approved above a height of 3m as measured from the finished site level or outside of those areas of the site the details of which shall have previously been submitted to and approved in writing by the Local Planning Authority. No commercial or manufacturing activities or processes (except for the loading and unloading of vehicles and activities associated with the bus depot use which shall have first been agreed in writing by the Local Planning Authority) shall be carried on outside the buildings.

Reason - In the interests of residential amenity; the character of the area and highway safety.

- 20 Full written details of areas for the storage of refuse and/or other waste for each phase of the development (as approved within the Strategic Phasing Plan referred to in Condition 3) shall be submitted to and approved by the Local Planning Authority prior to the implementation of the phase of the development (other than the Mast) to which the details relate. The said areas and details as so approved shall be provided before the first occupation of each building within each phase and shall thereafter be retained as such at all times.

Reason - In the interests of the environment; visual amenity; residential amenity; and the character of the area.

- 21 Details of a dust management plan for each phase of the development (as approved within the Strategic Phasing Plan referred to in Condition 3) shall be submitted to and approved prior to the implementation of the phase that the details relate to. Such details are to include measures to control the spread of dust and other similar material throughout every construction phase of the development. The dust management plan as so approved shall be fully implemented.

Reason - In the interests of the environment; residential amenity; the character of the area and highway safety.

- 22 No part of the site shall be used for retail sales (whether in whole or in part) except as directly ancillary to the uses hereby approved.

Reason - In order to ensure that the development is sustainable for its lifetime in accordance with Policy MLM6 of the Tendring District Local Plan: Pre Submission Focussed Changes 2014 and because retail uses are defined as 'town centre uses' by the National Planning Policy Framework (March 2012) and the accompanying National Planning Policy Guidance: Ensuring the Vitality Viability of Town Centres (March 2014).

- 23 Full written details of works for the provision and implementation of on-site surface water attenuation and details of the timing and phasing of their implementation shall be submitted to and approved by the Local Planning Authority prior to the implementation of any part of the development other than the Mast. Such details shall be substantially in accordance with the Surface Water Management Strategy as contained within Canon Consulting Engineers Flood Risk Assessment dated July 2013 and shall include or demonstrate that:

- a. Run-off from the developed site shall not exceed the existing rates of run-off for a range of return period rainfall events, as detailed within section 3.0 of the Flood Risk Assessment prepared by Cannon Consulting Engineers (dated July 2013), i.e. 1.8 l/sec/ha in the 1 year event, up to 5.0 l/sec/ha in the 1 in 100 year event.
- b. The proposed surface water management scheme, which includes permeable surfacing and swales upstream of an attenuation basin, shall be installed having been designed to attenuate run-off generated from roofs and hardstanding, for storm events up to and including the 1 in 100 year return (incorporating the recommended 30% allowance for climate change).
- c. The proposed type and location of outfall structure.
- d. The proposed pollution prevention and control measures to avoid a reduction in surface water quality.
- e. The long term management and maintenance arrangements for the surface water scheme.

Reason - To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system.

- 24 With the exception of the Mast, no development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No buildings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.

Reason - To ensure that an adequate and satisfactory means of foul drainage is provided to avoid pollution, in the absence of a foul sewer.

- 25 No development shall commence on site, other than the Mast, until a scheme to minimise the potential impact of the development on wildlife present on site (including details of the timing of their implementation) has been submitted to and approved by the Local Planning Authority. The Scheme shall have regard to the Ecological Reports prepared by Adonis Ecology Ltd dated 9 April 2013 and 30 May 2013 that form part of the planning application documents and shall include opportunities to enhance the wildlife value of the site. The scheme shall be fully implemented as so approved.

Reason - To ensure that the development incorporates proportionate mitigation measures to address the impact of the development and takes the opportunity to incorporate biodiversity enhancements in accordance with the National Planning Policy Framework and local plan policies.

- 26 With the exception of the Mast, no demolition or preliminary groundworks or development of any kind shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority.

Reason - To ensure adequate opportunity is provided for archaeological investigation and research on the site which is potentially of archaeological and historic significance in accordance with the National Planning Policy Framework and local plan policies.

- 27 No development shall take place, other than for the Mast, including any ground works, until a Construction Environmental Management Plan incorporating a Construction Method Statement and Traffic Management Plan has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period unless otherwise first agreed in writing by the Local Planning Authority.

The Statement shall provide details for:



- i. the parking of vehicles of site operatives and visitors;
- ii. loading and unloading of plant and materials;
- iii. storage of plant and materials used in constructing the development;
- iv. wheel and underbody washing facilities;
- v. an HGV construction traffic routing plan;
- vi. the precise location and site area of construction compounds;
- vii. construction waste management - including details of recycling; storage and disposal of materials;
- viii. external lighting (in both the compound areas and construction areas);
- ix. control of emissions - including details of the burning of any materials; sheeting of bulk carrying vehicles; and working practices; and
- x. noise and vibration control - including type of machinery and mobile plant; demolition methods; and working practices.

Reason - In order to minimise the amount of mud, soil and other materials originating from the site being deposited on the highway; to prevent inadequate parking, turning and manoeuvring for vehicles; inadequate materials storage and to ensure adequate recycling of materials in the interests of highway safety, visual amenity and environmental management. To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and Policy DM1 of the Highway Authority's Development Management Policies February 2011 and in the interests of the environment; residential and environmental amenity.

- 28 No development shall commence, other than for the Mast, until a scheme has been submitted to and approved in writing by the Local Planning Authority to secure a local recruitment strategy. The strategy shall include details of how the developer will use their reasonable endeavours to promote and encourage the recruitment of employees and staff from within the District for the construction of the development and for the uses of the development thereafter. The approved recruitment Strategy shall be adhered to thereafter for the lifetime of the development.

Reason - In order to recruit and procure services locally to help and improve employment and training opportunities for local residents for the lifetime of the development and in accordance with Policy PRO3 of the Tendring District Local Plan Pre Submission Focussed Changes 2014.

**DATED:** 4th August 2014

**SIGNED:**




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Catherine Bicknell  
Head of Planning

**IMPORTANT INFORMATION** :-

The local planning authority considers that the following policies and proposals in the development plan are relevant to the above decision:

NPPF National Planning Policy Framework

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL2 Promoting Transport Choice

QL3 Minimising and Managing Flood Risk

QL4 Supply of Land for Employment Development

QL5 Economic Development and Strategic Development Sites

QL7 Rural Regeneration

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

ER2 Principal Business and Industrial Areas

QL11 Environmental Impacts and Compatibility of Uses

QL12 Planning Obligations

ER1 Employment Sites

ER5 Transport Depots

ER7 Business, Industrial and Warehouse Proposals

COM2 Community Safety

COM20 Air Pollution/ Air Quality

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

SD1 Presumption in Favour of Sustainable Development

SD5 Managing Growth

SD7 Securing Facilities and Infrastructure

SD8 Transport and Accessibility

SD9 Design of New Development

SD10 Sustainable Construction

PRO1 Improving the Strategic Transport Network

PRO1a Improving the Public Transport Network

PRO2 Improving the Telecommunications Network

PRO3 Improving Education and Skills

PRO12 Freight Transport and the Movement of Goods

PRO14 Employment Sites

PLA1 Development and Flood Risk

PLA3 Water Conservation, Drainage and Sewerage

PLA4 Nature Conservation and Geo-Diversity

PLA5 The Countryside Landscape

MLM6 Development at Horsley Cross

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

#### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

#### Informatives

This decision is also subject to a planning obligation under section 106 of the Town and Country Planning Act 1990 the purpose of which is to exercise controls to secure the proper planning of the area and to ensure that the development is sustainable for the lifetime. The planning obligation runs with the land and not with any person or company having an interest therein.

