



## PLANNING COMMITTEE

**DATE:** Tuesday, 9 April 2019  
**TIME:** 6.00 pm  
**VENUE:** Council Chamber, Council Offices,  
Thorpe Road, Weeley, CO16 9AJ

### MEMBERSHIP:

Councillor White (Chairman)  
Councillor Heaney (Vice-Chairman)  
Councillor Alexander  
Councillor Baker  
Councillor Bennison  
Councillor M Brown

Councillor Cawthron  
Councillor Everett  
Councillor Fowler  
Councillor Hones  
Councillor McWilliams

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: Monday, 1 April, 2019

## AGENDA

### 1 **Apologies for Absence and Substitutions**

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

### 2 **Minutes of the Last Meeting (Pages 1 - 8)**

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on 12 March 2019.

### 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 **Questions on Notice pursuant to Council Procedure Rule 37**

Subject to providing two working days' notice, a Member of the Committee may ask the Chairman of the Committee a question on any matter in relation to which the Council has powers or duties which affect the Tendring District **and** which falls within the terms of reference of the Committee.

### 5 **A.1 - Planning Application - 18/01307/DETAIL - Land to the East of Tye Road, Elmstead. CO7 7BB (Pages 9 - 26)**

Reserved matters application for 32 dwellings, land for a community facility and associated parking and infrastructure.

### 6 **A.2 - Planning Application - 18/01767/OUT - Land East of New Road, Mistley, CO11 2AG (Pages 27 - 42)**

Variation of Condition 4 approved plans 0964-F01 rev D, and 1628 URB XX XX GA 90 001 Rev H) of APP/P1560/W/17/3176089, to provide a re-worked layout to provide wider roads to improve emergency access and to incorporate a mix of housing types including detached dwellings, semi-detached properties and apartments.

### 7 **A.3 - Planning Application - 18/01585/OUT - Land Rear of 62-66 Holland Road, Little Clacton, CO16 9RS (Pages 43 - 58)**

Erection of 8 bungalows.

### 8 **A.4 - Planning Application - 19/00090/FUL - Red House, High Street, Great Oakley, Harwich, CO12 5AQ (Pages 59 - 78)**

Demolition of Red House to allow for proposed Community Hub Building incorporating cafe/tea rooms with community and social centre and 3no. one bedroom flats above. Use of land as community car park.

**9 A.5 - Planning Application - 15/01745/OUT - Former Putting Green, Garden Road, Jaywick, CO15 2RT (Pages 79 - 106)**

Change of use of land to residential to incorporate the erection of up to 10 dwellings.

**10 A.6 - Planning Application - 19/00235/FUL - Rush Green Bowl, Rush Green Road, Clacton-on-Sea, CO16 7BQ (Pages 107 - 112)**

Proposed replacement floodlights and spectator rail.

**11 A.7 - Planning Application - 19/00019/FUL - 78 North Road, Clacton-on-Sea, CO15 4DF (Pages 113 - 118)**

Proposed dropped kerb.

**12 Exclusion of the Press and Public**

The Committee is asked to consider the following resolution:

“That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of Agenda Item 13 on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 5 of Part 1 of Schedule 12A, as amended, of the Act.”

**13 Exempt Minute of the Last Meeting (Pages 119 - 120)**

To confirm and sign as a correct record, the exempt minute of the meeting of the Committee, held on 12 March 2019.

## MEETING OVERRUN DATE

In the event that all business is not concluded, the meeting will reconvene on Thursday 11 April 2019 at 6.00 p.m. in the Council Chamber, Council Offices, Thorpe Road, Weeley to consider any remaining agenda items

# Information for Visitors

## PUBLIC ATTENDANCE AT PLANNING COMMITTEE MEETINGS

Welcome to this evening's meeting of Tendring District Council's Planning Committee. This is an open meeting which members of the public can attend to see Councillors debating and transacting the business of the Council. However, please be aware that, unless you have registered to speak under the Public Speaking Scheme, members of the public are not entitled to make any comment or take part in the meeting. You are also asked to behave in a respectful manner at all times during these meetings.

Members of the public do have the right to film or record Committee meetings subject to the provisions set out below:-

### Rights of members of the public to film and record meetings

Under The Openness of Local Government Bodies Regulations 2014, any person is permitted to film or record any meeting of the Council, a Committee, Sub-Committee or the Cabinet, unless the public have been excluded from the meeting for the consideration of exempt or confidential business.

Members of the public also have the right to report meetings using social media (including blogging or tweeting). The Council will provide reasonable facilities to facilitate reporting.

### Public Behaviour

Any person exercising the rights set out above must not disrupt proceedings. Examples of what will be regarded as disruptive, include, but are not limited to:

- (1) Moving outside the area designated for the public;
- (2) Making excessive noise;
- (3) Intrusive lighting/flash; or
- (4) Asking a Councillor to repeat a statement.

In addition, members of the public or the public gallery should **not** be filmed as this could infringe on an individual's right to privacy, if their prior permission has not been obtained.

Any person considered being disruptive or filming the public will be requested to cease doing so by the Chairman of the meeting and may be asked to leave the meeting. A refusal by the member of the public concerned will lead to the Police being called to intervene.

### **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**

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**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,  
HELD ON TUESDAY, 12TH MARCH, 2019 AT 6.00 PM  
IN THE COUNCIL CHAMBER - COUNCIL CHAMBER**

<b>Present:</b>	Councillors White (Chairman), Heaney (Vice-Chair), Alexander, Baker, Bennison, M Brown, Cawthron, Everett, Fowler, Hones and McWilliams
<b>Also Present:</b>	Councillor Daniel Land and Councillor Fred Nicholls (Corporate Enforcement Portfolio Holder)
<b>In Attendance:</b>	Lisa Hastings (Head of Governance and Legal Services) Charlotte Parker (Solicitor (Property, Planning and Governance)), Ewan Green (Corporate Director (Planning and Regeneration services)), Cath Bicknell (Head of Planning), Gary Guiver (Planning Manager)

**108. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

**109. MINUTES OF THE LAST MEETING**

The minutes of the last meeting of the Committee, held on 12 February 2019, were approved as a correct record and signed by the Chairman.

**110. DECLARATIONS OF INTEREST**

Councillor White declared that, with regards to Planning Application 16/00671/FUL & 16/00656/FUL, he is the Ward Councillor for this item and has declared himself as predetermined on all other applications regarding this, he would therefore withdraw from the meeting whilst the Committee deliberated and reached its decision. Councillor Heaney would therefore Chair the meeting for this item only.

Councillor Heaney declared that, with regards to Planning Application 17/01229/OUT, she was not at the original site visit for this application and has not participated in any of the Committee's deliberations on the application, she would therefore withdraw from the meeting whilst the Committee deliberated and reached its decision.

Councillor Brown declared that, with regards to Planning Application 17/02162/OUT, he is predetermined on this application and would therefore withdraw from the meeting whilst the Committee deliberated and reached its decision.

**111. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37**

There were none.

**112. A.1 - 17/01229/OUT - LAND ADJACENT AND TO THE REAR OF 755 AND 757 ST JOHNS ROAD, CLACTON ON SEA, CO16 8BJ**

Councillor Heaney had previously declared that, with regards to Planning Application 17/01229/OUT, she was not at the original site visit for this application and has not participated in any of the Committee's deliberations on the application, she therefore withdrew from the meeting whilst the Committee deliberated and reached its decision.

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 Manager (GG) in respect of the application.

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

- (1) A letter received from Persimmon Homes confirming the applicant's agreement to 20% affordable housing alongside the various financial contributions required as part of the s106 agreement, as well as their desire to resolve the remaining matters as quickly as possible.

Following discussion by the Committee, it was moved by Councillor McWilliams, seconded by Councillor Hones and **RESOLVED** that the Head of Planning (or equivalent authorised officer) 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 **[to be revised to 'no later than 1st May 2019']**, 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 and subject to the completion of viability testing):

- On-site Council Housing/Affordable Housing (the quantum and tenure to be agreed by the Head of Planning following the satisfactory completion of viability testing);
- Provision of land on-site for a new healthcare facility together with a financial contribution towards its provision. [In the event that the land is not required, the financial contribution will be spent on health facilities elsewhere (to be determined by the NHS);
- Transfer of new open space, including proposed equipped play areas to the Council or a management company;
- Land for a new primary school and early years and childcare facility on site with financial contributions towards the provision of those facilities;
- Financial contributions to create additional secondary school places;
- New neighbourhood centre; and
- Financial contributions towards off-site ecological mitigation.

**[Also the routing of bus services through the development – as advised on the 30th May 2018 update sheet]**

b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate).

**(i) Conditions:**

1. Standard 3 year time limit for submission of first reserved matters application (which can thereafter be submitted in phases to reflect the phasing of the development).
2. Standard 2 year limit for commencement of development following approval of reserved matters.
3. Details of appearance, layout, scale and landscaping (the reserved matters).
4. Layout and phasing plan/programme.
5. Compliance with approved access plans.
6. Development to be in accordance with the approved parameters plans.
7. Development to contain up to (but no more than) 950 dwellings and quantum of non-residential development specified.
8. Highways conditions (as recommended by the Highway Authority) relating to:
  - detailed junction arrangements on St. Johns Rd and Jaywick Lane;
  - cycleway/footway across St. Johns Rd and Jaywick Lane frontages;
  - bus service to be routed through the development;
  - residential travel plans;
  - improvements at existing St. John's Rd/Jaywick Lane Junction;
  - signals at the Bockings Elm Junction of St. John's Road and Cloes Lane
  - improvements to St. Johns Rd/Peter Bruff Avenue junction;
  - improvements at St. Johns roundabout;
  - road safety assessments to be completed for all the above measures;
  - no discharge of surface water onto the highway;
  - wheel cleaning facilities; and
  - car parking spaces and garages.

**[The Highway Authority's recommended conditions are revised, as previously agreed by Committee, to cover:**

- **The need for a construction management plan;**
- **The new junction onto St. John's Road – to be delivered prior to first occupation of Phase 1;**
- **The new junction onto Jaywick Lane – to be delivered prior to occupation of phase 2A, 3 or 4;**
- **The completion of the St. John's Road to Jaywick Lane link road – to be completed prior to occupation of phase 3 or 4;**
- **The completion of a cycleway/footway along Jaywick Lane frontage prior to phase SA, 3 or 4;**
- **Improvements to St. John's Road/Jaywick Lane and St. Johns Road/Cloes Lane junctions – to be delivered prior to occupation of 250 dwellings;**
- **Improvements to St. Johns Road/Peter Bruff Avenue junction and the St. John's Roundabout – to be delivered prior to occupation of 500 dwellings;**

- **Improvements to existing bus stops in St. John's Road and provision of pedestrian access to those stops;**
- **Provision of a high quality bus service through the development via the link road or £500,000 contribution towards its delivery (as being secured the s106 agreement);**
- **Provision of a pedestrian link between the proposed primary school and neighbourhood centre in advance of the link road being completed; and**
- **Residential travel plan and residential travel pack.]**

9. Construction methods statement.

10. Surface water drainage scheme and management arrangements.

11. Foul water drainage strategy.

12. Archaeological assessment/trial trenching.

13. Contaminated land investigation and remediation.

14. Piling restrictions.

15. Details of levels, lighting, boundary treatments, materials and refuse storage/collection points.

16. Hard and soft landscaping plan/implementation.

17. Tree protection measures.

18. Construction Environmental Management Plan.

19. Landscape and ecology mitigation/management plan.

20. Details of dog walking routes (part of ecological mitigation).

21. Broadband connection.

22. Local employment arrangements.

23. Details of water, energy and resource efficiency measures.

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, or further period as agreed, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

**113. A.2 - 16/00671/FUL & 16/00656/FUL - ST OSYTH PRIORY, ST OSYTH, CLACTON ON SEA, CO16 8NZ**

Councillor White had previously declared that, with regards to Planning Application 16/00671/FUL & 16/00656/FUL, he is the Ward Councillor for this item and has declared himself as predetermined on all other applications regarding this, he therefore withdrew from the meeting whilst the Committee deliberated and reached its decision. Councillor Heaney therefore chaired the meeting for this item only.

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 refusal.

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

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

- (1) Updated recommendations.

- (2) A letter received from joint Chairs of the Trust confirming the business strategy has been prepared with the involvement of the Trust.
- (3) A letter from St Osyth Priory Estate Limited confirming the Sargeant family have permission to prepare and submit a business strategy on their behalf.
- (4) A letter was emailed to Councillors by Tim Sargeant outlining issues of a business and local economic nature and also providing comments on the officer's recommendation to Committee.
- (5) A letter was emailed to all Councillors (12/03/2019) by Tim Sargeant making further comments about the content of the business strategy and the report to Planning Committee.
- (6) Appendices page numbers and Appendix 5 table reproduced as partially missing from the agenda.

Sonia Grantham, a representative for the owner St Osyth Priory Estate Limited and member of the St Osyth Priory & Parish Trust, spoke in support of the business plan submitted.

Following discussion by the Committee, it was moved by Councillor Baker, seconded by Councillor McWilliams and **RESOLVED** that the Head of Planning (or equivalent authorised officer) be authorised to refuse approval of the submitted business strategy, for the following reasons:-

1. The Business Strategy contains neither realistic nor viable proposals to secure the restoration of the Additional Listed Buildings (specified in the Section 106 Agreement) within the relevant 10 year period and therefore has not shown it can deliver on its essential aim under the Agreement.
2. This is because it is reliant upon enabling development proposals of unidentified scale and location justified by reference to a claimed Conservation Deficit of a minimum of £26M which is only partly related to the restoration of the Part 3 Buildings. Further, the scale of enabling development and / or public subsidy inherent in this approach appears out of proportion to the public benefits secured and would be unlikely ever to be sanctioned. It is therefore an approach which is neither realistic nor viable in practice.

The Council's proposed alternative strategy:

3. As has been consistently maintained by the Council in meetings throughout 2018, the approach of this submitted Business Plan should be discarded in favour of a pragmatic, bespoke Business Plan which excises all references to estate-wide Conservation Deficits and focuses on grants, loans or enabling development directed at addressing the needs of the individual Part 3 Buildings or groups of those buildings on a case by case basis.

Further proposals for enabling development for restoration of Part 3 Buildings in line with the Business Strategy must contain detail of the specific heritage asset(s) that would benefit and the proposed development site. This must include a viability appraisal for the heritage asset(s) concerned that has:

- An up to date condition survey for the heritage asset(s).
- An assessment of options for the Part 3 Buildings, in the context of the agreed strategy for the estate (appended to the Colliers Report at Appx.1), including options for spatial layout. Options should include a minimum cost option to make the asset(s) safe over the medium term. The assessment of options should involve, as a minimum, a business planner, conservation architect and quantity surveyor.
- Drawings for the preferred option.
- Costs of the options, verified by the quantity surveyor, and including professional fees, project management and enabling and infrastructure works.
- An estimate of income that will be generated, both from the asset itself and from other incremental income to the site resulting from it.
- An estimate of the true conservation deficit in respect of the relevant Part 3 Building(s), if the heritage asset(s) has income generating potential. This should not include a current market value because assets that have a conservation deficit should not have market value. Any development profit should reflect genuine financial risk taken in restoring the heritage assets concerned. Financial risk is related to the amount of equity contributed and/or security provided for loans.

4. Authority is delegated to the Corporate Director for Planning and Regeneration and Head of Planning Services to liaise with the Owners to reasonably request that the submitted Business Strategy be amended to reflect the Council's proposed alternative strategy.

5. Authority is delegated to the Corporate Director for Planning and Regeneration and Head of Planning Services in consultation with the Council's external consultants to approve or reject, within the context of this decision, any further Business Strategy submitted by the Owners; and

6. Officers are instructed to refer any matters remaining in dispute in relation to a submitted Business Strategy for Dispute Resolution in accordance with clause 5.1 of the Legal Agreement to ensure that any matters of disagreement can be determined by an independent expert, to minimise any further delay for the benefit of the restoration of the Part 3 buildings.

**114. A.3 - 19/00060/FUL - THE NEWSPAPER KIOSK, TOP OF THE PIER GARDEN, MARINE PARADE EAST, CLACTON ON SEA, CO15 1PS**

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

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



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

- (1) One letter of objection received from the Councils Head of Public Realm.

Danny Partridge, the applicant, spoke in support of the application.

Following discussion by the Committee, it was moved by Councillor Hones, seconded by Councillor Bennison, to approve the application as per Officer recommendation.

However, when put to the vote the proposal to approve as per Officer recommendation was lost.

After further discussion by the Committee, it was moved by Councillor Everett, seconded by Councillor Heaney, to defer the application to allow discussion between Officers and the applicant on a more sympathetic design.

However, after further discussion this proposal was then withdrawn.

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

1. 3 year time limit
2. Approved plans
3. Details of design and finish of railings and finish and detailing of kiosk extension.

**115. EXCLUSION OF PRESS AND PUBLIC**

It was moved by Councillor McWilliams, seconded by Councillor Hones and:-

**RESOLVED** that under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of Agenda Items 15 and 16 on the grounds that they involve the likely disclosure of exempt information as defined in the relevant paragraphs of Part 1 of Schedule 12A, as amended, of the Act, the relevant paragraph being paragraph 5.

**116. B.1 - 17/02162/OUT - LAND SOUTH OF THORPE ROAD, WEELEY, CO16 9AJ**

The Committee had before it the Officer report containing privileged legal advice provided by Counsel, in respect of the forthcoming planning appeal against the Council's refusal of planning permission 17/02162/OUT and other current planning appeals within the District. The Committee made a decision on matters relating to the appeal.

The meeting was declared closed at 8.46 pm

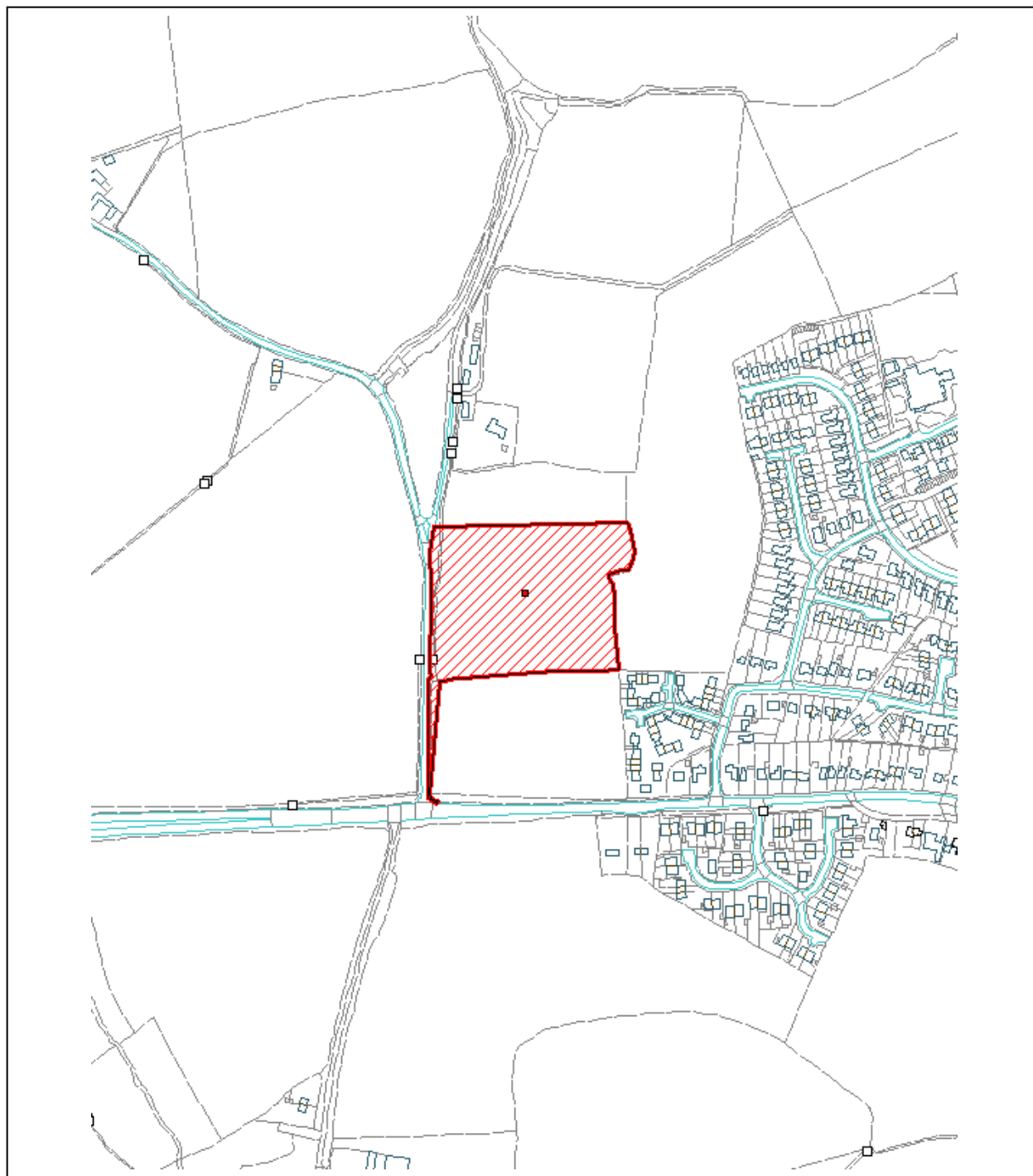
**Chairman**

## PLANNING COMMITTEE

9<sup>th</sup> April 2019

### REPORT OF THE HEAD OF PLANNING

#### A.1 PLANNING APPLICATION - 18/01307/DETAIL - LAND TO THE EAST OF TYE ROAD ELMSTEAD CO7 7BB



DO NOT SCALE

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<b>Application:</b>	18/01307/DETAIL	<b>Town / Parish:</b> Elmstead Market Parish Council
<b>Applicant:</b>	Mr Williams	
<b>Address:</b>	Land to The East of Tye Road Elmstead CO7 7BB	
<b>Development:</b>	Reserved matters application for 32 dwellings, land for a community facility and associated parking and infrastructure.	

## 1. **Executive Summary**

- 1.1 The application is referred to Planning Committee because at the time the outline application was determined a request was made by Members for all reserved matters applications to be determined by Planning Committee.
- 1.2 Outline application 16/00219/OUT sought consent for the erection of up to 32 dwellings, land for a community facility and associated parking and infrastructure. This application was granted at appeal in April 2017, with all matters of detail reserved. Application 17/00927/DETAIL granted consent for the reserved matters in relation to access only. This application seeks consent for the remaining reserved matters: appearance, landscaping, layout and scale.
- 1.3 **This application was deferred by Planning Committee on 12<sup>th</sup> February 2019 in order for written legal advice to be sought in respect of the need for a Habitats Regulation Assessment and the impact that would have on the Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) contribution requested by Natural England, if any.**

**Updates to the original report are shown in bold.**

- 1.4 The site is situated to the east of Tye Road and the western edge of Elmstead. The application site is roughly rectangular in shape and measures 2.4 hectares. It is currently managed as an arable field and is bounded by a continuous mixed native hedgerow with individual mature trees.
- 1.5 As established through the granting at appeal of outline application 16/00219/OUT, the principle of residential development for up to 32 dwellings, land for a community facility and associated parking and infrastructure on this site is acceptable. Details of access have also been approved under application 17/00927/DETAIL.
- 1.6 The detailed design, layout, landscaping and scale are considered acceptable. The proposal would result in no material harm to residential amenity or highway safety and the application is recommended for approval.

**Recommendation:** Approval

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

**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):**

- **Financial Contribution towards RAMS**

b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning in their discretion considers appropriate).

**Conditions:**

- In accordance with approved plans
- Materials
- Turning facility to be provided prior to first occupation and retained
- No unbound material within 6 metres of the carriageway
- Details of proposed private drive
- Notwithstanding approved plan, gates to be inward opening only and set back at least 6 metres from footway or carriageway
- Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splays.
- Details of cycle parking
- Timing of landscaping

**2. Planning Policy**

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL3 Minimising and Managing Flood Risk

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

QL12 Planning Obligations

HG1 Housing Provision

HG4 Affordable Housing in New Developments

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

COM1 Access for All

COM6 Provision of Recreational Open Space for New Residential Development

COM26 Contributions to Education Provision

COM31A Sewerage and Sewage Disposal

EN1 Landscape Character

EN4 Protection of the Best and Most Versatile Agricultural Land

EN6 Biodiversity

EN6A Protected Species

EN6B Habitat Creation

EN13 Sustainable Drainage Systems

TR1A Development Affecting Highways

TR1 Transport Assessment

TR3A Provision for Walking

TR5 Provision for Cycling

TR6 Provision for Public Transport Use

TR7 Vehicle Parking at New Development

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

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP5 Affordable and Council Housing

PPL1 Development and Flood Risk

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

## Status of the Local Plan

- 2.1 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) 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 48 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.
- 2.2 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.
- 2.3 With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. 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 48 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.
- 2.4 In relation to housing supply:
- 2.5 **The NPPF 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 an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.**

## 3. Relevant Planning History

16/00219/OUT	Outline planning application for residential development of up to 32	Allowed at Appeal	27.07.2016
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dwellings, land for a community facility and associated parking and infrastructure.

16/01950/OUT	Outline planning application for residential development of up to 32 dwellings and associated open space, car parking and infrastructure.	Withdrawn	26.04.2017
17/00927/DETAIL	Reserved matters application for construction of new access to serve housing development approved under 16/00219/OUT.	Approved	12.03.2018
18/00681/DETAIL	Reserved matters application for construction of new access to serve housing development approved under 16/00219/OUT (amendment to application 17/00927/DETAIL).	Refused	31.07.2018
18/01307/DETAIL	Reserved matters application for 32 dwellings, land for a community facility and associated parking and infrastructure.	Current	

#### 4. Consultations

Tree & Landscape Officer In terms of the potential impact of the development proposal on the Oak trees on the land afforded protection by Tree preservation Order TPO/16/04 the details contained in the soft landscaping proposals plans states that all tree protection will be in accordance with the Tree Survey and report submitted with the outline application. In this respect the protected trees will not be harmed by the development proposal.

With regard to soft landscaping the information provided by the applicant shows a good level of new tree, shrub and hedge planting that will both soften and enhance the appearance of the development.

The creation of the new vehicular access from Tye Road will result in the removal of part of the Blackthorn Hedgerow although, taking into account new planting proposals this will not have a significant detrimental impact on the character of Tye Road or surrounding area.

With regard to the proposed access road and pedestrian link to the adjacent eastern development this will result in the removal of a small part of the group on mixed species. This issue was recognised at the outline planning stage and was not considered to have a detrimental impact on the integrity of the group of trees or the appearance of the area.

The information provided relating to soft landscaping is comprehensive and provides a good level of tree, shrub and hedgerow planting. The proposed soft landscaping will enhance the



appearance of the development and help to ensure that it sits comfortably in its setting.

ECC Highways Dept

From a highway and transportation perspective the impact of the proposal has been assessed and this Authority does not wish to raise an objection to the above application subject to the following conditions:

Prior to the first occupation of the development, the proposed road junction at its bell mouth junction with Tye Road shall be constructed at right angles to the highway boundary and to the existing carriageway as shown in principle in the Preliminary Site Plan, drawing no. 4115-0001 P18 to a carriageway width of 5.5 metres with 2 metre width footways on both sides of the junction.

Reason: To ensure that all vehicular traffic using the junction may do so in a controlled manner and to provide adequate segregated pedestrian access.

Prior to first occupation of the development, the road junction at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 120 metres to the north (bend) and 2.4 metres by 160 metres to the south as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction is first used by vehicular traffic and retained free of obstruction above 600mm at all times.

Reason: To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway.

Prior to first occupation of the development the size 3 vehicular turning facility shown in principle in the Preliminary Site Plan, drawing no. 4115-0001 P18 shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety.

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

Reason: To avoid displacement of loose material onto the carriageway in the interests of highway safety.

Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety.

Each tandem vehicular parking space shall have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety.

All single garages should have a minimum internal measurement of 7m x 3m. All double garages should have a minimum internal measurement of 7m x 5.5m.

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety.

Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Footway / Highway Boundary and provided with an appropriate dropped kerb crossing of the footway.  
Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety.

There shall be no discharge of surface water onto the Highway.  
Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.

Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the footway or where no provision of footway is present, the carriageway.  
Reason: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent footway/cycleway/carriageway in the interest of highway safety.

Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splays.  
Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety.

The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.  
Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity.

Prior to occupation of the proposed dwelling, 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.  
Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- the parking of vehicles of site operatives and visitors
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- wheel and underbody washing facilities

Reason: To ensure that on-street parking of these vehicles in the

adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

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

Building Control and  
Access Officer

No comments at this time

Environmental Protection

Prior to the commencement of any site clearance, demolition or construction works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from the Pollution and Environmental Control. The method statement (Demolition/Construction Management Plan) should include the following:

#### Noise Control

- 1) The use of barriers to mitigate the impact of noisy operations will be used where possible.
- 2) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 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 5228:2014.
- 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 Local 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) A scheme of measures for the control and suppression of dust emissions shall be submitted to and approved in writing by the Local Planning Authority. Such agreed works shall be implemented in the

approved form prior to the commencement of any development of the site and shall be maintained in the approved form until the development is completed and ready to be signed off as complete for the permitted purpose

2) All waste arising from the 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.

3) 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.

4) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

#### Dust Control

1) Dust suppression methods to be employed during construction so as to minimize likelihood of nuisance being caused to neighbouring properties. A scheme of measures for the control and suppression of dust emissions shall be submitted.

#### Lighting Control

1) Any lighting of the site under development shall be located, designed and directed [or screened] so that it does not cause avoidable intrusion to adjacent residential properties/ constitute a traffic hazard/cause unnecessary light pollution outside the site boundary. "Avoidable intrusion" means contrary to the Code of Practice for the Reduction of Light Pollution issued by the Institute of Lighting Professionals.

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. 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)

ECC SuDS Consultee

Having reviewed the documents which accompanied the reserved matters planning application, acting on behalf of ECC we do not object to the approval of reserved matters. However, at this time we cannot recommend discharge of condition no. 8 due to outstanding information required to form part of the detailed drainage design scheme.

Natural England  
**(Original comments)**

It has been identified that this development falls within the 'Zone of Influence' (Zoi) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).

In the context of your duty as competent authority under the provisions of the Habitats Regulations, it is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased

recreational pressure when considered 'in combination' with other plans and projects.

The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Tendring District Council working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions.

This proposal falls below the scale at which Natural England would offer bespoke advice on this issue. However, we advise that you must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation, consulting with Natural England where necessary. You should not grant permission until such time as the HRA has been undertaken and the conclusions confirmed.

Natural England  
(amended comments)

We do not need to be consulted on the Appropriate Assessment for developments of houses under 100 units provided a financial contribution has been secured in line with the Essex Coast RAMS requirements and that the Council records evidence that this mitigation measure has been secured in the 'Summary' section of the HRA.

Anglian Water Services  
Ltd

Records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.

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

Have reviewed the applicant's submitted foul drainage strategy documentation and consider that the impact on the public foul sewerage network has not been adequately addressed at this stage. Anglian Water have found that this proposal may result in an increased risk of flooding in the downstream network. They note a pumped regime will be implemented, but no confirmed pump rate has been provided for the site to conduct an accurate assessment at this time.

Have reviewed the applicant's submitted surface water drainage information (Flood Risk Assessment/Drainage Strategy) and have found that the proposed method of surface water discharge does not relate to an Anglian Water owned asset. As such, it is outside of our jurisdiction and we are unable to provide comments on the suitability of the surface water discharge. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board.

Anglian Water would therefore recommend the following planning condition if the Local Planning Authority is mindful to grant planning approval.

- No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local

Planning Authority. No dwellings 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 prevent environmental and amenity problems arising from flooding.

Essex Police – Designing out Crime

The published documents have been studied and, unfortunately, do not provide sufficient detail to allow an informed decision to be made as to whether the appropriate consideration of Sections 58 & 59 of the National Planning Policy Framework has been achieved, however the proposed site plan does show the dwellings seem to be positioned well for good natural surveillance while protecting the vulnerable rear of the properties by having the gardens backing directly onto other gardens. To ensure this development is a safe, secure place to live, e.g. uniform lighting without dark areas, effective physical security on each property, garden gates sited as near as possible to the front of the property.

It is recommended that the applicant incorporate Crime Prevention through Environmental Design and apply for nationally acknowledged and police recommended Secure By Design accreditation.