The applicant/developer is advised to contact the Council's Inward Investment and Growth Team in advance in order to agree the local recruitment strategy referred to in Condition 28.

The applicant/developer is reminded of the comments made by Anglian Water in its letter dated 29 July 2013 (reference 0411/SP126(002A)) and is advised to contact Anglian Water to obtain its advice in advance of submitting details in order to discharge those conditions that require details of foul and surface water drainage to be agreed with the Local Planning Authority.

The applicant/developer is reminded of the comments made by Natural England in its letter dated 2 August 2013 in connection with Condition 25.

The applicant/developer is reminded of the comments made by the Environment Agency in its letter dated 16 August 2013 (reference AE/2013/116354/01-LO1).

The applicant/developer is reminded of the comments of the Highway Agency in its letter dated October 2013 (Reference M123272) in which it is stated that : "The site is remote from any other settlement and is only considered sustainable in planning transport terms by the location of the bus depot on the application site if this were to disappear for any reason the site would be considered unattainable in transport policy terms." The applicant/developer is thus advised to ensure that discussions with the Local Planning Authority take place as early as possible to agree the details of the Bus Depot Scheme.

The applicant/developer is advised that in connection with Condition 26 a team of professional archaeologists should undertake the archaeological work. This will comprise initial trial trenches followed by targeted open area excavation of identified archaeological remains. A mitigation strategy detailing this archaeological excavation/preservation strategy shall be submitted to the Local Planning Authority following the completion of the initial trial trenching work. A brief outlining the level of archaeological investigation will be issued from Essex County Council Historic Officer.

The above is required to ensure the proposal complies with Essex County Council Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

In making this recommendation the Highway Authority has treated all planning application drawings relating to the internal layout of the proposal site as illustrative only.

Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.

All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with Essex County Council Highway Authority as soon as possible).

All highway related details should be agreed with Essex County Council Highway Authority.

The proposal should be in accordance with the Essex County Council Parking Standards Design and Good Practice Supplementary Planning Document dated September 2009.

Standard Informative 1: The Provisions of the Essex Act 1987, Section 13 (Access for the Fire Brigade) may apply to this Development and will be determined at Building Regulation Stage.

Standard Informative 2: You are reminded that the carrying out of building works requires approval under the Building Regulations in many cases as well as a grant of planning permission. If you are in doubt as to whether or not the work, the subject of this planning permission, requires such approval, then you are invited to contact the Building Control section at Tendring District Council.

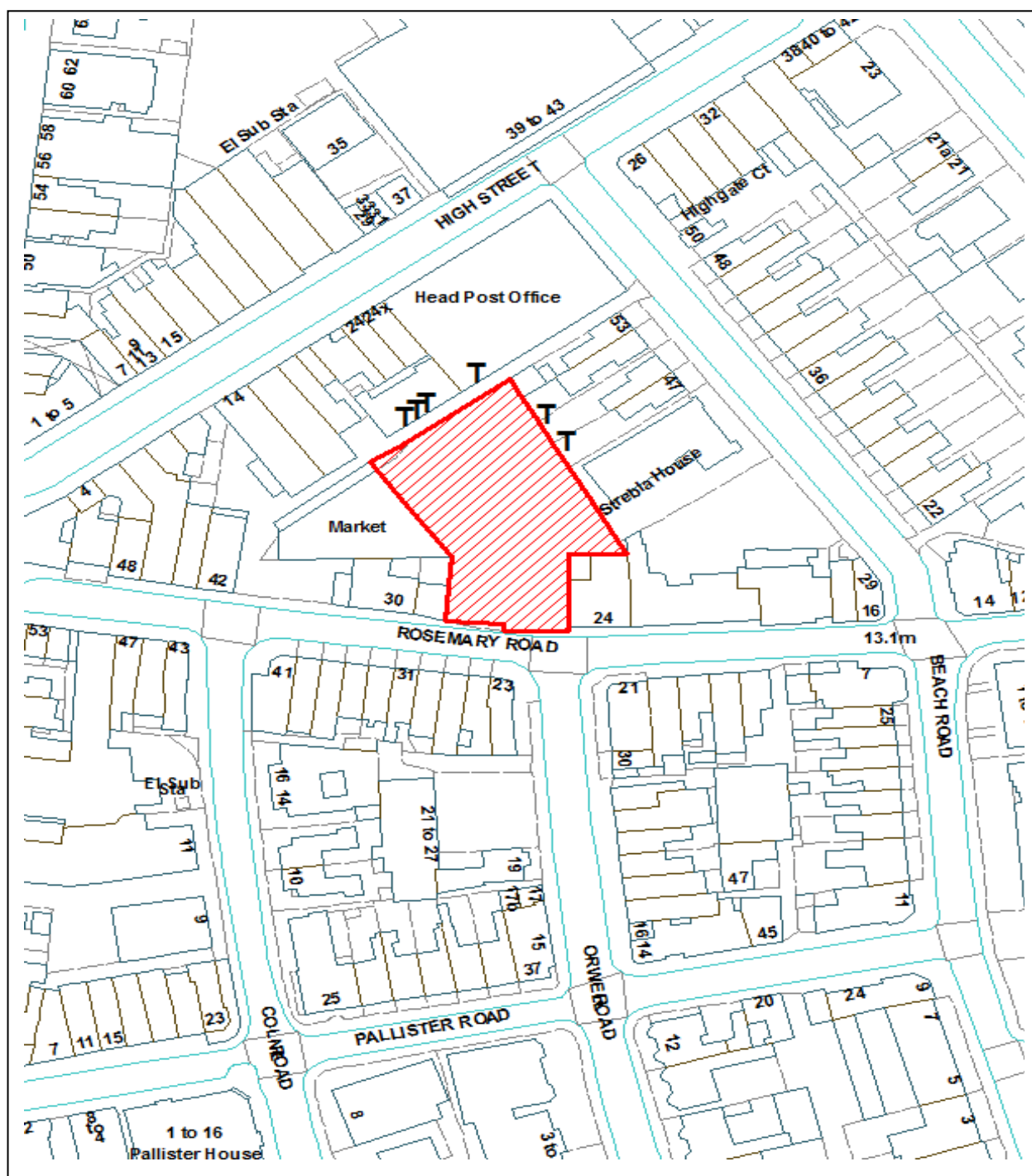
Standard Informative 3: If the development includes the construction of a new building on or at the boundary of 2 properties, work to an existing party wall or party structure or involve excavation near to and below the foundation level of neighbouring buildings, you are advised that the provisions of the Party Wall Act 1996 may apply to this development. An explanatory booklet concerning the implications of this Act is available online or from the District Council.

## PLANNING COMMITTEE

1 MAY 2018

### REPORT OF THE HEAD OF PLANNING

#### A.3 PLANNING APPLICATION - 15/00578/FUL - 26 ROSEMARY ROAD, CLACTON-ON-SEA, CO15 1NZ



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|                     |   |  |
|---------------------|---|--|
| <b>Application:</b> | 15/00578/FUL  | <b>Town / Parish:</b> Clacton Non Parished |
| <b>Applicant:</b>   | East West Design & Build Ltd  |  |
| <b>Address:</b>     | 26 Rosemary Road Clacton On Sea CO15 1NZ  |  |
| <b>Development:</b> | Demolition of all existing buildings (use classes C1 Hotels, A3 Restaurants, A4 Drinking Establishments and Sui Generis Nightclub). Construction of building fronting Rosemary Road containing three A1 retail/A3 restaurant units at ground floor with 17 holiday flats above; Construction of 34 holiday flats in an up to six storey building to the rear; and construction of basement cycle and car parking access from rear service road (off Beach Road), and egress onto Rosemary Road. |  |

## 1. Executive Summary

- 1.1 This application was originally considered at Planning Committee on 22<sup>nd</sup> September 2015 comprising a proposal for 26 flats and two retail units which included retention of the façade fronting Rosemary Road. Members deferred the application to discuss amendments to overcome concerns relating to retention of the façade of the Villas, parking and the relationship of the rear block to dwellings to the East.
- 1.2 The application then returned to Planning Committee on 5<sup>th</sup> January 2016. The proposal had been amended (23 flats and two retail units) to include complete demolition as the façade was beyond retention, as confirmed by the Council's structural engineers. The rear block had been reduced in height to three storeys and moved 3.6 metres further from the boundary to address the relationship to existing dwellings to the East. The parking layout had also been changed and included two disabled spaces. The application was recommended for approval by Officers subject to completion of a S106 legal agreement to provide financial contributions towards affordable housing and public open space, and 12 conditions. Members resolved to grant planning permission in accordance with the recommendation, which included provision that the Head of Planning be authorised to refuse planning permission in the event that the legal agreement had not been completed within six months i.e. by 5<sup>th</sup> July 2016.
- 1.3 The existing buildings were demolished in around February 2016 under Building Notice as they posed a serious safety risk. The site has been cleared and fenced.
- 1.4 Following the Planning Committee resolution to approve, the applicant stated the S106 contributions would render the proposal financially unviable and they intended to submit a viability assessment to confirm this and to also amend the proposal to add five additional flats. However, the applicant has now submitted an alternative proposal which has been subject to full re-consultation prior to returning to Planning Committee for determination.
- 1.5 The application proposes demolition of all existing buildings (this has already occurred but requires retrospective planning permission), construction of building fronting Rosemary Road containing three A1 retail/A3 restaurant units at ground floor with 17 holiday flats above; construction of 34 holiday flats in a six storey building to the rear; and construction of basement cycle and car park with access from the rear service road (off Beach Road) and egress onto Rosemary Road. The applicant has confirmed this is their final proposal and state this level of development is required to make the proposal viable, however no viability assessment has been provided to confirm this statement.

- 1.6 The application site lies partly within the Clacton Seafront Conservation Area, where the Council is required by law to have special regard to the desirability of preserving or enhancing the character or appearance of the area, or its setting. National planning policy requires great weight to be given to the conservation of heritage assets.
- 1.7 The proposal seeks retrospective permission for complete demolition of all of the buildings on the site which were beyond economic repair, as confirmed by the Council's structural engineers. The Rosemary Road frontage buildings comprised the former Osborne Hotel and the two adjacent houses, which together were among the first parts of Clacton-on-Sea to be developed. The buildings were not listed for their special architectural or historic interest nationally but were undesignated heritage assets of significance locally both in terms of the early historic development of the planned resort and their traditional appearance.
- 1.8 The retrospective demolition of all existing buildings is considered acceptable, as previously accepted by Members, as it resulted in the demolition of a problem structure that did not preserve or enhance the special qualities of the Clacton on Sea Conservation Area; and eradicated the anti-social behaviour associated with the vacant property.
- 1.9 The proposal for 51 holiday flats and three new retail/restaurant units represents a substantial financial investment into Clacton town centre which would contribute towards the Districts tourist accommodation in a sustainable town centre location, along with three new retail/restaurant units and their associated employment opportunities which would, in themselves, add to the vitality and vibrancy of the town centre. There is therefore no objection to the principle of the uses proposed.
- 1.10 The proposed redevelopment comprises two buildings. A four storey front building facing Rosemary Road, and a six storey rear building. The buildings are of plain design and solely constructed of brick. The detailed design is considered to represent a significant dilution to the quality of the previous flatted scheme, and is not considered to represent good design. These buildings would appear as bulky, incongruous features in the street scene out of character with the scale and detailed design of surrounding development to the serious detriment of visual amenity. The proposal would therefore fail to preserve or enhance the character and appearance of the Clacton Seafront Conservation Area.
- 1.11 The rear six storey building steps down to two storey only 3m away from the rear garden boundaries of houses at 47, 49, 51 and 53 Beach Road. This results in a very tall, bulky building to the serious detriment of the outlook of these properties. The proposed second floor balconies are only 4.5m from the rear boundary of the gardens of these properties resulting in serious loss of privacy. The communal winter garden at fourth floor level would also overlook these dwellings, and to a lesser extent the two balconies on the sixth floor.
- 1.12 The proposal is considered acceptable in relation to parking provision, highway safety. The redevelopment would result in the loss of two Lime trees subject to Tree Preservation Order 15/00006/TPO. However, the proposal to plant 19 new trees within the site would compensate for the loss of the two protected trees.
- 1.13 ECC SUDs Team have issued a holding objection on the grounds of an inadequate surface water drainage strategy which does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. At the time of writing this report additional information has been submitted by the applicant. Comments have been requested from ECC SUDs Team and it is hoped these can be provided prior to Planning Committee. An update will be provided at the meeting/on the update sheet. An inadequate surface water drainage strategy therefore forms a recommended reason for refusal at this time.