## 5. Representations

### 5.1 Elmstead Parish Council (comments on original proposal)

- Preliminary site plan 0001 P11 shows a possible link in the south-east corner to the adjacent development which has outline planning permission (14/01238/OUT). The landowner of the adjacent site is in the process of selling it but has confirmed to the Parish Council that he will be retaining a strip of land between his site and the above site, so there is no possibility of any link. In these circumstances we request that a revised plan be drawn up to show the site layout without this link road feature, especially as the Design and Access Statement refers to the layout relying 'strongly' on this feature.
- Following on from the above it is therefore imperative that the footpath as described in condition 1 of the approved planning application 17/00927/DETAIL is provided by the developer. This footpath is crucial for safe pedestrian access to the village, as there will be no other pedestrian link.
- The title of the application includes land for a community facility but none has been specified on plan 0001P11. There is a white area to the north east and we have asked the developer if this is land for the community facility and whether it will be gifted to the Parish Council. This is unclear on the current plan and application documents. We have been advised by the developer that in the event of the access to the southeast being unavailable he feels this land would be inaccessible to the local community and therefore is unlikely to offer the facility. This seems extraordinary in view of the application title including reference to community land.
- The Parish Council objects to the parking arrangements where 'parking courts' are indicated there are out of date and have been proven to create anti-social areas within estates. Some residents will prefer to park on the road nearer their houses and will do so, causing potential hazards and preventing access to emergency vehicles. We therefore request a re-design of the parking provision. We request 2 parking spaces per property to be located on each premises, rather than parking courts. We feel that parking courts are

only included due to over-development of the site. There should also be more visitors parking.

- A further feature which indicates overdevelopment is that several of the homes have plots which appear to be undersized according to the Local Plan currently in place. We understand that all houses of 2 or more bedrooms should have gardens of 100 sq.m as a minimum. Plots 13, 12, 15, 19, 20 and 32 all show gardens considerably less than this minimum.

#### 5.2 Elmstead Parish Council (comments on amended plans)

- The council thinks that the emphasis for affordable housing should be for 1 and 2 bedroom homes which are suitable for first time buyers. To be in keeping with the development these could be 1 or 2 bedroom houses. The council is concerned that the new plans have removed the 2 x 1 bedroom homes previously included.

#### 5.3 One letter of objection has been received which raises the following concerns:

- Affordable housing for first time buyers is needed; the proposed 3 and 4 bed homes do not achieve this.
- The possible link road is still shown – but the final plans for the adjacent development north of Meadow Close have already been submitted showing no such link, either for vehicle or pedestrians, the road is redundant and therefore should be absorbed into the adjacent play area.
- The title of the application indicates land for community use and whilst there are areas of public open space there is now no provision of land for community use.

## 6. **Assessment**

### Site Context

- 6.1. The site is situated to the east of Tye Road and the western edge of Elmstead. The application site is roughly rectangular in shape and measures 2.4 hectares. It is currently managed as an arable field and is bounded by a continuous mixed native hedgerow with individual mature trees.
- 6.2. To the north of the site is a detached residential property and land which is subject to a current appeal for a further 18 dwellings (18/00512/OUT). To the east of the site is a development site to the north of Meadow Close which was subject to an outline planning permission (14/01238/OUT) for 20 dwellings that was granted; the reserved matters application (18/01810/DETAIL is currently under consideration.

### Planning History

- 6.3. Outline planning permission for 32 dwellings, land for a community facility and associated parking and infrastructure was granted at appeal on 6<sup>th</sup> April 2017 (16/00219/OUT). This application was subject to a legal agreement and a number of conditions, including that details of the access, appearance, landscaping, layout and scale be submitted. The legal agreement secured the following:
- The construction of an estate road (including footways) to an adoptable standard from Tye Road to the eastern boundary of the site.
  - A financial contribution of £12,218.00 towards Primary Education
  - The provision of 25% on site affordable housing; and

- The laying out of the open space in accordance with details agreed by the Council and transfer to a Management Company to be maintained in accordance with agreed details.
- 6.4. Following this approval a reserved matters application for details of access only was submitted (17/00927/DETAIL). This application was approved by Planning Committee on 27<sup>th</sup> February 2018, subject to a condition requiring the footpath and highway works to be provided prior to development commencing. A further application was submitted (18/00681/DETAIL) to vary the timing of the footpath and highway works from prior to development commencing to prior to any dwelling being occupied. This application was refused by Planning Committee on the basis that the construction traffic generated by the development would result in an adverse impact on pedestrian safety along Tye Road. This concern was overcome by a condition imposed on 17/00927/DETAIL which required the proposed footpath to be constructed prior to commencement of development and therefore to construct the footpath prior to first occupation would result in an adverse impact on pedestrian safety.

#### Proposal

- 6.5. This application seeks approval of the reserved matters (appearance, landscaping, layout and scale) relating to outline planning permission 16/00219/OUT which granted permission at appeal for the erection of 32 dwellings, land for a community facility and associated parking and infrastructure.
- 6.6. The proposal seeks permission for 32 dwellings; 17 no. 2 bed dwellings; 6 no. 3 bed dwellings and 9 no. 4 bed dwellings. Out of the dwellings proposed 3 are bungalows; 3 are one and a half storey and the remaining 26 are two storey in height.
- 6.7. The access points to the site remain as approved under 17/00927/DETAIL; a single point of vehicular access serves all dwellings and there is a separate pedestrian access onto Tye Road. Throughout the site there are 3 areas of open space an area to the north of the access (which includes a pumping station); an area to the south of the access and adjacent to the southern boundary of the site, which forms part of the drainage solution and a Local Area of Play in the south-east corner of the site.
- 6.8. The legal agreement secured at outline stage (referred to above) will still apply, together with all the conditions that were imposed by the Planning Inspector and outline stage and those imposed on the reserved matters application for the access (17/00927/DETAIL).

#### Principle of Development

- 6.9. The principle of development on the site for 32 dwellings, land for a community facility and associated car parking and infrastructure has been established by the granting of outline consent at appeal (16/00219/OUT). The details of the access have also been agreed under application 17/00927/DETAIL.
- 6.10. It is noted that the description of development refers to a community facility; however, as advised at the time of the outline consent, given the scale of development the provision of community facilities apart from open space could not have been insisted on and therefore was not secured by the legal agreement at outline stage.

#### Appearance

- 6.11. The detailed design of the dwellings is varied with different roof forms, heights and materials, which will provide visual interest throughout the development. The proposed materials are a mixture of red and buff facing brick, plain tiles, natural slate and pantiles; these are considered appropriate in principle. However, a condition is recommended to require samples of materials to be submitted to ensure high quality materials are used.



- 6.12. The surrounding area is very rural in nature with no residential dwellings within the immediate vicinity of the site. The proposed dwellings are all fairly traditional in appearance and detailing, with Plots 29-32 in particular using design features of other dwellings on the edge of Elmstead. The other dwellings are of good design and are not out of character with the surrounding area.
- 6.13. For the above reasons it is considered that the detailed design and appearance of the proposed dwellings are acceptable.

#### Layout

- 6.14. Each of the proposed dwellings has their own private amenity space. Policy HG9 of the Saved Local Plan requires 75 sq.m of private amenity space for 2 bed dwellings and 100 sq.m of private amenity space for dwellings with 3 or more bedrooms. All dwellings are provided with garden areas which meet or in many cases exceed this standard.
- 6.15. All of the proposed dwellings address the street and create an active street frontage. There are some dwellings that have side elevations facing the street, but these have been designed so that they also create an active frontage (with side entrance doors and windows).
- 6.16. The layout provides the majority of parking within the curtilage of the proposed dwellings there are a few areas where parking courts are used. Whilst these are not an ideal solution they are small clusters and are located in areas where they would not be prominent within the street scene.
- 6.17. In conclusion there is no objection to the layout of the proposed development.

#### Scale

- 6.18. The proposal includes a mix of single storey bungalows, one and a half storey dwellings and two storey dwellings. It is noted that the nearest development (Meadow Close) comprises of bungalows however, there is sufficient distance for 2 storey development on the site not to appear out of character with the surrounding area.

#### Highway Safety/Parking

- 6.19. Essex County Council Highways have been consulted on the application and raise no objection subject to conditions set out above, which cover details of the access; vehicular visibility; turning facilities; no unbound materials; sizes of parking spaces and garages; the width of private drives; no surface water discharge onto the highway; location of gates; location of boundary planting; cycle parking; provision of residential travel packs and a construction method statement.
- 6.20. As this is a reserved matters application some of the recommended conditions have been dealt with by either the outline application or the previous reserved matters application for access. The outline application is subject to conditions regarding the submission of a construction method statement and details of surface water drainage. The details of the proposed access have been dealt with under application 17/00927/DETAIL therefore it is not necessary to impose conditions regarding details of the access and vehicular visibility.
- 6.21. The submitted plan shows that all parking spaces and garages meet the required standard and therefore it is not necessary to impose further conditions apart from that requiring the development to be carried out in accordance with the approved plans. The provision of residential travel packs, if considered necessary should have been imposed at outline stage; it is not considered reasonable to impose such a condition at this time. All the

remain conditions recommended by highways cover turning facilities; no unbound materials; the width of private drives; location of gates; location of boundary planting and cycle parking are included within the above recommendation.

- 6.22. Essex County Council Parking Standards state that for one bedroom dwellings 1 off-street parking space is provided and for dwellings with 2 or more bedrooms a minimum of 2 off-street parking spaces are provided. Furthermore, 0.25 spaces per dwelling should be provided for visitor parking. Each parking space should measure 5.5 metres by 2.9 metres and if a garage is to be relied on it should measure 7 metres by 3 metres internally.
- 6.23. All of the proposed dwellings have at least 2 off-street parking spaces, either in the form of a garage or designated off-street parking space. Some of the proposed dwellings have parking provision in excess of the standards with space for 3 or 4 cars. A total of 8 visitor parking spaces are provided which is in accordance with the Council's Adopted Parking Standards.
- 6.24. No details of any cycle storage has been provided at this stage, however, a condition is recommended to cover this. The garages are of a sufficient size to provide cycle parking and all dwellings have space within the garden area for a shed. It is therefore considered that adequate cycle parking can be provided.
- 6.25. For the above reason the application is considered acceptable in terms of highway safety.

#### Landscaping/Biodiversity

- 6.26. In terms of the potential impact of the development proposal on the Oak trees on the land afforded protection by Tree preservation Order TPO/16/04 the details contained in the soft landscaping proposals plans states that all tree protection will be in accordance with the Tree Survey and report submitted with the outline application. In this respect the protected trees will not be harmed by the development proposal. The information provided relating to soft landscaping is comprehensive and provides a good level of tree, shrub and hedgerow planting. The proposed soft landscaping will enhance the appearance of the development and help to ensure that it sits comfortably in its setting.
- 6.27. To safeguard the ecological value of the site, a condition for a mitigation scheme was conditioned. At the time of the outline consent Natural England raised no objection as the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) was not published
- 6.28. **Since the application was deferred a written legal opinion has been received.** Detailed legal advice is exempt information for the purposes of Schedule 12A of the Local Government Act 1972 (as amended) however, the public interest test has been applied and it is considered in the public interest that a summary of the legal advice will be presented to the Planning Committee for the purposes of considering the Report and Recommendations.
- 6.29. In summary the legal opinion **advises that there is an ongoing duty on a Local Planning Authority to consider whether a Habitat Regulations Assessment (HRA) is necessary and/or should be updated and any results of the HRA, such as mitigation, amended accordingly. As a result of this the Council has concluded it is necessary for a HRA to be done at reserved matters stage, i.e. prior to the determination of this application. Once this advice was received a HRA was carried out that suggested that the impact of recreational disturbance could be mitigation secured by condition. A general response has been received from Natural England raising concerns with this approach and further legal advice has been sought which supports the view that Tendring District Council can seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The HRA has**

therefore been amended to confirm that the mitigation will be the RAMS level contribution as recommended by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any adverse impact the proposal may have on European Designated Sites. The recommendation seeks to secure this by way of legal agreement within six months of a Committee resolution to approve, otherwise planning permission would be refused in its absence on the grounds that there is no certainty that the development would not adversely affect the integrity of European Designated Sites. The applicant has indicated that they will pay the RAMS level contribution.

#### Impact on Residential Amenity

- 6.30. It is considered that the proposal would result in no material harm to residential amenity of existing occupiers. The relationship between the proposed dwellings is also considered acceptable with adequate separation to provide good standards of privacy and light.

#### Drainage

- 6.31. With regard to foul water drainage Anglian Water have raised concern that the impact on the public foul sewerage network has not been adequately addressed at this stage and recommend imposing a condition. A similar condition was imposed on the outline consent and this will still apply and will need to be discharged prior to the commencement of development. Surface water drainage was also dealt with as a condition on the outline consent.

#### Affordable Housing

- 6.32. The legal agreement with the outline application secured the provision of 25% on site affordable housing. The site plan indicates the position of these dwellings; they will be 4 no. 2 bed dwellings; 3 no. 3 bed dwellings and 1 no. 4 bed dwelling. This mix has been agreed by the Council's Housing Department.
- 6.33. Policy LP5 of the Emerging Plan states that 'to avoid an over-concentration of council housing in one location, no single group of council houses will exceed ten dwellings and to ensure positive integration between the residents of council housing and market housing, there should be no noticeable difference in the appearance or quality between dwellings to be sold on the open market and those to be acquired and managed by the Council or its nominated partner(s)'. The affordable housing is located to the east of the site in a cluster of 8 units, which complies with the above policy. In terms of the design of the affordable housing units, they would not appear any different to other dwellings proposed especially as a terrace of properties is also provided at the front of the site (albeit a different design). It is appreciated that these units have some of the smaller gardens within the development and do not have curtilage parking, however, the gardens meets the standards set out in Policy HG9 and they are not the only dwellings within the site to not have curtilage parking.

#### Conclusion

- 6.34. Overall the details submitted with this application are considered to be acceptable and their approval is recommended.

#### Background Papers

None

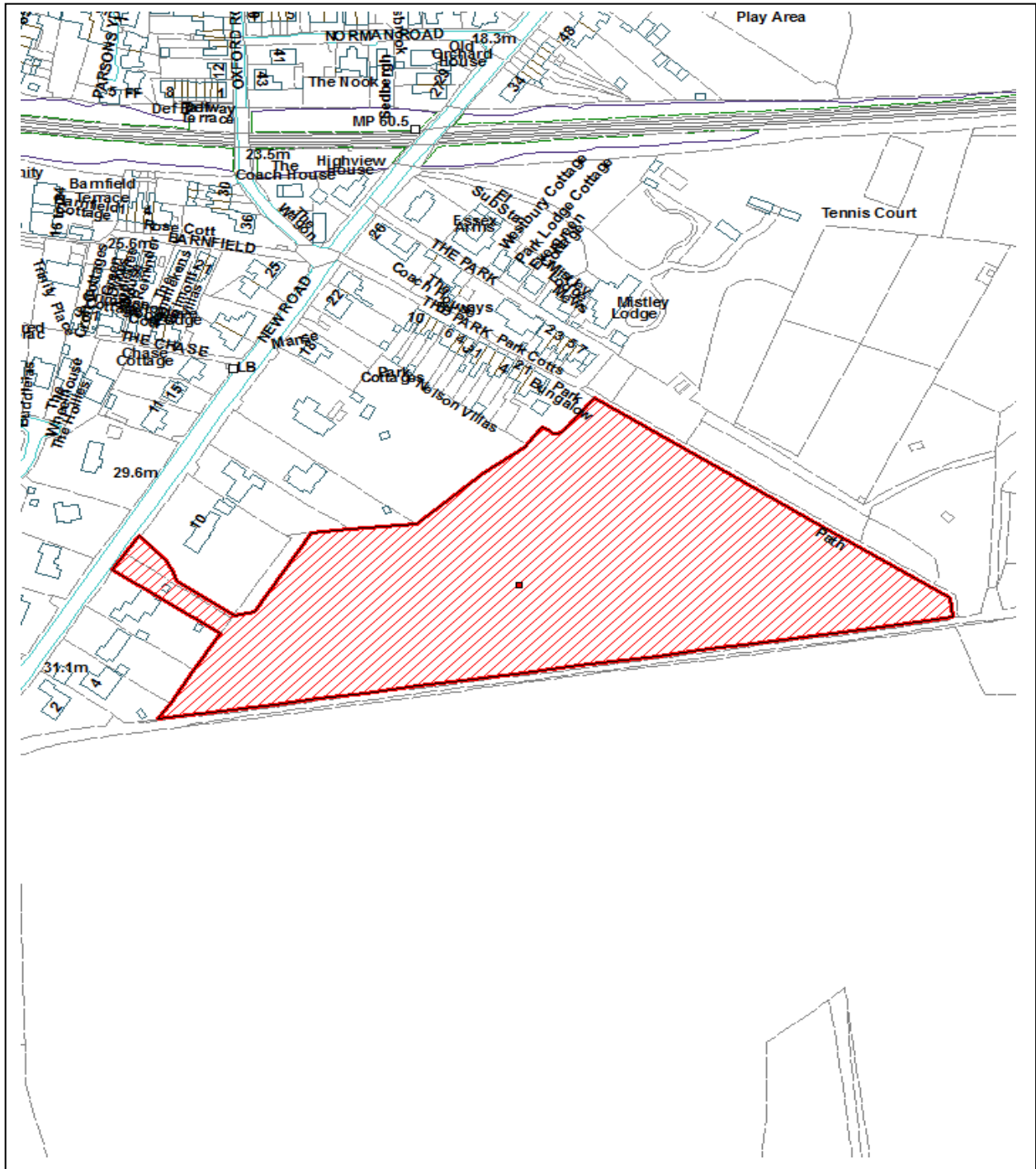
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## PLANNING COMMITTEE

9 APRIL 2019

### REPORT OF THE HEAD OF PLANNING

#### **A.2 PLANNING APPLICATION - 18/01767/OUT - LAND EAST OF NEW ROAD, MISTLEY CO11 2AG**



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<b>Application:</b>	18/01767/OUT	<b>Town / Parish:</b> Mistley Parish Council
<b>Applicant:</b>	CALA Homes (North Home Counties)	
<b>Address:</b>	Land East of New Road Mistley	
<b>Development:</b>	Variation of Condition 4 approved plans 0964-F01 rev D, and 1628 URB XX XX GA 90 001 Rev H) of APP/P1560/W/17/3176089, to provide a re-worked layout to provide wider roads to improve emergency access and to incorporate a mix of housing types including detached dwellings, semi-detached properties and apartments.	

## 1. Executive Summary

- 1.1 The application site comprises a triangular area of open land situated on the east side of New Road behind the frontage properties and including an undeveloped plot of land through the frontage housing which provides the access into the proposed development from New Road. The site extends to 2.93 hectares in size and is situated within the Mistley Conservation Area.
- 1.2 Outline planning permission was allowed at appeal on 19 February 2018 for the 'erection of 67 dwellings together with the formation of an access'. The principle of housing development on the site is therefore established. Only access and layout were approved at appeal stage.
- 1.3 This Section 73 application seeks to vary Condition 4 attached to the aforementioned outline planning permission to amend the approved layout. The supporting documents state that it has become necessary to amend the approved layout to improve the proposed road network, thereby allowing sufficient access to the site for all emergency vehicles and servicing vehicles and to alter the housing types to include detached dwellings, semi-detached properties and apartments.
- 1.4 Officers consider the revisions represent an improved layout over that approved previously on appeal which will enable emergency and servicing vehicles to adequately access and manoeuvre across the site, whilst proposing a more spacious appearing development allowing for better spacing between properties and larger private gardens for future residents.
- 1.5 Subject to the applicant entering into a deed of variation to update the existing Section 106 agreement to cover the provision of affordable housing and education contributions, the proposal is considered to be acceptable with no material harm to visual or residential amenity, heritage assets, or highway safety, and the application is therefore recommended for approval.

### **Recommendation: Approve**

**That the Head of Planning (or equivalent authorised officer) 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):**

- **Affordable housing – 30%**
- **Financial Contribution towards RAMS**
- **Education Contribution**

**b) Planning conditions in accordance with those set out below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate).**

**Conditions:**

- **Reserved Matters (Appearance, Landscaping, Scale).**
- **Standard 3 year time limit for submission of reserved matters application.**
- **Standard 2 year limit for commencement of development following approval of reserved matters.**
- **Approved Plans (Access and Layout only)**
- **Submission of an open space management/maintenance plan along with play area details**
- **All areas of hardstanding to be permeable.**
- **Compliance with Tree protection measures.**
- **Lighting scheme.**
- **Ecological enhancement scheme.**
- **No goods to be stacked, machinery operated or works shall take place within the limits of the spread of any existing trees.**
- **Submission of a biodiversity management plan.**
- **Submission of construction method statement.**
- **Visibility splays of 2.4 x 43m to the site access onto New Road.**
- **Details of estate roads and footways construction (layout, gradients, surfacing, water drainage).**
- **Parking and turning areas to be provided prior to occupation and retained thereafter.**
- **All garages and parking bays of a size commensurate with the current parking standards.**
- **Provision of Residential Travel Information Packs.**
- **Upgrade of 2 nearest bus stops to the site.**
- **No vehicular access from Green Lane.**
- **Bin stores for the apartments within 15m of carriageway.**
- **Bicycle storage details.**
- **Limit scale to no higher than two-storey.**
- **Submission of an Archaeological Evaluation.**
- **Submission of an Archaeological Mitigation Strategy.**
- **Submission of an Archaeological Written Post Excavation Assessment.**
- **Surface Water Drainage Strategy.**
- **Scheme to minimise off-site flooding and pollution during construction works.**
- **Details of a surface water drainage maintenance plan.**
- **Submission of yearly maintenance logs for sustainable drainage system.**

**c) That the Head of Planning (or the equivalent authorised officer) be authorised to refuse planning permission in the event that such a 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 completed s106 planning obligation.**

## **2. Planning Policy**

### **National Policy:**

The National Planning Policy Framework  
National Planning Policy Guidance

### **Local Policy:**

#### **Tendring District Local Plan 2007**

QL1 Spatial Strategy  
QL2 Promoting Transport Choice  
QL3 Minimising and Managing Flood Risk  
QL9 Design of New Development  
QL10 Designing New Development to Meet Functional Needs  
QL11 Environmental Impacts and Compatibility of Uses  
QL12 Planning Obligations  
HG1 Housing Provision  
HG3A Mixed Communities  
HG4 Affordable Housing in New Developments  
HG6 Dwelling Size and Type  
HG7 Residential Densities  
HG9 Private Amenity Space  
COM2 Community Safety  
COM6 Provision of Recreational Open Space for New Residential Development  
COM21 Light Pollution  
COM23 General Pollution  
COM24 Health Care Provision  
COM26 Contributions to Education Provision  
COM29 Utilities  
COM30 Electricity Supply  
COM31A Sewerage and Sewage Disposal  
EN1 Landscape Character  
EN2 Local Green Gaps  
EN3 Coastal Protection Belt  
EN6 Biodiversity  
EN6A Protected Species  
EN6B Habitat Creation  
EN11A Protection of International Sites: European Sites and RAMSAR Sites  
EN12 Design and Access Statements  
EN13 Sustainable Drainage Systems  
EN17 Conservation Areas  
EN23 Development Within the Proximity of a Listed Building  
EN29 Archaeology  
TR1A Development Affecting Highways  
TR1 Transport Assessment  
TR2 Travel Plans  
TR3A Provision for Walking  
TR5 Provision for Cycling  
TR6 Provision for Public Transport Use  
TR7 Vehicle Parking at New Development

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

SPL1 Managing Growth



SPL2 Settlement Development Boundaries  
SPL3 Sustainable Design  
HP2 Community Facilities  
HP3 Green Infrastructure  
HP4 Safeguarded Local Greenspace  
HP5 Open Space, Sports & Recreation Facilities  
LP1 Housing Supply  
LP2 Housing Choice  
LP3 Housing Density and Standards  
LP4 Housing Layout  
LP5 Affordable and Council Housing  
PPL1 Development and Flood Risk  
PPL3 The Rural Landscape  
PPL4 Biodiversity and Geodiversity  
PPL5 Water Conservation, Drainage and Sewerage  
PPL7 Archaeology  
PPL8 Conservation Areas  
PPL9 Listed Buildings  
CP1 Sustainable Transport and Accessibility  
CP3 Improving the Telecommunications Network

### **Local Planning Guidance**

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

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

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) 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 48 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.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. 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 48 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.

In relation to housing supply:

The NPPF 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 an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

### 3. Relevant Planning History

17/00004/OUT	Erection of 67 dwellings together with formation of access.	Refused <b>(Allowed on Appeal)</b>	07.04.2017
18/01767/OUT	Variation of Condition 4 approved plans 0964-F01 rev D, and 1628 URB XX XX GA 90 001 Rev H) of APP/P1560/W/17/3176089, to provide a re-worked layout to provide wider roads to improve emergency access and to incorporate a mix of housing types including detached dwellings, semi-detached properties and apartments.	Current	

### 4. Consultations

Environmental Protection      No comments to make.

Essex Bridleways Association      No comments received

ECC SuDS Consultee      Lead Local Flood Authority position

Having reviewed the planning application and the associated documents which accompanied the planning application, we have identified that this application seeks minor material amendments and does not currently relate to surface water drainage. As the outline application has already been approved, we have no comments at this stage.

The following recommendations are made in line with the Department for Communities and Local Government National Planning Policy Framework:

RECOMMENDATION: A Programme of Archaeological evaluation

1. No development or preliminary ground-works can commence until a programme of archaeological evaluation has been secured and undertaken in accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the planning authority. Following the completion of this initial phase of archaeological work, a summary report will be prepared and a mitigation strategy detailing the approach to further archaeological excavation and/or preservation in situ, shall be submitted to the local planning authority.

2. No development or preliminary groundwork can commence on those areas of the development site containing archaeological deposits, until the satisfactory completion of archaeological fieldwork, as detailed in the mitigation strategy, which has been signed off by the local planning authority.

3. Following completion of the archaeological fieldwork, the applicant will submit to the local planning authority a post-excavation assessment (within six months of the completion date, unless otherwise agreed in advance with the planning authority), which will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Further Recommendations:

A professional team of archaeologists should undertake the archaeological work. In the first instance a programme of trial trenching investigation will be required. A brief outlining the level of archaeological investigation will be issued from this office on request. Tendring District Council should inform the applicant of the recommendation and its financial implications.

AMENDED DRAWINGS NUMBERED AA7718-20123 REV 03.

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

1 All carriageways should be provided at 5.5m between kerbed footways or 6.0m where vehicular access is taken but without kerbing.

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

3 Prior to the commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.

4 All off street car parking shall be provided in precise accord with the

details contained within the current Parking Standards being provided within the site which shall be maintained free from obstruction and retained thereafter.

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

6 No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide 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 under body washing facilities

7 Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of Residential Travel Information Packs for sustainable transport sufficient for the occupants of each dwelling, approved by the Local Planning Authority.

8 Prior to first occupation of the proposed apartment blocks, communal recycling/bin/refuse collection points shall be provided within 15m of the carriageways or adjacent to the carriageways and additionally clear of all visibility splays at accesses and retained thereafter.

9 Prior to the occupation of the proposed dwellings details of the provision for the storage of bicycles sufficient for all occupants of that dwelling of a design that 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 within the site which shall be maintained free from obstruction and retained thereafter.

10 Prior to occupation of the development, the road junction at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 43 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction is first used by vehicular traffic and retained free of any obstruction at all times.

11 No works in connection with the proposed development shall commence until such time as the two nearest bus stops to the site have been upgraded and improved as appropriate. These works provided entirely at the Developer's expense.

Building Control and  
Access Officer

No comments at this time.

Natural England

Natural England currently has no comment to make on the variation of condition 4 (approved plans).

Tree & Landscape Officer

**Original Comments**

In terms of the impact of the development proposal on the local landscape character it is considered that the proposed changes to the approved layout will be harmful to the local environment.

The primary reason for the harm to local landscape character is the reduction of the width and overall size of the open space on the southern boundary of the application site.

Whilst the existing hedgerow on the southern boundary is shown as retained the reduction of the width of the adjacent open space will limit the degree to which new soft landscaping can be carried out to screen the development.

Without a substantial screening belt on its southern boundary the development will be visible from the heavily used Public Right of Way (PROW) along Green Lane and from other viewpoints on the PROW network to the south from which the development will be plainly seen.

**Additional Comments**

The Tree Protection Plan included in the amended Arboricultural Survey shows the potential impact of the amended layout on retained trees on the application site itself and on adjacent land. The information provided is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction – Recommendations. The report contains details of the way that retained trees would be physically protected for the duration of the construction phase of any development for which planning permission may be granted.

As a result of the position of the apartment close to the northern boundary and the re-positioned Attenuation Pond there will be a minimal incursion into the Root Protection Areas (RPA's) of the trees to the north of the application site that are covered by Tendring District Council Tree Preservation Order 87/07/TPO Mistley Lodge, New Road, Mistley.

The protected trees are situated on land separated from the application site by a well-trodden Public Right of Way (PROW) and there is some overhang of branches onto the application site.

Taking into account the separation distance, the compaction and consequent barrier to root activity caused by the location of the footpath and the minimal incursion into the RPA's of the protected trees it is considered that the development proposal would not result in harm being caused to the trees and would not compromise their long term viability.

## 5. Representations

- 5.1 Mistley Parish Council objects to this planning application for the following reasons: (1) the approved layout had measures which protected the open nature of Green Lane and these new changes to the plans have reduced them; (2) the addition of the apartments changes the appearance and makes the character of the area oppressive, particularly as these apartments are on the boundary overlooking a public footpath; and (3) these changes were submitted allegedly to improve the access to the development but are being used to change the overall appearance of the site.
- 5.2 Cllr Coley has called in the application for the following reasons (it must be noted that these comments were made prior to revised plans/documents being received);
- The area of Public Open Space reduces from approx. 0.89 hectares to 0.65 hectares which is a reduction of approximately 25%.
  - The new layout shows pinch points where houses encroach even closer on Green Lane. The consented layout is about 12m at its closest point. The revised layout is about 9.5m, this is a reduction of about 20%.
  - The revised scheme includes apartments. Such dwelling type is not typical of the surroundings nor the Conservation Area.
  - The proposed apartments are sited very close to The Park, public footpath. This would be overbearing and urbanise the character of the public footpath and this part of the Conservation Area.
  - No private amenity space is being proposed for the apartments.
  - The apartments would be served by frontage parking, which is unattractive and out of keeping.
  - The Arboreal Impact Assessment is dated 14 November 2015. This is now entirely out of date and should not be relied upon.
  - Whilst controlled by planning condition, the proposed location of an attenuation pond would conflict with existing Root Protection Areas in the eastern corner.
- 5.3 89 letters of objection have been received. A large majority of these objections refer to the principle of residential development on this site, which has been already been established through the granting of outline planning permission by the planning inspectorate. The main areas of concern highlighted by objectors are as follows;
- Proposed changes are focussed more on profit than care for the local area.
  - Flats are not in keeping with the character of the local area.
  - Backland development is out of keeping in this location.
  - No private amenity space is provided for the flats element.
  - Reduction in open space from previous appeal.
  - New dwellings would result in more strain on local infrastructure.
  - Reason for revisions, including access for emergency vehicles, should have been properly considered at appeal stage.
  - Revisions represent an encroachment towards Green Lane and the footpath to the north-east of the site. Significant narrowing of the green buffer in both locations.
  - Frontage parking to apartments is unattractive.
  - Against the principle of developing the land for residential purposes.
  - Development changes would result in a rural footpath becoming an urban one.
  - Layout and apartments are out of character with the conservation area setting.
  - Adverse impacts on wildlife.
  - Larger detached homes proposed which will have an additional impact on the setting.
  - Affordable housing should be pepper potted throughout the development.

## 6. Assessment

The main planning considerations are:

- Site Context
- Development Proposal
- Layout Changes
- Landscape Impact/Tree Considerations
- Residential Amenity
- Heritage Assets
- Highway Safety
- Ecology
- Drainage
- Legal Obligations

### Site Context

- 6.1 The application site comprises a triangular area of open land situated on the east side of New Road behind the frontage properties and including an undeveloped plot of land through the frontage housing which provides the access into the proposed development from New Road. The site extends to 2.93 hectares in size and is situated within the Mistley Conservation Area.
- 6.2 There is residential development to the north and west of the site, which is divided from the wider countryside to the south by an access road/public footpath, Green Lane. To the north east is an area of grassland and wooded areas, comprised of the gardens associated with private dwellings and recreational areas, beyond which is the line of the railway.
- 6.3 The site is bounded by a hedge with small trees along the boundary with Green Lane, and by a hedge with large trees and groups of trees which border a pathway along the northeast boundary. To the northwest, the boundary is formed by the rear boundaries of the houses along New Road, with a mixture of timber fences, hedges and trees.
- 6.4 There are several heritage assets, or groups of heritage assets in the vicinity. The Lodge, listed grade II, is located at the corner of New Road and Green Lane, in a garden of a residence, with one wall facing directly onto Green Lane and there are three grade II listed houses along New Road, 100 metres from the site. There are also three listed structures to the south of the proposal site, accessed off Clacton Road all listed grade II: Mistley Hall, Walled Garden and Gardener's Shed. To the east of the site are Old Hall and Garden Wall which are also grade II listed structures. Further to the south-east off Green Lane is Diary Cottage which contains a cluster of listed buildings.