**Recommendation: Split decision: A) Approve demolition of all existing buildings. B) Refuse construction of building fronting Rosemary Road containing three A1 retail/A3 restaurant units at ground floor with 17 holiday flats above; Construction of 34 holiday flats in an up to six storey building to the rear; and construction of basement cycle and car parking access from rear service road (off Beach Road), and egress onto Rosemary Road.**

**A) Demolition approval condition:**

- 1. Details of boundary treatments to be submitted for approval within 2 months, and to be retained and maintained as approved until the site is redeveloped.**

**B) Redevelopment reasons for Refusal:**

- 1. The National Planning Policy Framework (2012) states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Planning decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.**

**Saved Policy QL9 of the Adopted Tendring District Local Plan (2007) states all new development should make a positive contribution to the quality of the local environment and protect or enhance local character. Planning permission will only be granted where new development relates well to its site and surroundings particularly in relation to its height, scale, massing, and design. Saved Policy QL11 seeks to ensure that the scale and nature of development is appropriate to the locality. These requirements are also included in Draft Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).**

**The surrounding area is characterised by a wide variety of architectural styles and construction materials with buildings generally being of two storeys but with numerous examples of 2.5 and three storey properties. The eastern neighbour at No. 28 Rosemary Road is 3.5 storeys and the western neighbour at No. 24 Rosemary Road is two storey. Surrounding development is generally of more traditional design with decorative features such as bay windows, dormer windows, and a combination of brick, render and stonework. The proposed buildings are much plainer with little variation in fenestration and are solely constructed of brick.**

**When viewed from the west the front building would be clearly visible above the roofs of the neighbouring buildings which are all two storey and of domestic scale with hipped or pitched roofs. In contrast, the fourth floor element comprising part of flat numbers 16 and 17 would appear as a bulky, incongruous feature in the street scene out of character with the height, scale and detailed design of surrounding development to the serious detriment of visual amenity.**

**The proposed rear building at up to six storeys high and with a substantial bulk at fourth and fifth storey height would be an incongruous feature in the area clearly visible through gaps and above surrounding rooflines from Rosemary Road, Beach Road, High Street, and Colne Road resulting in material harm to visual amenity and out of keeping with the scale and character of surrounding development. This harm is exacerbated by both proposed buildings being of excessive height and bulk, and at the western side being separated by only 10.5 metres thereby increasing their prominence in the street scene. The proposed development therefore fails to make a positive contribution to the**



quality of the local environment and protect or enhance local character.

2. The National Planning Policy Framework (2012) states Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Saved Policy EN17 of the Adopted Tendring District Local Plan (2007) states development within a conservation area must preserve or enhance the character or appearance of the conservation area including the relationship between buildings, and the height, siting, form, massing, proportions, elevation, design, and materials. Development outside a conservation area should be refused where it would prejudice the settings and surroundings of the conservation area or harm the inward or outward views.

Draft Policy PPL8 (Conservation Areas) of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) states proposals will only be permitted where they have regard to the desirability of preserving or enhancing the special character and appearance of the area especially in terms of a. scale and design, particularly in relation to neighbouring buildings and spaces; b. materials and finishes; and e. any important views into, out of, or within the Conservation Area.

The Conservation Area Character Appraisal (2006) for this area considers, amongst other things, that: "The special character of Clacton Seafront Conservation Area is derived from its seaside architecture and formal planned street pattern. The Area is the heart of the coastal resort and includes Victorian and Edwardian seaside buildings that were part of the early planned development of the resort ..." The Appraisal also says that Orwell Road "is of great interest. This character is enhanced by views northwards to Sandles Inn, of strong period character with an attractive mid-Victorian campanile".

The demolished building on the site was previously a positive feature within the Clacton Seafront Conservation Area and represented an undesignated heritage asset. Any redevelopment of this important site should also enhance, or at least preserve, the character and appearance of the conservation area. However, as detailed above the height, bulk and detailed design of the proposed redevelopment would result in material harm to visual amenity, out of keeping with the scale and character of surrounding development failing to preserve or enhance the character and appearance of the Clacton Seafront Conservation Area.

In this case the proposed development would result in less than substantial harm to the heritage asset Clacton Seafront Conservation Area. The public benefits of the proposal are the provision of employment and tourist accommodation which would not outweigh the significant harm to the character and appearance of the Clacton Seafront Conservation Area.

3. Paragraph 17 of the National Planning Policy Framework (NPPF) states that planning should always seek to secure a high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Saved Policy QL11 of the Adopted Tendring District Local Plan (2007) and Draft Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) states development will only be permitted if it would not have a materially damaging impact on the privacy, daylight or other amenities of occupiers

of nearby properties.

The eastern side of the proposed rear building is two storeys high with balconies on the roof and is sited a minimum 3 metres from the rear garden boundaries of No.s 47, 49, 51 and 53 Beach Road which are two storey semi-detached houses. The building then rises to four storeys with the glazed winter garden on the roof, and then six stories with balconies. This results in a very tall, bulky building to the serious detriment of the outlook of the residents at 47, 49, 51 and 53 Beach Road. The proposed balconies at second floor level are only 4.5m from the rear boundary of the gardens of these properties resulting in serious loss of privacy. The communal winter garden at fourth floor level would also overlook these dwellings, and to a lesser extent the two balconies on the sixth floor.

The proposal is situated approx. 3.2 metres from the boundary with properties in the High Street (Nos. 18-20 and 24), which comprises of commercial units with flats above. Due to the height of the proposal and the orientation the proposal results in an increase in overlooking, loss of sunlight/daylight and results in an overbearing impact which would significantly detrimental residential amenity.

The proposal is therefore contrary to the above policies.

4. Paragraph 103 of The National Planning Policy Framework (2012) requires Councils, when determining planning applications, to ensure flood risk is not increased elsewhere.

Draft Policy PPL1 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) states that all development proposals should include appropriate measures to respond to the risk of flooding on and/or off site. Furthermore Draft Policy PPL5 states that all new development must make adequate provision for drainage and sewerage and should include Sustainable Drainage Systems as a means of reducing flood risk, improving water quality, enhancing the Green Infrastructure network and providing amenity and biodiversity benefits.

An inadequate surface water drainage strategy has been provided which does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. The proposal does not therefore demonstrate that flood risk will not be increased as a result of the proposal contrary to the provisions of the National Planning Policy Framework.

## 2. Planning Policy

### National Policy:

National Planning Policy Framework (2012)

Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Planning decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.

## National Planning Policy Guidance

### Local Plan Policy:

#### Tendring District Local Plan (2007)

- QL1 Spatial Strategy
- QL2 Promoting Transport Choice
- QL6 Urban Regeneration Areas
- QL8 Mixed Uses
- QL9 Design of New Development
- QL10 Designing New Development to Meet Functional Needs
- QL11 Environmental Impacts and Compatibility of Uses
- ER3 Protection of Employment Land
- ER25 New Hotels and Guest Houses
- ER31 Town Centre Hierarchy and Uses
- ER32a Primary Shopping Area
- COM1 Access for All
- COM5 Residential Institutional Uses
- COM31a Sewerage and Sewage Disposal
- EN13 Sustainable Drainage Systems
- EN17 Conservation Areas
- EN20 Demolition within Conservation Areas
- TR1a Development Affecting Highways
- TR5 Provision for Cycling
- TR7 Vehicle Parking at New Development
- CL7 New Town Centre Retail and Mixed-Use Development
- CL8 Specialist Shop/Café Area

#### 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
- PP1 New Retail Development
- PP2 Retail Hierarchy
- PP8 Tourism
- PP9 Hotels and Guesthouses
- PP14 Priority Areas for Regeneration
- PPL1 Development and Flood Risk
- PPL5 Water Conservation, Drainage and Sewerage
- PPL8 Conservation Areas
- CP1 Sustainable, Transport and Accessibility

### Other guidance:

Clacton Seafront Conservation Area Character Appraisal

### **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. Part 1 was examined in January 2018 with the Inspector's report awaited and whilst its policies cannot yet carry the full weight of adopted policy, they 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**

|              |   |          |            |
|--------------|---|----------|------------|
| 13/00573/FUL | Alterations to building, including new roof coverings, alteration to roof pitch over villas, new windows including rebuild of bay windows, new shopfront entrances and windows. | Approved | 16.07.2013 |
|--------------|---|----------|------------|

### **4. Consultations**

Anglian Water Services The foul drainage from this development is in the catchment of Clacton Holland Water Recycling Centre that will have available capacity for these flows.