### Development Proposal

- 6.5 Outline planning permission was allowed at appeal on 19 February 2018 for the 'erection of 67 dwellings together with the formation of an access'. The principle of housing development on the site is therefore established.
- 6.6 In determining the appeal, the Planning Inspector attached Condition 4 to the appeal decision which states:
- 'The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan: Drawing No. 0964-F01 rev D - Access Plan and Drawing No. 1628 URB XX XX GA 90 001 Rev H – Site Layout.'***
- 6.7 This Section 73 application seeks to vary Condition 4 attached to the aforementioned outline planning permission to amend the approved layout. The supporting documents state that it has

become necessary to amend the approved layout to improve the proposed road network, thereby allowing sufficient access to the site for all emergency vehicles and servicing vehicles and to alter the housing types to include detached dwellings, semi-detached properties and apartments.

6.8 Since submitting the application amended plans have been received securing the following changes;

- Plot 3 has been relocated (now adjacent to Plot 15) allowing for a greater distance from the rear of the dwellings and Green Lane. This area has been replaced with landscaping and open space. The overall quantum of housing remains at 67 dwelling, as approved.
- The sub-station has been relocated away from the easement to the south of the site and a footpath has now been integrated into the open space.
- Plots 26 and 27 have been rotated slightly and repositioned to increase the amount of soft landscape frontage to Green Lane.
- Plots 16 - 19 have been reconfigured to create a linear/terraced form which reflects the grain of development for the existing housing on The Park.
- Plots 37 and 38 have been amended to better address the street frontage.
- The gardens to Plots 53 - 55 and 39 - 44 have been increased in accordance with the Essex Design Guide.
- A small parking court has been incorporated between the apartment building and Plot 19. This has allowed for further soft landscaping on the corner at this part of the site and removed what was, previously on-street parking. This also allows for better views from The Park into the site.
- The parking arrangements for the flats have been amended to remove on-street parking.

#### Impact of Layout Changes

6.9 The layout previously approved at appeal showed the majority of the development being formed of terrace blocks of dwellings with properties set in close proximity to the carriageways. The easternmost housing blocks were to be arranged around central parking courts with the properties facing outwards. A large number of the properties were indicated to have private amenity spaces below the required policy standard and aside from the access into the site the development was to comprise of shared surface style access roads. At the southern end of the site a landscape buffer to Green Lane was proposed measuring a minimum of 12m at its narrowest point. A drainage attenuation area was to be located in the south-eastern corner of the land.

6.10 The revised layout illustrates a more logical urban form comprising of wider carriageways served partly by footways and a variety of detached, semi-terraced and apartment style properties. The parking courts have been removed and replaced by on-plot parking provided via open parking bays, under-crofts and garages. The majority of the dwellings are now served by sufficient private amenity space provision to accord with policy requirements and the spacing between properties has been improved which will enhance future resident's privacy levels and outlook.

6.11 The proposed layout has still been designed to allow for successful integration with the surrounding landscape and area. This includes providing the sufficient setback of units from Green Lane, enhancing the green infrastructure along the edges of the site and the provision of public open space to the south of the site. Whilst the built form has encroached closer to Green Lane at its closet point the gap retained is 9m and this is at the western end of the site where the development would be viewed against the backdrop of existing properties on New Road. As the development extends eastwards the landscaped buffer to Green Lane becomes wider and at its widest point measures approximately 50m, which is considered to be sufficient to ensure that Green Lane, with the implementation of a robust landscaping scheme, retains its semi-rural character.



- 6.12 It must also be noted that Saved policy COM6 of the adopted Local Plan and the emerging District Local Plan requires at least 10% of gross area of the site to remain as open space provision. The provision of open space within the site comprises 0.81ha within an overall site area of 2.93ha. This equates to 27.6% of the site being open space and therefore the open space provision is comfortably in accordance with Saved policy COM6.
- 6.13 The eastern end of the development contains higher density development including the provision of apartment style properties which will front onto a footpath leading from The Path south-easterly towards Green Lane. The apartments comprise of two blocks separated by a landscaped parking area. Each block is proposed to contain 6 units and the indicative drawings provided show that the buildings are intended to be of a style commensurate with the terraced form of dwellings on The Park to the north-west with dark timber clad gables, plain tiled roofs and red brick linked elements. Whilst illustrative, the plans show that the apartments are intended to be of a form, scale and materiality that relates appropriately to the character and appearance of this section of the conservation area. The green gap to the footpath running to the north-east has been reduced in size from the previously approved scheme. However, the mature hedgerow present on the shared boundary will be retained ensuring that views of the development from the footpath in question will be limited.
- 6.14 The communal spaces around the apartment buildings along with the proximity of the large area of on-site public open space are sufficient to meet the amenity requirements of future residents of these units.
- 6.15 Overall the proposed changes to the layout result in a more open appearing development that would suitably complement the existing character and pattern of development in the vicinity. The higher density development at the eastern end of the site relates appropriately to the terraced form of properties on The Park to the north-west and the detached larger properties towards the western element of the site are more in keeping with the lower density character of New Road. The removal of the parking courts and their replacement with on-plot parking is considered to represent an improvement and the relationship between the dwellings has improved which will result in better privacy levels for future residents and larger private garden areas. The parking areas serving the apartments are to be suitably softened by planting and with the use of sympathetic surface materials, which can be secured at reserved matters stage, the visual impact can be adequately mitigated.

#### Landscape Impact/Tree Considerations

- 6.16 As to visual impact, the greatest effect would be experienced in the direct, albeit, limited views from Green Lane and the public footpath on the north-eastern boundary. However, given the density and maturity of the boundary hedges, the opportunities to retain and reinforce these boundaries and the proposed setback from the southern boundary, the minor to moderate adverse effect in terms of visual impact would be mitigated. In medium to long distance views, the effect on landscape character and visual impact would be significantly diminished and overall the effects would be negligible.
- 6.17 Whilst a detailed landscaping scheme will be provided at detail stage the submitted landscape strategy confirms that the following principles will be applied;
- Management of the existing species rich hedgerow along the north-eastern boundary of the site with opportunities to infill gaps along the hedgerow with appropriate native species planting.
  - Lime trees or similar to be planted in the south-eastern corner of the site that would supplement and create continuity with the existing partial lime avenue along Green Lane.
  - Public open space within the south-eastern corner of the site, to include a play area and seating.

- Community orchard within the open space to the south of the development.
- A new native species hedgerow along the southern edge of the housing, including small trees planted within the hedgerow where appropriate.

6.18 In regard to the impact of the changes upon trees an updated tree survey and report has been provided. The Council's Trees and Landscaping has reviewed this information and confirms that taking into account the separation distance, the compaction and consequent barrier to root activity caused by the location of the footpath and the minimal incursion into the RPA's of the protected trees it is considered that the development proposal would not result in harm being caused to the trees and would not compromise their long term viability.

#### Residential Amenity

6.19 The NPPF (2019) at paragraph 127 states that planning should secure developments with a high standard of amenity for existing and future users. Saved 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.

6.20 The proposed layout has been carefully considered and although Officers note the concerns raised by residents living in close proximity to the site, the revised layout will retain sufficient spacing to existing properties to the west on New Road and to the north on The Park not to cause any adverse impacts in respect of loss of light, outlook or privacy.

6.21 At detail stage the 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 and future amenity.

#### Heritage Impact

6.22 The Mistley Conservation Area Review (2006) identifies Green Lane as an entrance into the parkland associated with the former Mistley Hall which retains one surviving Adam gate lodge at the New Road junction. Reference is made to fine views over open countryside to the south, with more limited views to the north because of the mature hedge and specimen trees.

6.23 Within the appeal decision the planning inspector concluded that the application site, given its enclosed and discrete nature and the fact that it does not form part of or inform the significant views of the designed parkland indicated, does not contribute to the historical significance of Green Lane as a key access to the former Mistley Hall. Consequently, the planning inspector agreed that the site does not contribute to the aesthetic or historical significance of the Mistley Conservation Area and as such development on this site would preserve the character and appearance of the conservation area as a whole.

6.24 The proposal site does not contribute to the setting of the listed buildings in the vicinity. The proposal site is physically separated from each of the listed structures, and there is only a low level of intervisibility from some distance, over hedges and through some trees, with the side elevation of Mistley Hall. Due to topography, hedges, trees, woodland and intervening structures, the proposal site does not contribute to the experience of any of these listed structures.

6.25 The updated site layout does not alter the conclusions of the planning inspector, that the location, siting, form and appearance of the proposed development will have a neutral impact on the setting of the sixteen heritage assets near the proposed development site. Furthermore, it is considered that the revised layout reflects densities in the wider area and the proposed development will preserve the conservation area setting by making a positive contribution to local character and distinctiveness.

## Highway Safety

- 6.26 Paragraph 108 of the NPPF (2019) requires Councils to, when making decisions, take account of whether;
- a) appropriate opportunities to promote sustainable transport modes can be, or have been, taken up, given the type of development and its location;
  - b) safe and suitable access to the site can be achieved for all users; and
  - c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 6.27 Saved Policy QL10 states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate.
- 6.28 The current application represents a variation to an outline scheme where the access into the site formed part of the application to be considered. The access remains unchanged and is therefore still proposed via a new opening set between 8 and 10 New Road. As a consequence the Highway Authority are satisfied that there is existing highway capacity to serve the proposed scheme and have not raised an objection subject to the inclusion of the conditions outlined in the Officer's recommendation above. Several of the conditions required by the Highway Authority are reflected on the submitted layout plan. All other conditions included by the planning inspector are re-instated.
- 6.29 The submitted layout plan shows that ample parking provision will be provided on site through driveway parking for the dwellings (some in excess of 2 spaces) and parking areas for the apartments. Visitor's parking is provided at certain points throughout the development and will also be absorbed by the longer driveways serving the larger dwellings.

## Ecology

- 6.30 An updated Phase 1 survey has been provided which confirms that the habitats on site and potential for protected species has not changed significantly since the previous survey dated November 2016. Consequently, the recommendations of the previous report remain pertinent, these being;
- Lighting should be considered at the site to ensure that dark corridors are created or maintained at the site to ensure that commuting and foraging routes are maintained.
  - 20 bat roosting features should be created at the site.
  - Any vegetation clearance at the site should be undertaken outside of breeding bird season (March – August inclusive).
  - 30 bird boxes are installed at the site.
  - Sward height within the improved grassland field should be maintained at a low level until the commencement of site clearance and construction activities.
  - The open space created within the proposal should include some areas of rough grassland as to improve the areas for reptiles in the future.
  - Creation of wildflower meadows and a pond will enhance the site for invertebrates.

These recommendations will be secured via conditions.

- 6.31 Legal advice has been sought to confirm that Tendring District Council should now seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). A Habitat Regulations Assessment (HRA) has been carried out to confirm that the mitigation will be the RAMS contribution as recommended

by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any adverse impact the proposal may have on European Designated Sites. The recommendation seeks to secure this within six months of a committee resolution to approve, otherwise planning permission would be refused in its absence on the grounds that there is no certainty that the development would not adversely affect the integrity of Habitats sites. Natural England has been consulted and confirms that they have no further comments on the matter.

- 6.32 Notwithstanding this point, the creation of a large area of open space in the south of the site will provide recreational space for dog walkers who are more likely to use the onsite open space than the SPA for regular dog walks.

#### Drainage

- 6.33 The absence of an adequate surface water drainage scheme formed one of the reasons for refusal on the original outline application. However, during the appeal process a suitable scheme was provided through discussions with ECC-SuDs. The planning inspector then included a condition on the appeal decision to secure this scheme.
- 6.34 The scheme submitted shows that surface water run-off from the proposed development will be discharged via infiltration. The majority of run-off will be conveyed to dedicated SuDS features in the eastern corner of the site, including an infiltration basin (which will also provide water quality, amenity and biodiversity benefits) and an underground soakaway
- 6.35 ECC-SUDs have confirmed no objections to this application and a condition securing the scheme is included within the recommendation.

#### Legal Obligations

- 6.36 As this application seeks to vary the outline permission granted on appeal it follows that the legal agreement secured at appeal stage will need to be the subject of a deed of variation to refer to the details of the new planning permission. Consequently, a deed of variation has been prepared by the applicant that stipulates the following obligations, namely;
- 30% affordable housing provision
  - RAMS Contribution; and
  - Education contributions.
- 6.37 These obligations remain the same as previously secured at the appeal stage.

#### Conclusion

- 6.38 In conclusion the scheme represents an improved layout over that approved previously on appeal which will enable emergency and servicing vehicles to adequately access and manoeuvre across the site, whilst proposing a more spacious appearing development allowing for better spacing between properties and larger private gardens for future residents. The layout also seeks to respond to the existing adjoining residential dwellings thereby presenting a more logical urban form.
- 6.39 It is considered that the proposal meets the requirements set out within local and national policy and subject to the recommended conditions and completion of a S106 agreement the application is recommended for approval.

#### Background Papers

None.

## PLANNING COMMITTEE

9 April 2019

### REPORT OF THE HEAD OF PLANNING

#### **A.3 PLANNING APPLICATION - 18/01585/OUT - LAND TO THE REAR OF 62 TO 68 HOLLAND ROAD LITTLE CLACTON CO16 9RS**



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<b>Application:</b>	18/01585/OUT	<b>Town / Parish:</b> Little Clacton Parish Council
<b>Applicant:</b>	Mr Swain	
<b>Address:</b>	Land to The rear of 62 to 68 Holland Road Little Clacton	
<b>Development:</b>	Erection of 8 bungalows.	

## 1. **Executive Summary**

- 1.1 This application is before the Planning Committee for determination at the request of Councillor Bray due to the site being partly located outside of the settlement development boundary, the road being ill equipped to deal with increased road use of more development, and due to the lack of services nearby all journeys undertaken by future residents would require the use of a private car thus meaning the site is socially unsustainable. The size of the development means that any positive impact will not outweigh the harm.
- 1.2 The access lies within the Little Clacton Settlement Development Boundary as defined within the Adopted Tendring Local Plan 2007, with the remainder of the site being outside. The Settlement Development Boundary for Little Clacton as defined within the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 has been enlarged from the adopted plan and now encompasses an area to the rear of 64 to 68 Holland Road, as well as the access, with the remainder of site being located outside. The site also lies within the Local Green Gap within the Adopted Tendring Local Plan 2007 carried forward into the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 as a Strategic Green Gap.
- 1.3 The proposal would result in conflict with Saved Policy QL1 and Emerging Policy SPL1 in terms of the site's location beyond the settlement development boundary. However, whilst the National Planning Policy Framework advocates a plan-led approach, it is important to consider whether any circumstances outweigh the conflict. Development should be plan led unless material considerations indicate otherwise. Recent appeal decisions demonstrate that a site falling outside of a Settlement Development Boundary is not in itself sufficient to justify refusing applications for proposed development.
- 1.4 The application site lies to the rear of existing dwellings fronting Holland Road, adjacent to existing residential development approved in recent years (set out in section '3. Relevant Planning History below). The backland siting of the dwellings cannot therefore be considered materially harmful to the residential character of the area.
- 1.5 The development would be bound on its northern and western sides by existing development and adjacent to existing development to the north-east and south-east. The development would be viewed against a backdrop of existing built form and does not extend beyond the abutting development. Therefore, the development would not compromise the integrity of the Local Green Gap.
- 1.6 Having regard to the site context being in close proximity to the existing settlement and amenities, the principle of development for 8 bungalows is considered to constitute sustainable development resulting in no material economic, social or environmental harm.

**Recommendation: Approval (subject to legal agreement)**

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):
  - Financial Contribution towards RAMS
  - Open Space Contribution
- b) Planning conditions in accordance with those set out below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning in their discretion considers appropriate).
- c) That the Head of Planning (or the equivalent authorised officer) be authorised to refuse planning permission in the event that such a 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 completed s106 planning obligation.

**Conditions:**

1. Standard 3 year time limit for submission of reserved matters application
2. Standard 2 year limit for commencement of development following approval of reserved matters
3. Details of access, appearance, layout, scale and landscaping (the reserved matters)
4. Single storey only.
5. Removal of PD for openings or additions to the roofs of the dwellings.
6. Submission and approval of a Construction Method Statement
7. Visibility splay with dimensions of 2.4 metres by 43 metres in both directions provided prior to occupation.
8. The reserved matters shall provide for a vehicular access and footway constructed in accordance with Drawing No. 143 01 to be provided prior to occupation.
9. No unbound materials used in surface treatment within 6m of highway.

**Informatives:**

1. 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.
2. Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.
3. All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to 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).