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

The surface water strategy submitted is unacceptable and recommend they consult with ECC Suds. Recommend a condition securing a surface water management strategy.

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

Prior to occupation of the development, the egress at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by the site maximum 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.

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

Each new property shall be provided with 2 parking spaces and each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

Any vehicular hardstanding which is bounded by walls or other construction shall have minimum dimensions of 3.4 metres x 5.5 metres for each individual parking space, retained in perpetuity.

Prior to the commencement of the development the details of the amount, location and design of cycle/powered two wheeler parking facilities shall be submitted to and approved in writing by the Local Planning Authority. The approved facility shall be secure and shall be provided prior to occupation of the development and retained for that purpose at all times.

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.

#### ECC SuDS

Issue a holding objection based on the following:

- Inadequate Surface Water Drainage Strategy

The Drainage Strategy submitted with this application does not comply with the requirements set out Essex County Council's Full Drainage Checklist. Therefore the submitted drainage strategy does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. In particular, the submitted strategy fails to:

- Fully consider the discharge hierarchy  
In order to determine that infiltration is not viable on site, further information regarding the neighbouring site infiltration testing is required. It should be demonstrated where this is in relation to the proposed development and evidence provided to demonstrate the infiltration testing results.
- Sufficiently limit run off rate  
Run off rate should be limited to the 1 in 1 year greenfield rate. However, where this is below 1l/s, it would be acceptable for run off to be limited to 1 l/s due to potential for blockage.
- Accurately calculate the storage volumes.  
Storage volumes have been calculated based on the incorrect discharge rates, this should be revised in accordance with the above comments.
- Provide sufficient water quality treatment  
It should be demonstrated that water quality treatment is sufficient for the whole site as outlined in the CIRIA SuDS Manual C753.

Tree & Landscape  
Officer

The site contains 2 Large Leaved Limes (*Tilia platyphyllus*) which are situated close to the rear boundary of a property fronting Beach Road.

One of the trees is a mature specimen that appears to be in reasonable condition. It is a significant feature in its setting and contributes to the appearance of the area. Its amenity value is reduced because of the position of the tree however the immediate area is not well populated with trees and consequently this increases its amenity value. The second tree has been pollarded and is significantly less prominent in the street scene

The trees are afforded formal legal protection by Tendring District Council Tree Preservation Order 15/06/TPO.

In terms of the impact of the development proposal on the tree it appears that the implementation of the proposed layout would necessitate the removal of the protected trees. Whilst this, in itself, is not desirable, the proposed site layout shows 19 new trees to be planted as part of the soft landscaping associated with the development of the land.

If the planting shown on the Ground Floor Layout Plan - No 202 were to be secured by a condition attached to any planning permission that may be granted then there would be a significant increase in the location tree population that would compensate for the removal of the protected trees.

TDC Environmental  
Protection

Request a condition securing approval of a Demolition/Construction Management Plan in order to minimise potential nuisance to nearby existing residents caused by construction works. Provide advice in relation to noise control, emission control, and lighting control.

## 5. **Representations**

5.1 No representations have been received in relation to the amended proposal for holiday flats.

5.2 The previous flatted proposal received 22 objections and one letter of comment detailed below:

- The two villas to the left of the former Osborne Hotel are the first two houses built in Clacton on Sea – the original Peter Bruff development. These buildings are therefore of tremendous historical importance to the town. It is difficult to see how any credibility could be attached to a so called conservation area where these two buildings in particular have been demolished. Whereas I understand the need to update and modernise, why can the original frontage not be retained and redevelopment take place behind the scenes. Failing that, these buildings must be retained as they are for future generations to appreciate the historic significance.
- Heritage assets to Clacton's history that should not be demolished
- Façades should be retained and restored
- Parking should be accessed from the rear
- Any permitted new build should echo the original buildings
- Another generic faceless modern development
- Property has been deliberately left to deteriorate
- Should serve notice on the owners to make repairs

## 6. Assessment

The main planning considerations are:

- Principle of development
- Heritage Impact
- Design
- Highways, access and parking
- Residential amenity
- Drainage and flooding
- Trees

### Context

- 6.1 The application site lies wholly within the settlement development boundary for the urban settlement of Clacton-on-Sea in both the saved and draft Local Plans. The frontage of the site to Rosemary Road lies within the designated Clacton Seafront Conservation Area, with the northern boundary of the area being drawn tightly to the rear elevations of the now demolished main frontage buildings.
- 6.2 In the saved Local Plan the site is designated as Town Centre Boundary under Policy ER31, Primary Shopping Area under Policy ER32a, Urban Regeneration Area under Policy QL6, Specialist Shop/Café Area under Policy CL8, New Town Centre Retail and Mixed-Use Development under Policy CL7, and Control of Residential Institutional Uses under Policy COM5.
- 6.3 In the draft Local Plan the site is designated as Town Centre Boundary under Policy PP2 but the other designations have been removed reflecting the fact that this site lies on the edge, but outside of the core shopping area of Clacton Town Centre, and a more flexible approach to uses is appropriate as advocated by the NPPF.
- 6.4 The existing buildings have been demolished and the site is fenced. Fronting Rosemary Road to the immediate east lies a four storey building (No. 24 Rosemary Road) with shops at ground floor and the fourth floor within the mansard roof. To the immediate west is a two storey terrace (No. 28 Rosemary Road). The demolished building had a fourth storey tower but the main bulk was three storeys (similar in height to the western neighbour) and stepped down to a lower three storey element (the villas) next to the two storey eastern neighbour.
- 6.5 The eastern site boundary adjoins properties fronting Beach Road. The western site boundary abuts the Covered Market building and the northern (rear) site boundary is to the service road which is accessed off Beach Road and Rosemary Road. Backing on to the service road are the rears of shops fronting High Street.

### Principle of Development

- 6.6 The existing buildings were located within the Clacton Seafront Conservation Area and their demolition therefore requires planning permission, this is assessed under Heritage Impact below and deemed to be acceptable.
- 6.7 The proposal for three Use Class A1 (retail)/Use Class A3 (café/restaurant) units for the full ground floor Rosemary Road frontage is as previously deemed acceptable in the flatted

proposal. The site lies within the Town Centre Boundary and represents an appropriate use for this location.

- 6.8 The 51 proposed holiday flats (48 one-bedroom and three two-bedroom) are self-contained flats with living room, kitchen/dining room and bathroom. Saved Policy ER25 New Hotels and Guest Houses supports the provision of serviced tourist accommodation and states in assessing such proposals the Council will take into account: a) the suitability and previous use of the building or site; b) the character of the surrounding area; c) parking and highway considerations; and d) design implications including site coverage, scale, proportions, materials and privacy.
- 6.9 In relation to Saved Policy ER25 a) the existing buildings have been demolished but they did comprise a mixed use including hotel accommodation. This town centre and seaside resort site is therefore acceptable for the proposed use as holiday flats. Regarding Saved Policy ER25 b), the character of the surrounding area is mixed with predominantly retail uses on the ground floor and residential use above. The use as holiday flats is therefore considered to be compatible with the character of the area and would provide a wide variety of shops, activities and public transport links for the occupiers of the holiday flats. Saved Policy ER25 c) and d) are addressed in the report below, with the impact upon parking and highway safety deemed to be acceptable. However, as detailed within the report below, the design and scale of the proposed buildings are considered unacceptable and harmful to the privacy of properties fronting Beach Road and this represents a recommended reason for refusal. Draft Policy PP9 Hotels and Guesthouses supports proposals for new hotels and guesthouses within defined centres such as this.
- 6.10 The use as holiday flats is therefore acceptable in this sustainable town centre location within the Districts largest coastal town. Conditions would need to be imposed on any planning permission to restrict the use to holiday accommodation to prevent permanent residential use as the application has not been assessed on this basis and such a change would be likely to require a S106 legal agreement to provide affordable housing, public open space contribution, education contribution, and healthcare contribution. Consideration would also need to be given to parking and private amenity space provision for permanent residential use.

#### Heritage Impact

- 6.11 The frontage of the site to Rosemary Road lies within the designated Clacton Seafront Conservation Area, with the northern boundary of the area being drawn tightly to the rear elevation of the demolished main frontage buildings.
- 6.12 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act imposes a statutory duty on the Local Planning Authority to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. This statutory duty relates both to the land which is within the area and that outside, but which affects the setting of the area (the land to the rear of the demolished main frontage buildings).
- 6.13 Paragraph 134 of the NPPF states “Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use”.
- 6.14 Saved Policy EN17 states development within a conservation area must preserve or enhance the character or appearance of the conservation area including historic plan form, relationship between buildings, and the height, siting, form, massing, proportions, elevation,



design, and materials. Development outside a conservation area should be refused where it would prejudice the settings and surroundings of the conservation area or harm the inward or outward views.

- 6.15 Saved Policy EN20 (Demolition within Conservation Areas) states proposals must retain buildings that make a positive contribution to the character or appearance of a conservation area and demolition will only be permitted where: a) evidence demonstrates that the building is beyond economic repair (unless caused by deliberate neglect); or b) it is demonstrated viable alternative uses cannot be found; and c) redevelopment would preserve the area's character and produce substantial benefits that outweigh the loss of the building. Demolition will not be approved in the absence of detailed plans for the site's redevelopment and conditions or planning obligations will be imposed to ensure construction within a specified time period and/or satisfactory landscaping of the site.
- 6.16 Draft Policy PPL8 (Conservation Areas) states proposals will only be permitted where they have regard to the desirability of preserving or enhancing the special character and appearance of the area especially in terms of a. scale and design, particularly in relation to neighbouring buildings and spaces; b. materials and finishes; and e. any important views into, out of, or within the Conservation Area. Proposals for new development involving demolition must demonstrate why they would be acceptable, particularly in terms of the preservation and enhancement of any significance and impact upon the Conservation Area.
- 6.17 The Conservation Area Character Appraisal (2006) for this area considers, amongst other things, that: "The special character of Clacton Seafront Conservation Area is derived from its seaside architecture and formal planned street pattern. The Area is the heart of the coastal resort and includes Victorian and Edwardian seaside buildings that were part of the early planned development of the resort ..." (p.1) No. 26 Rosemary Road, originally The Osborne Hotel, and then known as Sandles Inn described in the Appraisal as having an "attractive and valuable façade" (p.6).
- 6.18 The Appraisal also says that Orwell Road (running at a right-angle to the south of Rosemary Road) "is of great interest. This character is enhanced by views northwards to Sandles Inn, of strong period character with an attractive mid-Victorian campanile" (p.5). It adds, "Less happy is the unfortunate building to the right, the lowest-common-denominator-design of which is a negative feature in the street [scene]" (p. 10.).
- 6.19 At the time this application was submitted in 2015 the building had deteriorated significantly and was being monitored fortnightly by structural engineers. It was originally hoped the façade could be retained. However the façade was pulling away from the building and became a serious danger to pedestrians and vehicles using Rosemary Road and a decision was taken by the Council's Structural Engineers that it should be demolished and this occurred in February 2016 under a Building Notice.
- 6.20 The existing building and scaffolding had been an unsightly feature which had not preserved or enhanced the special qualities of the Clacton on Sea Conservation Area for a significant period of time. The vacant property was also a persistent source of anti-social behaviour with drug use and fires which further weakened the deteriorated structure. The building was demolished under a Building Notice due to its unsafe condition. It is considered that due to the seriously deteriorated building being an unsightly feature within the conservation area that its demolition is acceptable, subject to the approval, maintenance and retention of satisfactory boundary treatment until re-development of the site. A condition has been imposed as there is existing fencing, however without an approved redevelopment it is unknown how long the site will remain vacant and the Council needs to ensure that an acceptable boundary treatment is provided until the site is redeveloped, following a future grant of planning permission.

## Design

- 6.21 The NPPF confirms good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Planning decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.
- 6.22 Saved Policy QL9 states all new development should make a positive contribution to the quality of the local environment and protect or enhance local character. Planning permission will only be granted where new development relates well to its site and surroundings particularly in relation to its height, scale, massing, and design. Saved Policy QL10 states that provision shall be made for functional needs including vehicle parking. Saved Policy QL11 seeks to ensure that the scale and nature of development is appropriate to the locality.
- 6.23 The surrounding area is characterised by a wide variety of architectural styles and construction materials. In negotiating the flatted scheme it was considered a more traditional approach in terms of detailing and materials would sit most comfortably in the street scene along Rosemary Road.
- 6.24 The proposed redevelopment comprises two buildings. The 'front' building sits on the back edge of the pavement of Rosemary Road and lies wholly within the Clacton Seafront Conservation Area. The 'rear' building is sited towards the back of the site with a proposed landscaping strip along the boundary with the rear service road.
- 6.25 It is stated the buildings will be constructed to a Code 4 Standard for sustainable houses and incorporates provision for renewable energy low water consumption, together with integrated mechanical heat recovery. All materials will be equal to Green Guide 'A Ratings' subject to the Green Guide for material specifications.
- 6.26 The front building is four storeys in height with the ground floor set back slightly. The design reflects the vertical emphasis of individual houses which is a common feature in the very mixed street scene. The front elevation above ground floor level creates one three storey block of two windows per floor, then steps back to an identical block but with the top floor set back behind a deep balcony giving the appearance of three storeys from street level. The previous proposal for flats comprised a natural slate mansard roof which helped to reduce the bulk of the top floor. Although the proposal largely addresses the reduction in height between the two immediate neighbours, the set back element at fourth floor is substantially taller than the immediate two storey neighbour. The set back ensures the fourth floor begins approximately level with the ridge of the neighbouring building so in the immediate street scene it would not appear overly tall. However, when viewed from the east it would be clearly visible above the roofs of the neighbouring buildings which are all two storey and of domestic scale with hipped or pitched roofs thereby reducing the bulk of the buildings. In contrast, the fourth floor element comprising part of flat numbers 16 and 17 with its flat roof would appear as a bulky, incongruous feature in the street scene out of character with the scale and detailed design of surrounding development to the serious detriment of visual amenity.
- 6.27 The depth of the current proposal has also increased from the flatted scheme. The flatted scheme was more reflective of the scale of the demolished building at the western end with a three storey element only projecting a small distance beyond the rear of the neighbour which was more reflective of the scale of the demolished villas. The current proposal adds