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Colchester Highways Depot,  
653 The Crescent,  
Colchester  
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## 2. Planning Policy

National Planning Policy Framework 2019  
National Planning Practice Guidance

### Adopted Tendring District Local Plan 2007

QL1 Spatial Strategy  
QL9 Design of New Development  
QL10 Designing New Development to Meet Functional Needs  
QL11 Environmental Impacts and Compatibility of Uses  
EN1 Landscape Character  
EN2 Local Green Gap  
EN6 Biodiversity  
EN11A Protection of International Sites European Sites and RAMSAR Sites  
EN13 Backland Residential Development  
HG1 Housing Provision  
HG3 Residential Development within Defined Settlements  
HG6 Dwelling Size and Type  
HG9 Private Amenity Space  
TR1A Development Affecting Highways  
TR7 Vehicle Parking at New Development

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

SPL1 Managing Growth  
SPL2 Settlement Development Boundaries  
SPL3 Sustainable Design  
LP1 Housing Supply  
LP2 Housing Choice  
LP4 Housing Layout  
LP8 Backland Residential Development  
PPL3 The Rural Landscape  
PPL4 Biodiversity and Geodiversity  
PPL6 Strategic Green Gaps

### Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

### Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) 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 48 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.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's



initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. 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 48 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.

In relation to housing supply:

The NPPF 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 an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination in Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

### 3. Relevant Planning History

No site specific planning history.

#### Residential development at adjacent sites:

##### *Rear of 56, 58 & 60 Holland Road, Little Clacton*

- Outside Adopted SDB
- Within emerging SDB

17/02009/FUL	Erection of 9no. Bungalows with associated parking facilities.	Delegated Approval	16.01.2018
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##### *Land South of 54 Holland Road, Little Clacton*

- Outside Adopted SDB
- Within emerging SDB

15/00988/OUT &	Construction of one bungalow	Delegated	21.08.2015
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16/02075/DETAIL and garage.

Approvals

13.02.2017

*Little Clacton Tennis Club, 52 Holland Road, Little Clacton*

- Outside Adopted SDB

- Within emerging SDB

15/00961/OUT & Construction of six bungalows.  
16/02076/DETAIL

Delegated

22.10.2015

Approvals

08.02.2017

#### 4. Consultations

ECC Highways Dept

The documents accompanying the planning application have been duly considered. Given the scale of the proposed development and the area to be available for parking within the site, which complies with Tendring District Council's adopted parking standards, the proposal is acceptable to the Highway Authority, subject to the following requirements;

1. No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide 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

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

2. Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 43 metres in both directions as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

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

3. The development shall not be occupied until the proposed vehicular access and footway has been constructed in accordance with Drawing No. 143 01 and the terms, conditions and specification of the Highway Authority, Essex County Council.

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

4. No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway boundary.

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.

5. Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, 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, adopted as County Council Supplementary Guidance in February 2011

#### Informatives

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.

Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

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## UU Open Spaces

### Current Position

There is currently a deficit of 2.22 hectares of equipped play in Little Clacton. However, there is adequate formal open space in the area to cope with some future development.

There is one play area in the village which is located along London Road. This play area is designated a Local Equipped Area for Play, but is limited in size. To cope with any additional usage it would be necessary to increase the play provision at this site.

### Recommendation

Due to the significant lack of play facilities in the area, a contribution towards play is justified and relevant to the planning application and that this money would be spent at the only play area in Little Clacton. Any contribution would be used to improve the facilities at:

#### *Harold Lilley Playing Field- Little Clacton*

## Tree & Landscape Officer

The main body of the application site is set to grass with a few trees to the northern part of the site where the land appears to be associated with the dwellings in Holland Road. These include Poplar, Silver Birch and Oak with a few other small decorative trees.

The largest tree is the Poplar that is situated on the perimeter of the site in the north western corner of the land. The crown of the tree has been partially reduced leaving a one-sided and un-balanced specimen. The position of the tree is such that it does significantly constrain the development of the land. If the tree is to be retained it would be prudent to reduce the crown by approximately 50% to reduce the likelihood of large branches failing and to improve its shape and appearance.

None of the trees feature prominently in the street scene and their amenity value is such that they do not merit protection by means of a tree preservation order.

There are established hedgerows on the western boundary of the site, adjacent to an existing drainage ditch and on the northern boundary. It appears that both these hedges could be retained.

Although the application is in outline form the applicant has provide a site layout plan showing the potential positions of dwelling and soft landscaping.

If planning permission is likely to be granted then further details of soft landscaping should be secured by a planning condition.

## **5. Representations**

5.1 Little Clacton Parish Council strongly recommend refusal on the following grounds:

- Backland development;
- 5 year housing land supply reached;
- Cumulative effect on the use of back land to the south of Holland Road has now reached a level of oversaturation; and,

- Recently refused 18/01272/OUT mirrors this application and it should be refused for the same reason.

5.2 There have also been 7 letters of representation (6 objections, 1 neutral) received raising the following objections and potential issues:

- Backland development;
- Creeping development;
- Exacerbate traffic congestion;
- Lack of infrastructure for the area;
- Harmful to highway and pedestrian safety from construction traffic and new dwellings;
- Poor visibility;
- Noise and disturbance to neighbours from traffic movements and lights;
- Erodes village identity from too much development;
- Loss of green space;
- Harm to habitat for wildlife.

## 6. **Assessment**

The main planning considerations are:

- Site Context;
- Proposal;
- Principle of Development (including backland and appeal decision considerations);
- Layout, Design and Appearance;
- Impact on Neighbouring Amenities;
- Tree and Landscape Impact (including Green Gap impact);
- Highway Safety;
- Financial Contribution toward Open Space/Play Space;
- Ecology, and;
- Habitat Regulations Assessment.

### Site Context

- 6.1 The application site extends approximately 0.49 hectares in size and lies to the south of Holland Road, Little Clacton to the rear of numbers 62 to 68. The site comprises the existing access to Swallow Farm between numbers 68 and 74 Holland Road, land to rear/part garden of number 66 and part of the field beyond.
- 6.2 The main body of the application site is set to grass with a few trees to the northern part of the site within the extended garden area of number 66. There are established hedgerows on the western and southern boundary of the site providing a natural boundary. The access forms the eastern boundary of the site.
- 6.3 A number of bungalows are currently under construction on land to the rear of No's 30 to 38 Holland Road, and a further development of 6 bungalows is underway on land previously forming part of the Little Clacton Tennis Club and to the rear of 40 to 54 Holland Road, while planning permission has recently been granted for a further 9 dwellings on land rear of 54 to 60 Holland Road, abutting the current application site.

### Proposal

- 6.4 This application seeks outline planning permission for the erection of 8 detached bungalows with all matters reserved for subsequent approval.

- 6.5 The reserved matters, namely access, appearance, landscaping, layout and scale are all reserved for consideration as part of a future detailed application.

#### Principle of Development

- 6.6 The access lies within the Little Clacton Settlement Development Boundary as defined within the Adopted Tendring Local Plan 2007, with the remainder of the site being outside. The Settlement Development Boundary for Little Clacton as defined within the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 has been enlarged from the adopted plan and now encompasses an area to the rear of 64 to 68 Holland Road, as well as the access, with the remainder of site being located outside. The site also lies within the Local Green Gap within the Adopted Tendring Local Plan 2007 carried forward into the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 as a Strategic Green Gap.
- 6.7 Saved Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan. These sentiments are carried forward in emerging Policy SPL1 of the Publication Draft.
- 6.8 The NPPF 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 an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.
- 6.9 At the time of this report, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination in Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.
- 6.10 Whilst it is recognised that there would be some conflict with Saved Policy QL1 and Emerging Policy SPL1 in terms of the site being mostly sited outside the settlement development boundary, as stated above, in the context of the 5 year housing land supply paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not and it is important to consider whether any circumstances outweigh this conflict.
- 6.11 Therefore, at this present time, it is correct to assess the housing development on its merits against the sustainable development objectives set out within Paragraph 8 of the NPPF. The economic objective, a social objective and an environmental objective are therefore assessed below.

*Economic:*

- 6.12 It is considered that the proposal for 8 bungalows would contribute economically to the area, for example by providing employment during the construction of the development and from future occupants using the nearby facilities, and so meets the economic objective of sustainable development.

*Social:*

- 6.13 Emerging Policy SPL1 of the Publication Draft of the Local Plan 2017 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. This is the emerging policy equivalent to Saved Policy QL1 of the adopted Tendring District Local Plan 2007 which states that development should be focussed towards the larger urban areas.
- 6.14 Little Clacton is identified as a 'Village' within saved Policy QL1 of the adopted Tendring District Local Plan 2007 and is defined as a 'Rural Service Centre' within Policy SPL1 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) in recognition of its size and range of local services. For these settlements, the emerging Local Plan identifies opportunities for smaller-scale growth. To allow for this to happen, Settlement Development Boundaries have been drawn flexibly, where practical, to accommodate a range of sites both within and on the edge of villages and thus enabling them to be considered for small-scale residential 'infill' developments. With this in mind, the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) settlement development boundary for Little Clacton has been extended. This includes part of the site with the remainder of the site directly abutting the extended settlement development boundary.
- 6.15 The development would consolidate an existing residential area of the village which, whilst outside the settlement boundary, is within walking and cycling distance of a wide variety of services in the village and benefits from reasonable links to public transport giving access to wider services and facilities.

*Recent Appeal Decisions:*

- 6.16 There have been a number of appeal decisions that have demonstrated that an application site being located outside of a Settlement Development Boundary is not in itself sufficient justification to refuse an application for residential development, some of which are highlighted below.
- 6.17 Within planning reference APP/P1560/W/17/3187802 (Land north of 2 Martins Gate Cottage, Colchester Road, St Osyth) the inspector concluded "that while there would be some conflict with Policy QL1 of the Local Plan, because the dwelling would be located outside St Osyth's settlement boundary, this site would be an appropriate location for a dwelling. I therefore find that there would be no unacceptable conflict with the Local Plan."
- 6.18 Within planning reference APP/P1560/W/17/3183189 (Site adj Malting House, Station Road, Thorpe-le-Soken) the inspector stated the following: "that the appeal site is outside a settlement boundary is not a decisive factor in this appeal and the conflict with Policy QL1 carries only limited weight in the planning balance."
- 6.19 Further, within planning reference APP/P1560/W/17/3188055 (Land rear of The Laund, Heath Road, Bradfield) the inspector concluded the following: "I find that the adverse impacts in this case, arising from the location of the appeal site outside the development boundary for Bradfield, do not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole."

6.20 Also, within planning reference APP/P1560/W/18/3209480 (Land South of Frinton Road, Thorpe Le Soken, CO16 0HS) the inspector concluded “The proposed development would be contrary to Saved Policy QL1 of the Local Plan. However, the proposed development would meet the aims of the NPPF to provide new housing in appropriate locations and would not cause harm to the character and appearance of the countryside. I would conclude that these are material considerations that would indicate making a decision that is not in accordance with the development plan.”

*Environmental:*

6.21 The environmental role is about contributing to protecting and enhancing the natural built and historic environment. In this instance, the backland siting of the proposal and location with the Local Green Gap form material considerations.

*Backland Residential Development:*

6.22 The development involves the construction of 8 detached bungalows in a 'backland' location to the rear of the established residential frontage along Holland Road. Saved Policy HG13 of the adopted Tendring District Local Plan 2007 and emerging Policy LP8 Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) therefore become relevant.

6.23 The main problems that can arise as a result of backland development include undermining the established character of an area, dwelling plots appearing cramped relative to their surroundings; the fragmentation of established gardens with a loss of mature landscaping; and the infringement of neighbouring residents' amenities. Development behind an established building line can also appear incongruous, particularly with isolated dwellings.

6.24 There must also be proper means of access to backland development, which is safe and convenient for both drivers and pedestrians, with a turning area where necessary to avoid the need for vehicles to reverse onto a public highway. A proposed access should avoid excessive disturbance or loss of privacy to neighbouring residents through, for example, an access drive passing unreasonably close to an adjoining dwelling. The likely frequency of use by vehicular traffic and the suitability of the access for service vehicles and the emergency services will also be relevant material considerations.

6.25 Saved Policy HG3 of the Adopted Plan (as echoed within emerging Policy LP8) states proposals for the residential development of backland sites must comply with certain criterion. This is set out and addressed below:

- i. the site lies within a defined settlement development boundary and does not comprise land allocated or safeguarded for purposes other than a residential use;
  - *The site is not located within a defined settlement boundary in the saved plan and only partly within the emerging local plan boundary. The site is not designated for any particular use.*
- ii. where a proposal includes existing private garden land which would not result in less satisfactory access or off-street parking arrangements, an unacceptable reduction in existing private amenity space or any other unreasonable loss of amenity to existing dwellings;
  - *The site includes a part of an existing garden but this does not compromise the access, parking or private amenity space standards for the donor dwelling. The indicative layout plan demonstrates how acceptable access, turning, parking and private amenity space can be achieved for the new dwellings. The proposal is for*



*single storey development (which can be controlled by an appropriately worded condition) minimising any impact upon the amenities of existing residents.*

- iii. a safe and convenient means of vehicular and pedestrian access/egress can be provided that is not likely to cause undue disturbance or loss of privacy to neighbouring residents or visual detriment to the street scene. Long or narrow driveways will be discouraged;
  - *Safe and convenient means of vehicular and pedestrian access/egress can be provided that is not likely to cause undue disturbance or loss of privacy to neighbouring residents or visual detriment to the street scene. Although the scheme does involve a long, narrow driveway, this already exists.*
- iv. the proposal does not involve "tandem" development using a shared access;
  - *The proposal does not involve a "tandem" form of development using a shared access.*
- v. the site does not comprise an awkwardly shaped or fragmented parcel of land likely to be difficult to develop in isolation or involve development which could prejudice a more appropriate comprehensive development solution;
  - *The site is of a regular shape and would not compromise a more comprehensive development solution.*
- vi. the site is not on the edge of defined settlements and likely to produce a hard urban edge or other form of development out of character in its particular setting; and
  - *The development of the site would not form a hard urban edge to the settlement as the land is surrounded by residential development to the east, south and west.*
- vii. the proposal would not be out of character with the area or set a harmful precedent for other similar forms of development.
  - *The development would not set a harmful precedent as the development is not harmful in its own right and each case must be assessed on its own merits. Furthermore, in this instance, the application site lies adjacent to existing residential development approved in recent years. The backland siting of the dwellings cannot therefore be considered materially harmful to the residential character of the area.*

#### *Local Green Gap:*

- 6.26 The development involves the residential development within an area designated as a Local Green Gap within the adopted Tendring District Local Plan 2007 carried forward as a Strategic Green Gap Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). Saved Policy EN2 of the Adopted Local Plan and draft Policy PPL6 of the Emerging Local Plan therefore become relevant.
- 6.27 Saved Policy EN2 (echoed within emerging Policy PPL6) states that Local Green Gaps will be kept open and essentially free of development to prevent the coalescence of settlements and to protect their rural settings.
- 6.28 The development would be bound on its northern and western sides by existing development. The residential development fronting Holland Road and the farm buildings serving Swallow Farm extend beyond the application site to its north-east and south-east. The development

would be viewed against a backdrop of existing built form and does not extend beyond rear boundary of the abutting residential development to the west. The site is not rural in character and the proposed development would not result in an amalgamation of settlements. Therefore, the development would not compromise the integrity of the Local Green Gap designation.

*Conclusion:*

- 6.29 The proposed development would be contrary to Saved Policy QL1 of the Local Plan. However, the proposed development would meet the aims of the NPPF to provide new housing in appropriate locations and would not cause harm to the character and appearance of the area or countryside.

Layout, Design and Appearance

- 6.30 The adopted Tendring District Local Plan (2007) Saved Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.31 The application is in outline form with all matters reserved and therefore detailed plans do not form part of the determination of this application. As such no elevational drawings have been submitted. Design within any future application should look to be in-keeping and not detrimental to the character of the surrounding area. The description of the development details 'bungalows' which is considered the most appropriate approach to the development of the site. A condition for single storey development only is considered necessary in this instance to minimise landscape and visual impact and to ensure the development is in keeping with the immediate residential character.
- 6.32 Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of one bedroom should be a minimum of 50 square metres, for a dwelling of two bedrooms should be a minimum of 75 square metres and for a dwelling of three bedrooms or more should be a minimum of 100 square metres. The information that has been supplied suggests 8 three bedroom bungalows. The indicative layout plan provided demonstrates that private amenity space for each dwelling can be achieved in accordance with the aforementioned standards.

Impact on Neighbouring Amenities

- 6.33 Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.34 Whilst the application is in outline form with all matters reserved, Officers consider that sufficient space is available on site to provide a development that, through the submission of a reserved matters application, could achieve an internal layout and separation distances that would not detract from the amenities of nearby properties or the future occupiers of the proposed dwellings. As stated above, the description of the development details 'bungalows' which is considered the most appropriate approach to the development of the site. A condition for single storey development only is considered necessary in this instance to minimise the impact upon residential amenities. This together with a condition removing permitted development rights for openings or additions to the roof will safeguard neighbouring amenity.