further depth and an additional storey above the immediate neighbour resulting in an oppressive scale which is contrary to the prevailing scale of neighbouring buildings. The bulk of the proposal at the eastern end is also increased in comparison to the flatted scheme, corner rear balconies would reduce this harm but, particularly in conjunction with the rear block, the proposal would also appear excessively bulky in relation to neighbouring development in views from the east.

- 6.28 The previous proposal for flats was of a more traditional design and reflected decorative features such as timber bay windows, dormer windows and a combination of brick, render and stonework with natural slate to the roof which are all features of the immediate area. The current proposal is much plainer with identical large windows with louvers to the front elevation and is solely constructed of brick. The rear elevation comprises a vast featureless glazed central stairwell across all levels. The ground floor front elevation is also very plain with no detailing to the shop fronts and large shuttered doors to the vehicular and pedestrian access onto the street. This is considered to represent a significant dilution to the quality of the previous flatted design, and is not considered to represent good design, particularly within a conservation area where high quality design is essential in order to preserve, or ideally enhance, the character and appearance of the conservation area.
- 6.29 The height, bulk and detailed design of the front building is therefore considered unacceptable, resulting in material harm to visual amenity and out of keeping with the scale and character of surrounding development. It would therefore fail to preserve or enhance the character and appearance of the Clacton Seafront Conservation Area.
- 6.30 The rear building also has a strong vertical emphasis, stepping up from two storey at the eastern side, to four storey, then five storey, then an off centre sixth storey with projecting window feature, before reducing to five storey at the western side next to the Covered Market. The height of this building is considered extremely excessive. On original submission in 2015 a four storey block was confirmed by Officers to be too high in this location and the rear building considered acceptable by Officers and Members for the flatted scheme comprised three storeys. The predominant scale of buildings in the immediate area is two storey with numerous 2.5 and three storey buildings. The immediate neighbour to the east is four storey however the mansard roof design makes this of comparable scale to the older three storey buildings. In stark contrast the proposed building at up to six storeys high and with a substantial bulk at fourth and fifth storey height would be an incongruous feature in the area clearly visible through gaps and above surrounding rooflines from Rosemary Road, Beach Road, High Street, and Colne Road. The detailed design is very similar to the front building, constructed of brick with large areas of glazing but very plain and failing to represent good design.
- 6.31 The height, bulk and detailed design of the rear building is therefore considered unacceptable, resulting in material harm to visual amenity and out of keeping with the scale and character of surrounding development. It would therefore fail to preserve the setting of the Clacton Seafront Conservation Area. This harm is exacerbated by both proposed buildings being of excessive height and bulk, and at the western side being separated by only 10.5 metres thereby increasing their prominence in the street scene.
- 6.32 Paragraph 134 of the NPPF states “Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use”. In this case the proposed development would result in less than substantial harm to the heritage asset Clacton Seafront Conservation Area. The public benefits of the proposal are the provision of employment and tourist accommodation which would enhance the economy of this seaside town. However, these benefits would not outweigh the significant harm to the character and appearance of the Clacton Seafront Conservation Area.

### Highways, access and parking

- 6.33 The existing vehicular access is to the rear of the site from the service road behind the covered market. The flatted proposal included a new means of vehicular access from Rosemary Road via an entrance in the building, to a small parking area.
- 6.34 The current proposal includes a large basement carpark of 35 car parking spaces and 10 motorcycle spaces. Vehicular ingress is from the rear service road and egress onto Rosemary Road with a car lift at both ends. The basement also includes two pedestrian lifts ensuring that all floors are accessible. It is stated the cycle storage within the central courtyard is covered in a two-tier bike rack system providing 56 cycle spaces, no elevations of the bike storage have been provided but this could form a condition of any approval.
- 6.35 The parking standards for C1 hotels require a maximum of one space per bedroom (maximum 54 spaces in this case), but acknowledges a lower provision of vehicle parking may be appropriate in urban areas (including town centre locations) where there is good access to alternative forms of transport and existing car parking facilities.
- 6.36 The Highway Authority has no objection to the proposal subject to conditions requiring 1) vehicular visibility splays at the egress onto Rosemary Road 2) no unbound materials within 6 metres of the highway boundary 3) each property to be provided with two parking spaces of 2.9mx5.5m 4) Any parking space which is bounded by walls or other construction shall be minimum 3.4mx5.5m 5) details of the amount, location and design of cycle/powered two wheeler parking facilities and 6) Residential Travel Information Packs. They also provide informatives confirming the developer will be expected to pay for any necessary amendment to the Traffic Regulation Order together with provision of the associated signing and lining to alter the parking bays in the vicinity of the site egress onto Rosemary Road.
- 6.37 Requested conditions 1) 2) and 5) are considered necessary in the interests of highway safety. Condition 3) exceeds the requirements of the parking standards, particularly as 48 of the holiday flats are one-bedroom. As holiday flats, and restricted by condition as such, the demand for parking in this sustainable town centre location will be reduced and it is considered that the proposed 35 car parking spaces are sufficient. The proposed parking spaces do not meet the dimensions specified within 3) or 4) but are the minimum bay size (2.5mx5m) and located within the town centre. In some cases the spaces could be increased in depth so a condition could be imposed on any approval to agree the parking layout to ensure spaces of maximum dimensions. In relation to 6) as a non-residential proposal it would be unreasonable to request residential travel packs.
- 6.38 No provision is made for parking of staff and users, or the loading and unloading of vehicles serving the retail elements. Although this represents a deficiency in terms of current standards, it reflects the existing pattern of retail use in Rosemary Road and the historic form of development in the locality. Limited on-street parking exists in adjacent roads and the site is a short walk from the High Street public car park, mainline railway station, bus stops and a wide range of services in the Town Centre. In this case a relaxation of the normal car parking standards is considered appropriate in regard to the total number of spaces. The 56 covered cycle storage spaces would also support the sustainability of the scheme.

### Residential amenity

- 6.39 Paragraph 17 of the National Planning Policy Framework (NPPF) states that planning should always seek to secure a high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 6.40 Saved Policy QL11 of Saved Plan and Policy SPL3 of the Plan states development will only be permitted if it would not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.41 In respect of the amenities of the future occupiers of the holiday flats there is a large communal amenity area between the two blocks with landscaping, seating and cycle parking. Seven flats in the front building and four flats in the rear building have large private balconies (two of these flats have two private balconies each). At fourth floor the rear building also has a communal glazed winter garden. As these are holiday flats there is no policy requirement to provide private amenity space.
- 6.42 Existing residential occupiers are adjacent to the site in Rosemary Road (flats), Beach Road (houses and flats) and in High Street (flats) over shops. Both immediate neighbours fronting Rosemary Road have no openings on their facing flanks.
- 6.43 Both buildings have been designed to preserve the 45 degree overshadowing lines as specified in the Essex Design Guide and would not therefore result in significant loss of daylight to neighbouring properties. This has resulted in a stepped design to both buildings with the stepped areas largely utilised as balconies. The floor and any planting or screening added to the balconies on the front building would further reduce outlook for neighbouring occupiers but on balance given the town centre location this is not considered to be so harmful as to justify a refusal on the grounds of loss of outlook to neighbouring properties. The demolished building was also substantially deeper than the proposed front building.
- 6.44 The front building has no openings on the eastern elevation and only three high level windows (at third and fourth floor height) on the western elevation ensuring no overlooking from within the holiday flats to the neighbouring properties. The third floor front balcony will give views over the neighbouring roofs to the west and of the street along Rosemary Road therefore resulting in no material loss of privacy. On the rear corners are two balconies at first, second and third floor level. These would overlook the communal amenity area and at the closest point be 10.5 metres from the proposed rear building. This will allow overlooking between the proposed front and rear buildings but in this town centre location, for a holiday let use this is not considered to result in such significant harm to the amenity of future occupiers of the holiday flats to justify refusing planning permission on these grounds. The balconies at the western corner of the building would require privacy screens along their western side to prevent direct overlooking back into the rear first floor windows of 28 Rosemary Road. This could be addressed by condition. The corner balconies at the eastern end would also require partial privacy screens on their eastern side to prevent direct overlooking back into the rear first, second and third floor windows of 28 Rosemary Road. Close views would then only be afforded of the large parking areas to the north east and the blank end wall of the two storey rear element of Strebla House (flats) which abuts the north eastern side boundary. Only oblique views would be provided to the closest south facing windows of this part of Strebla House due to the orientation of that property thereby preserving the privacy of those residents. The roof of this two storey part of Strebla House would restrict some views from the first and second floor balconies to the rear gardens of 47, 49, 51 and 53 Beach Road and with a minimum distance to the rear boundary of around 24 metres it is not considered that significant overlooking from these balconies to the rear gardens of 47-53 Beach Road would result.

- 6.45 The rear building in the flatted scheme was three storeys high and a minimum 5.4 metres from the rear boundary of the two pairs of semi-detached houses in Beach Road. The proposed rear building is two storeys high with balconies on the roof and is minimum 3 metres from the rear boundary of the properties in Beach Road. The building then rises to four storeys with the glazed winter garden on the roof, and then six stories with balconies. This stepped approach reduces loss of light to the neighbouring properties but results in a very tall, bulky building to the serious detriment of the outlook of the residents at 47, 49, 51 and 53 Beach Road. The proposed balconies at second floor level are only 4.5m from the rear boundary of the gardens of these properties resulting in serious loss of privacy. Such overlooking could not be addressed by privacy screens as at this height and in this location privacy screens running the full depth of the building would be very prominent and further add to the bulk of the building. The communal winter garden at fourth floor level would also overlook these dwellings, and to a lesser extent the two balconies on the sixth floor. The west side elevation contains high level windows at sixth floor thereby preventing overlooking and two balconies at sixth floor which are set in 1.7m from the edge of the building thereby limiting any overlooking due to the significant height. The sixth floor also contains a projecting glazed feature on its front (south) elevation but due to the substantial height any overlooking would not be significant.
- 6.46 The proposal is situated approx. 3.2 metres from the boundary with properties in the High Street (Nos. 18-20 and 24), which comprises of commercial units with flats above. Due to the height of the proposal and the orientation the proposal results in an increase in overlooking, loss of sunlight/daylight and results in an overbearing impact which would significantly detrimental residential amenity.
- 6.47 TDC Pollution request a condition securing approval of a Demolition/Construction Management Plan in order to minimise potential nuisance to nearby existing residents caused by construction works. The site is now cleared but a construction management plan will be necessary to minimise dust and noise disturbance to neighbouring residents during construction. This could be secured by condition on any approval.

#### Drainage and flooding

- 6.48 Paragraph 103 of the NPPF requires Councils, when determining planning applications, to ensure flood risk is not increased elsewhere. Although the site is in Flood Zone 1 (low risk), the NPPF, Policy QL3 in the adopted Local Plan and Policy PPL1 in the emerging Local Plan still require any development proposal on sites 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, which might arise as a result of development. The site is less than 0.2 hectares but comprises a 'major' development and Essex County Council (ECC) as Lead Local Flood Authority are therefore statutory consultees.
- 6.49 A 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.
- 6.50 ECC SUDs Team have issued a holding objection on the grounds of an inadequate surface water drainage strategy which does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. At the time of writing this report additional information has been submitted by the applicant. Comments have been requested from ECC SUDs Team and it is hoped these can be provided prior to Planning Committee. An update will be provided at the meeting/on the update sheet. An inadequate surface water drainage strategy therefore forms a recommended reason for refusal at this time.

- 6.51 The application form confirms that foul sewage would be disposed of via the existing mains sewer. Anglian Water confirms that there is sufficient wastewater and foul sewerage capacity for the development. They confirm the surface water strategy is unacceptable and request a condition covering this issue, however this is being considered by ECC SUDs Team as detailed above and currently represents a reason for refusal.

#### Trees

- 6.52 Tree Preservation Order 15/00006/TPO relates to two protected lime trees along the north east boundary close to the rear boundary of properties fronting Beach Road.
- 6.53 One of the trees is a mature specimen that appears to be in reasonable condition. It is a significant feature in its setting and contributes to the appearance of the area. Its amenity value is reduced because of the position of the tree however the immediate area is not well populated with trees and consequently this increases its amenity value. It is also clearly visible through a large gap from Beach Road. The second tree has been pollarded and is significantly less prominent in the street scene.
- 6.54 As a large basement parking area is proposed the two protected Lime trees will have to be removed to facilitate the redevelopment. Whilst this is unfortunate, 19 new trees are proposed to be planted as part of the soft landscaping associated with the development of the land. Subject to a condition on any planning permission securing this new tree planting within a wider soft landscaping proposal this would compensate for the removal of the protected trees.

#### Other considerations

- 6.55 Given the condition of the site and its Town Centre location it is considered unlikely that any protected species would be present on site and a Phase 1 habitat survey was not therefore requested.

#### Background Papers

None

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