- 6.35 The dwellings will be accessed via the existing access retaining a good distance to neighbouring properties fronting Holland Road. It is not considered that the comings and goings of vehicles associated with 8 dwellings would be significantly harmful in terms of noise or disturbance given the number of dwellings and the built up character of the area.

#### Tree and Landscape Impact

- 6.36 Saved Policy EN1 of the Local Plan states that the quality of the district's landscape and its distinctive local character will be protected and, where possible, enhanced and any development which would significantly harm landscape character or quality will not be permitted.
- 6.37 None of the trees feature prominently in the street scene and their amenity value is such that they do not merit protection by means of a tree preservation order. There are established hedgerows on the western boundary of the site, adjacent to an existing drainage ditch and on the northern boundary. It appears that both these hedges could be retained. Although the application is in outline form the applicant has provide a site layout plan showing the potential positions of dwelling and soft landscaping.
- 6.38 The development would be bound on its northern and western sides by existing development. The residential development fronting Holland Road and the farm buildings serving Swallow Farm extend beyond the application site to its north-east and south-east. The development would be viewed against a backdrop of existing built form and does not extend beyond the rear boundary of the abutting residential development to the west. The single storey height of the properties further minimises the landscape and visual impact.
- 6.39 The development would not significantly harm the landscape character or quality and through the submission of a reserved matters application including a soft landscaping scheme would suitably soften and blend the development with its surroundings.

#### Highway Safety

- 6.40 Paragraph 108 of the National Planning Policy Framework 2018 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. These objectives are supported by emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). Furthermore, the Essex County Parking Standards 2009 require 2 parking spaces 5.5 metres by 2.9 metres for the proposed and donor property.
- 6.41 Essex County Council Highways have been consulted. They raise no objections subject to conditions including visibility splays, parking, provision of a widen access and footway. As this application is in outline form with all matters reserved, these matters regarding the access will be communicated through informatives to ensure these are incorporated into the reserved matters stages of the application. The conditions relating to no unbound materials, a travel pack and construction method can be included as part of the conditions attached to the outline permission.
- 6.42 It is considered that the highway network could safely accommodate the additional traffic generated from 8 dwellings being served by an existing, spacious access that can accommodate appropriate visibility splays and controlled by suitable conditions.

### Financial Contribution toward Open Space/Play Space

- 6.43 The Council's Open Space Team has confirmed that there is a deficit of 2.22 hectares of equipped play in Little Clacton. However, there is adequate formal open space in the area to cope with some future development. Therefore, to ensure the facilities are adequate and able to cope with the additional usage a contribution is relevant and justified to this application and would be used for improvements to the current play equipment at Old Road Play Area
- 6.44 Due to the significant lack of play facilities in the area, a contribution towards play is justified and relevant to the planning application and that this money would be spent at the only play area in Little Clacton. Any contribution would be used to improve the facilities at Harold Lilley Playing Field.
- 6.45 The recommendation seeks to secure this within six months of a committee resolution to approve; otherwise planning permission would be refused in the absence of the required financial contribution being secured in accordance with saved Policy COM6 of the adopted Tendring District Local Plan 2007.

### Ecology

- 6.46 The site is laid to grass devoid of any habitat rich features. The submission of a Phase 1 Habitat Survey was not considered necessary in this instance.
- 6.47 The development allows for the existing boundary hedgerows to be retained and a landscaping scheme approved at the reserved matters stages will allow for enhancement of features suitable for wildlife.

### Habitat Regulations Assessment

- 6.48 Legal advice has been sought in relation to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) which supports the view that Tendring District Council can seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The HRA has therefore been amended to confirm that the mitigation will be the RAMS level contribution as recommended by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any adverse impact the proposal may have on European Designated Sites. The recommendation seeks to secure this by way of legal agreement within six months of a Committee resolution to approve, otherwise planning permission would be refused in its absence on the grounds that there is no certainty that the development would not adversely affect the integrity of European Designated Sites.
- 6.49 The recommendation seeks to secure this within six months of a committee resolution to approve; otherwise planning permission would be refused in its absence on the grounds that there is no certainty that the development would not adversely affect the integrity of Habitats sites.

### Background Papers

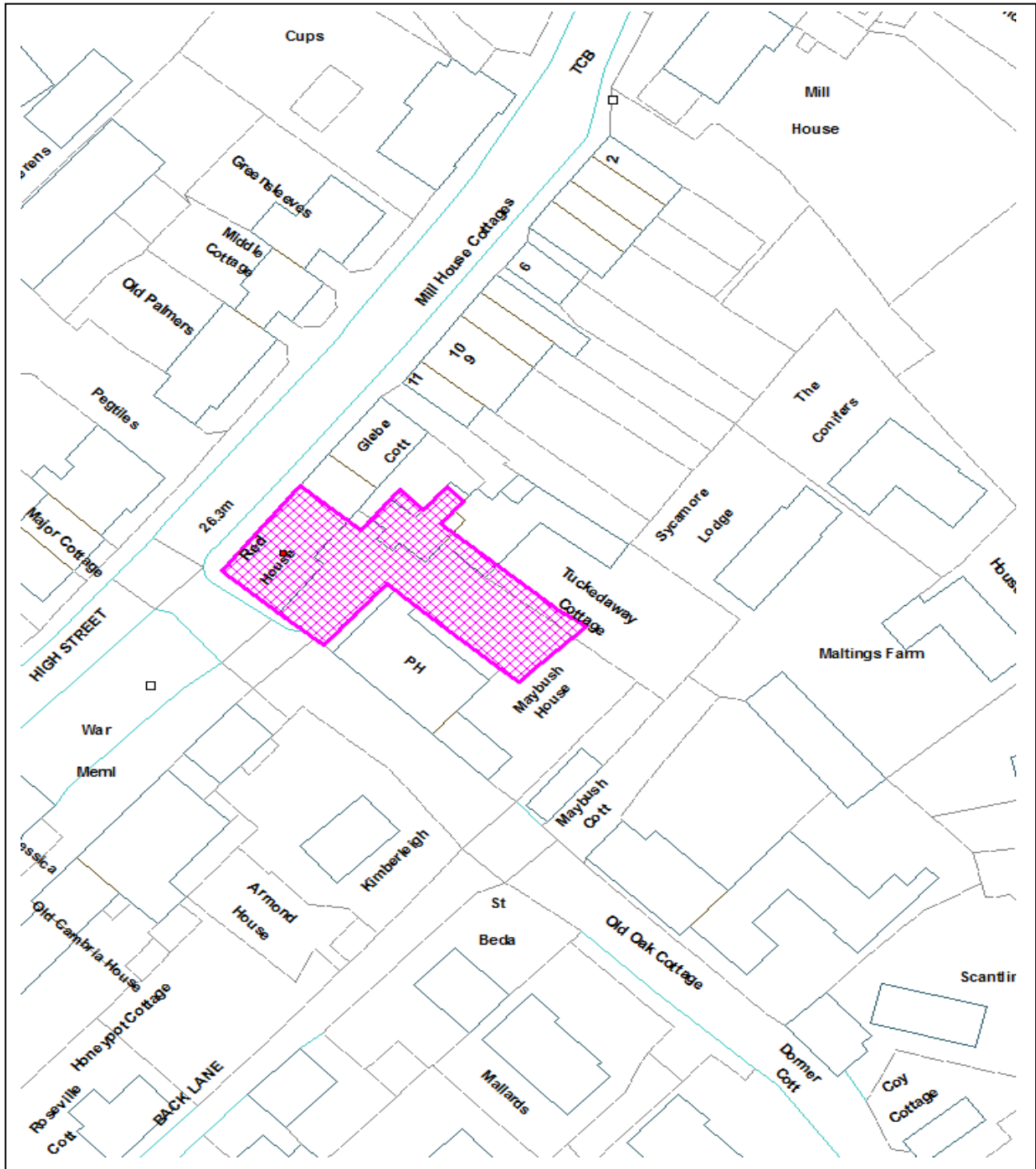
- 6.50 None.

## PLANNING COMMITTEE

9 APRIL 2019

### REPORT OF THE HEAD OF PLANNING

#### **A.4 PLANNING APPLICATION - 19/00090/FUL - RED HOUSE, HIGH STREET, GREAT OAKLEY, CO12 5AQ**



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<b>Application:</b>	19/00090/FUL	<b>Town / Parish:</b> Great Oakley Parish Council
<b>Applicant:</b>	Great Oakley Community Hub	
<b>Address:</b>	Red House High Street Great Oakley	
<b>Development:</b>	Demolition of Red House to allow for proposed Community Hub Building incorporating cafe/tea rooms with community and social centre and 3no. one bedroom flats above. Use of land as community car park.	

## 1. Executive Summary

- 1.1 Councillor Mike Bush has called for the application to be determined by the Planning Committee as he wholly supports the scheme, which will see the reconstruction of a building in extremely poor condition that is not historically listed. He states there are significant benefits that outweigh the harm caused by the buildings demolition; namely an improved street scene, infilling the gap in the street scene between Red House and Maybush Inn, provision of public garden and rental accommodation, and provision of a community facilitate within the village.
- 1.2 Under planning reference 18/01046/FUL, permission was refused for a similar scheme. Proposed amendments to that scheme include the car parking area being reduced to accommodate 12 vehicles, the removal of the recycling container and the vehicular access point adjacent to 'Elberns' has been reduced to pedestrian access only. A Structural Report has also been undertaken, while changes to the design of the replacement building have been incorporated by replacing the previous UPVC windows and modern door with timber joinery in a painted finish, and smaller dormers. Further, the dining room has been reduced from being able to seat 40 people to 20 people, with the additional area to be utilised as a community and social area.
- 1.3 The Great Oakley Conservation Area Appraisal identifies 'The Red House' as pivotal due to its sensitive corner plot siting facing onto an important space within the conservation area. The form, age, materials and location of the building therefore mean it forms a key facade facing onto the High Street and Farm Road and one which positively contributes to the character and appearance of the Great Oakley Conservation Area.
- 1.4 The submitted Heritage Statement is not detailed enough to fully assess the significance of this building; more detailed research to understand the buildings evolution and its evidential/historic/aesthetic/communal values both in terms of the conservation area and its interior plan form/fixtures and fittings would be expected. Further, the structural survey does not justify and provide a robust case for the buildings demolition.
- 1.5 The detailed design of the replacement building includes large first floor windows that would break the eaves line and partly occupy the roof slope, and the construction of a weatherboarded link and undercroft, which proposes to enclose the gap between The Red House and Maybush Public House, appearing overly urban and out of character. Therefore the development is not considered to preserve or enhance the special character of this section of the Great Oakley Conservation Area.
- 1.6 The construction of a car parking area measuring approximately 50m in length would cause harm to the character of the area as it would represent an unjustified intrusion into open countryside and contribute to the urbanisation of the village and the gradual erosion of the countryside.

- 1.7 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a Special Protection Area must provide mitigation. A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast RAMS requirements.

**Recommendation: Refusal**

**Reasons for Refusal:**

1. The National Planning Policy Framework (NPPF) states Local Planning Authorities should require an applicant to describe the significance of any heritage assets affected. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. 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. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.

The Council has a statutory duty to ensure that developments protect or enhance the character and appearance of the conservation area. In this instance the proposal is to totally demolish 'Red House' and re-build. The Great Oakley Conservation Area Review refers specifically to Red House and states '*The Red House, in a state of exterior disrepair, is pivotal in turning the corner from High Street into Farm Road*'. The appraisal structure map also identifies this area of the High Street as an important space within the conservation area given its location adjacent to a small square and shows The Red House as occupying a key facade and important boundary.

Therefore to demolish the building the criteria of saved policy EN20 (Demolition within Conservation Areas) must be met. This policy states that the demolition of a building that makes a contribution will only be permitted where;

- supporting evidence is submitted with the application which demonstrates that the building is beyond economic repair; or
- viable alternative uses cannot be found and an applicant has supplied evidence to demonstrate this to the satisfaction of the local planning authority; and
- the redevelopment would preserve the area's character and would produce substantial benefits that would outweigh the loss of the building or structure.

The National Planning Policy Framework (2019) states at paragraph 201 that 'not all elements of a Conservation Area or World Heritage Site will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 195 or less than substantial harm under paragraph 196, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole'.

The Great Oakley Conservation Area Appraisal identifies 'The Red House' as pivotal due to its sensitive corner plot siting facing onto an important space within the conservation area. The form, age, materials and location of the building therefore means it forms a key facade facing onto the High Street and Farm Road and one which positively contributes to the

character and appearance of the Great Oakley Conservation Area.

Consequently, the demolition of this building is considered to cause substantial harm to the Great Oakley Conservation Area and therefore the requirements of paragraph 195 of the NPPF apply. This paragraph states that, 'where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss'. Further, paragraph 189 of the NPPF states that, 'local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting'.

In this instance insufficient information has been provided to demonstrate that the requirements of saved policy EN20 and the relevant paragraphs of the NPPF stated above have been met. The proposal includes the demolition of a non-designated heritage asset. The submitted Heritage Statement is not detailed enough to fully assess the significance of this building; more detailed research to understand the buildings evolution and its evidential/historic/aesthetic/communal values both in terms of the conservation area and its interior plan form/fixtures and fittings would be expected.

Further, the structural survey, which is a high level condition survey, highlights defects and lists a scheme of works likely to be involved to retain the building, stating "*The above works are likely to be slow, intensive and difficult to execute, we envisage they will be expensive*", however concludes "*In order to establish the exact causes of the damage and the appropriate scope and the full extent of the repairs required, a much more detailed investigation would be needed.*" There are no details provided in relation to what the costs would be to retain the building, even if only partly retained, with the report itself stating "*cost will play a large part in determining which the most viable course of action is and professional advice should be sought in this respect.*" While there has been some intrusive alteration to the building, including the existing fenestration, which detracts from the aesthetic value of the building, this could easily be improved. Accordingly, the survey does not justify and provide a robust case for the buildings demolition.

Consequently in the absence of the historic statement providing sufficient analysis of the affected heritage assets and the structural survey not sufficiently justifying a robust case for the buildings demolition, the proposal is considered to be contrary to the aforementioned local and national planning policies.

2. The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

Saved policy EN17 concerns development within conservation areas and states that development must preserve or enhance the character or appearance of the conservation area. The policy goes on to add that development will be refused where it would harm the character or appearance of the conservation area including historic plan form, relationship between buildings, the arrangement of open areas and their enclosure, grain or significant natural or heritage features. The policy also states that development will not be supported where the height, siting, form, massing, proportions, elevation, design or materials would not preserve or enhance the character of an area.

The detailed design of the replacement building is not considered to preserve or enhance the special character of this section of the Great Oakley Conservation Area. In the Great



Oakley Conservation Area Appraisal it states that the High Street frontage in this location is the most consistently developed frontage in the village as all the properties rise from the back of the pavement and have roofs parallel to the main road. The uninterrupted roof slopes and eaves of these properties also contribute to their consistent appearance.

In this case the High Street elevation would include large first floor windows that would break the eaves line and partly occupy the roof slope. This would be at odds with the appearance of the properties situated along the High Street to the north-east and would erode the sense of consistency that the appraisal identifies as being a key characteristic of this section of the conservation area. To the Farm Road elevation a first floor link is proposed with an undercroft below to access the flats and parking areas to the rear. The link also includes windows that break the eaves which is again at odds with the appearance of properties along this Farm Road frontage. Furthermore, the construction of the weatherboarded link and undercroft, which proposes to enclose the gap between The Red House and Maybush Public House, would appear overly urban and out of character in this section of Farm Road which comprises of stand-alone buildings. The enclosure of this gap within the street scene with a feature out of keeping with the pattern of built form in the locality would not preserve or enhance the appearance of the conservation area.

3. The 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. One of the core planning principles of The National Planning Policy Framework (NPPF) as stated at paragraph 124 is to always seek to secure high quality design. The NPPF at paragraph 170 also states that the planning system should take account of the different roles and character of different areas and recognise the intrinsic character and beauty of the countryside.

Saved policies QL9 and EN1 of the Tendring District Local Plan 2007 and emerging policy PPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seek to ensure that development is appropriate in its locality and does not harm the character and appearance of the rural landscape.

The proposed car parking area is to be situated within an agricultural field located at the south-eastern end of the built form present along Farm Road. The construction of a car parking area accommodating 12 parking spaces and measuring approximately 50m in length would cause harm to the character of the area as it would represent an unjustified intrusion into open countryside and contribute to the urbanisation of the village and the gradual erosion of the countryside. Whilst the mature hedgerow along Farm Road is to be retained, views of the parking area would be particularly harmful from the public footpath running from east to west along the southern boundary of the site.

Therefore the parking area is considered to be detrimental to the rural character and contrary to the aforementioned local and national planning policies.

4. Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a Special Protection Area must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast RAMS requirements. As submitted, there is no certainty that the development would not adversely affect the integrity of Habitats sites.

The proposal is therefore considered to be contrary to Policies EN6 and EN11a of the Saved Tendring District Local Plan 2007 and Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

## 2. Planning Policy

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

ER7 Business, Industrial and Warehouse Proposals

HG3 Residential Development Within Defined Settlements

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG10 Conversion to Flats and Bedsits

COM1 Access for All

COM4 New Community Facilities (Including Built Sports and Recreation Facilities)

COM23 General Pollution

EN1 Landscape Character

EN6 Biodiversity

EN11a Protection of International Sites: European Sites and RAMSAR Sites

EN17 Conservation Areas

EN20 Demolition within Conservation Areas

EN29 Archaeology

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

SPL1 Managing Growth

SPL3 Sustainable Design

HP2 Community Facilities

LP1 Housing Supply  
LP2 Housing Choice  
LP3 Housing Density and Standards  
LP4 Housing Layout  
PPL3 The Rural Landscape  
PPL4 Biodiversity and Geodiversity  
PPL7 Archaeology  
PPL8 Conservation Areas  
CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Conservation Area Character Appraisals

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

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) 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 48 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.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. 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 48 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.

In relation to housing supply:

The NPPF 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 an appropriate

buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

### 3. Relevant Planning History

18/01046/FUL	Demolition of Red House to allow for proposed Community Hub Building incorporating restaurant/tea rooms with 3no. one bedroom flats above. Use of land as community car park.	Refused	03.09.2018
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### 4. Consultations

Essex County Council  
Heritage

The application is for demolition of Red House to allow for proposed Community Hub Building incorporating cafe/tea rooms.

Red House is located in the Great Oakley Conservation Area. The building forms part of the village's historic building stock and makes a positive contribution to the character and appearance of the conservation area, as such it is considered a 'non-designated heritage asset' with regard to the NPPF.

Considering the proposal includes for the demolition of a non-designated heritage asset, I do not consider the submitted Heritage Statement detailed enough to fully assess the significance of this building. Given the proposal will result in total loss I would hope for more detailed research, an understanding of the building's evolution and an understanding of the building's evidential/historic/aesthetic/communal values both in terms of the conservation area and its interior plan form/fixtures and fittings. This has not been realised in this application.

Having reviewed the documents submitted with the application, I do not believe that a robust case has been made for the building's demolition. The structural survey, which is a high level condition survey, highlights defects. However, I do not consider this justifies the building's demolition at all. Furthermore I do not give any material weight to the 'do nothing' scenario outlined in the planning statement.

A review of this application, and desk based resources, indicates that Red House forms part of the village's historic building stock and is

located in a prominent part of the conservation area. There has been some intrusive alteration to the building, including the existing fenestration, which detracts from the aesthetic value of the building but this element could easily be improved. Given the significance of the building has not been fully understood and its demolition (based on condition) not fully justified, I cannot support the demolition of this heritage asset. Notwithstanding the above comments, if the building were to be demolished, I do not support the proposed building which is not a faithful reconstruction but more of a pastiche of the existing building. I consider this would be intrusive to the character and appearance of the conservation area.

Based on the information submitted, and my review of the building, I do not support this scheme - particularly in terms of demolishing the existing building.

I recommend the following considerations with regard to the NPPF: Paragraph 189: Given the proposal will result in the total loss of a heritage asset, I do not consider the Heritage Statement adequate in understanding the significance of the building which would be affected. As such I do not consider the application compliant with paragraph 189.

Paragraph 196: The proposal, in terms of both demolition of the existing building and the proposed new design, will cause 'less than substantial harm' to the Great Oakley Conservation Area.

Paragraph 197: The proposal will result in the complete loss of a non-designated heritage asset. As such this is considerably harmful and should be give weight under paragraph 197.

Paragraph 201 states:  
Not all elements of a Conservation Area or World Heritage Site will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 195 or less than substantial harm under paragraph 196, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole.

Red House is a building which makes a positive contribution to a prominent part of the conservation area, as such paragraph 195 could be considered relevant.

I do not support this application. I recommend the applicant considers the potential to sustainably conserve this heritage asset in a manner which enhances its significance and also the character and appearance of the conservation area.

ECC Highways Dept

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 first occupation of the proposed residential development,

the proposed vehicular access shall be constructed at right angles to the highway boundary and to a width of 3.7 metres 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.

2. Prior to the proposed access for the dwellings on the proposed residential development being brought into use, a 1.5m. x 1.5m. pedestrian visibility splay, relative to the highway boundary, shall be provided on both sides of that access and shall be retained and maintained free from obstruction clear to ground thereafter. These splays must not form part of the vehicular surface of the access.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and pedestrians 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. No unbound materials shall be used in the surface treatment of any of the proposed vehicular accesses within 6m of the highway boundary.

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.

4. Prior to the first use of the proposed car park, the car parking and turning area, shall be provided in accord with the details shown in Drawing Numbered 1814-06-E. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

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.

5. Prior to the occupation of the proposed residential development, details of the provision for the storage of bicycles for each dwelling sufficient for all occupants of that 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 within the site which shall be maintained free from obstruction and retained thereafter.

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.

6. No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide 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 under body washing facilities
- v. the means or method of protecting the travelling public within the highway whilst working from height above and adjacent to the highway

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

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.

## UU Open Spaces

### Current Position

There is currently a deficit of -0.76 hectares of equipped play in Great Oakley.

There is one play area in Great Oakley, located off Orchard Close. This play area has recently been upgraded and is classified as a Local Equipped Area for Play.

### Recommendation

Due to the size of the current development it is unlikely that there will be a significant impact on the current facilities. Therefore no contribution is being requested on this occasion.

## Tree & Landscape Officer

The application relates to two separate areas of land; one being the Red House and immediately adjacent land and the other a parcel of agricultural land in Farm Road; to the south east of the Red House.

In terms of the land in the vicinity of the Red House there are no trees or other significant vegetation that would be affected by the development proposal. There is little scope for or benefit to be gained by new soft landscaping.

With regard to the area of agricultural land it is important to note that the land is constrained by an existing countryside hedgerow that is afforded protection by the Hedgerow Regulations 1997.

The proposed use of the agricultural land as car park does not appear to necessitate the removal of any major sections of the hedgerow as

access and egress would be by way of existing field entrances. The development proposal may require slight widening of the access and egress points, but this would not, in itself, significantly compromise the integrity of the hedgerow.

A small tree to the west of the proposed access is shown as retained.

The change of the use of the land from agricultural land to car park it is considered that although moderate in scale it would cause harm to the character of the area as it would contribute to the urbanisation of the village and the gradual erosion of the countryside.

In terms of the layout of the proposed new car park the plan includes details of soft landscaping on the exposed perimeter of the car park to soften its appearance and screen it from view from the surrounding countryside. The plan contains sufficient information relating to plant species and specification.

Building Control and  
Access Officer

No adverse comments at this time.

Environmental Protection

With reference to the above planning application, pollution & Environmental Control would like to make the below request:

"A full construction method statement including hours of operation"

Essex County Council  
Archaeology

A recommendation for historic building recording was recommended on the previous application (18/01046/FUL). The age of the Red House is unknown however its prominent position along the High Street suggests it was a significant building. The reports submitted show the building is in a poor state of repair; however there may be fixtures and fittings surviving which relate to its origin and evolution over time. A historic building record should be completed prior to its demolition to establish the date and function of the building.

The proposed development lies within a Historic Environment Characterisation (HEC) zone which is characterised by elements of early prehistoric activity as well as later prehistoric and Roman settlement. Within the immediate area there is the possibility of surviving below ground archaeological deposits of medieval date associated with the historic dispersed settlement pattern.

The following recommendations are made in line with the Department for Communities and Local Government National Planning Policy Framework:

**RECOMMENDATION:** Historic building record and archaeological monitoring.

1. No development or demolition can commence until a historic building record has been secured and undertaken in accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the planning authority. Following completion of the historic building record, the applicant will submit to the local planning authority a report ready for deposition with the EHER.



2. No development or preliminary ground-works can commence until a programme of archaeological monitoring has been secured and undertaken in accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the planning authority.

Reason for recommendation

The Tendring Historic Environment Characterisation project and Essex HER show that the proposed development is located within an area with a surviving historic building and potential for below ground archaeological deposits. The development would result in harm to non-designated heritage assets.

Further Recommendations:

A brief outlining the level of historic building recording and archaeological investigation will be issued from this office on request. Tendring District Council should inform the applicant of the recommendation and its financial implications.

If you have any questions about this advice, please do not hesitate to contact me.

## **5. Representations**

- 5.1 Great Oakley Parish Council fully support the Community Hub and their ambitions and agree the site needs redevelopment. Whatever redevelopment takes place, the appearance of the 'original' Red House should be preserved or replicated to preserve the street scene. A food facility of significantly downsized scale would seem beneficial to the community with additional public resources such as an internet-café, library, post office etc as well as provision of tea and coffee should be included in the approved scheme. Great Oakley Parish Council are aware of the strength of opinion so far expressed and hope Planning can achieve a compromise to suit all schools of thought.
- 5.2 The application has attracted 32 objections and 19 letters of support. The representations received are summarised below;

### Support

- Will benefit the village
- Proposal is more historically accurate
- Red House currently looks dilapidated and untidy
- No food facilities at the adjacent Maybush Inn
- 1 bedroom flats ideal for those looking to downsize
- The building is beyond economical repair
- Restaurant will provide food for less able local people

### Objections

- Impact to character of the area
- Parking is too far away
- Highway safety concerns
- Harm to the landscape as a result of proposed car park
- Red House is an iconic building and should not be demolished

- Red House can be maintained and restored
- Impact to Great Oakley Conservation Area
- A restaurant is not needed in this location
- No changes from previous application
- No street lighting around proposed car park area
- Car park will attract anti-social behaviour, noise nuisance and increased traffic
- Will be a rival business to the Maybush Inn
- Not sufficient evidence Red House is beyond economical repair
- Negative impact to Great Oakley Conservation Area
- Noise and Odour impacts
- Loss of a historic building
- Proposed car park is not tenable or realistic
- Will result in disruption to local village

## **6. Assessment**

### Site Context

- 6.1 This application relates to two red line sites; one is situated to the northern end of Farm Road, where this road joins the main B1414 High Street. This site currently supports a two-storey residential dwelling (Red House), noticeable by its red colouring and prominent position within the village. This site is located within the Great Oakley Conservation Area. The neighbouring property to the south-east is the Maybush Inn Public House, and this property was saved from closure as a public house by the applicant in 2016. The property has since been reopened on behalf of the community.
- 6.2 The second red line site relates to an area of arable farm land situated at the south-eastern end of Farm Lane outside of the conservation area. This area of land is in agricultural use and is enclosed to the lane by a mature hedgerow. The land has an informal access at its northern end and there is an existing concrete access at its southern end.

### Proposal

- 6.3 The proposal is to create a new community hub building, by demolishing the existing Red House and rebuilding this property (and extending) to adjoin the Maybush Inn. The proposal will involve the formation of a community & social area, dining room, reception, kitchen, lobby, W.Cs and store areas at ground floor level (with underpass providing access to rear).
- 6.4 The first floor will support 3no. one-bedroom flats, each providing a living room, kitchen, bathroom and double bedroom. A shared garden area is created to the rear of the Maybush Inn.
- 6.5 Each flat will be provided with a dedicated car parking space to the rear of the building. A new turning area will be provided. Site deliveries and waste provision will also be catered for to the rear of the property.
- 6.6 Additional parking provision is to be made at available via an area of land situated to the south-eastern end of Farm Road. This land will serve as a community car park capable of parking 12 vehicles.

### Site History

- 6.7 Under planning reference 18/01046/FUL, permission was refused for the demolition of Red House to allow for a proposed community hub which would incorporate restaurant/tea rooms with 3 x one bedroom flats above. The application also included the use of land to the south-east as a community car park for 24 vehicles and a recycling area.

- 6.8 The application was refused on numerous grounds; namely that insufficient information was provided to demonstrate the significant building within the Great Oakley Conservation Area needs to be demolished, the detailed design neither preserved nor enhanced the Great Oakley Conservation Area, and the car park and recycling area would be detrimental to the areas rural character.
- 6.9 While the proposed scheme is similar to that previously refused, there are some key differences. The car parking area has been reduced to accommodate 12 vehicles and has also ensured the vehicular access point adjacent to 'Elberns' has been reduced to pedestrian access only. Full details of proposed planting adjacent to the proposed car park have been supplied, and the plans have also removed the recycling containers. A Structural Report has also been undertaken, while changes to the design of the replacement building have been incorporated; namely replacing the previous UPVC windows and modern door with timber joinery in a painted finish, and smaller dormers. Further, the dining room has been reduced from being able to seat 40 people to 20 people, with the additional area to be utilised as a community and social area.

#### Heritage Impact

- 6.10 Paragraph 193 of the National Planning Policy Framework (2019) states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
- 6.11 Paragraph 197 of the National Planning Policy Framework (2019) states the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 6.12 Policy EN17 of the Adopted Local Plan states that development should look to either preserve or enhance the character and appearance of a conservation Area. The sentiments of this are carried forward within Policy PPL8 in the Emerging Local Plan.
- 6.13 The proposal is to totally demolish 'Red House' and re-build. The Great Oakley Conservation Area Review refers specifically to Red House and states "*The Red House, in a state of exterior disrepair, is pivotal in turning the corner from High Street into Farm Road*". The appraisal structure map also identifies this area of the High Street as an important space within the conservation area given its location adjacent to a small square and shows The Red House as occupying a key facade and important boundary.
- 6.14 Therefore to demolish the building the criteria of saved policy EN20 (Demolition within Conservation Areas) must be met. This policy states that the demolition of a building that makes a contribution will only be permitted where;
- supporting evidence is submitted with the application which demonstrates that the building is beyond economic repair; or
  - viable alternative uses cannot be found and an applicant has supplied evidence to demonstrate this to the satisfaction of the local planning authority; and
  - the redevelopment would preserve the area's character and would produce substantial benefits that would outweigh the loss of the building or structure.
- 6.15 The National Planning Policy Framework (2019) states at paragraph 201 that 'not all elements of a Conservation Area or World Heritage Site will necessarily contribute to its significance.

Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 195 or less than substantial harm under paragraph 196, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole'.

- 6.16 As stated above the Great Oakley Conservation Area Appraisal identifies 'The Red House' as pivotal due to its sensitive corner plot siting facing onto an important space within the conservation area. The form, age, materials and location of the building therefore means it forms a key facade facing onto the High Street and Farm Road and one which positively contributes to the character and appearance of the Great Oakley Conservation Area.
- 6.17 Consequently, the demolition of this building is considered to cause substantial harm to the Great Oakley Conservation Area and therefore the requirements of Paragraph 195 of the National Planning Policy Framework apply. This paragraph states that, 'where a proposed development will lead to substantial harm to (or total loss or significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss'. Further, paragraph 189 of the NPPF states that, 'local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting'.
- 6.18 In this instance insufficient information has been provided to demonstrate that the requirements of saved policy EN20 and the relevant paragraphs of the NPPF stated above have been met. Following consultation, Essex County Council Place Services state that considering the proposal includes the demolition of a non-designated heritage asset, the submitted Heritage Statement is not detailed enough to fully assess the significance of this building; more detailed research to understand the buildings evolution and its evidential/historic/aesthetic/communal values both in terms of the conservation area and its interior plan form/fixtures and fittings would be expected.
- 6.19 Further, the structural survey, which is a high level condition survey, highlights defects and lists a scheme of works likely to be involved to retain the building, stating "*The above works are likely to be slow, intensive and difficult to execute, we envisage they will be expensive*", however concludes "*In order to establish the exact causes of the damage and the appropriate scope and the full extent of the repairs required, a much more detailed investigation would be needed.*" There are no details provided in relation to what the costs would be to retain the building, even if only partly retained, with the report itself stating "*cost will play a large part in determining which the most viable course of action is and professional advice should be sought in this respect.*" Following consultation with Essex County Council Place Services, they state that while there has been some intrusive alteration to the building, including the existing fenestration, which detracts from the aesthetic value of the building, this could easily be improved upon. Accordingly, the survey does not justify and provide a robust case for the buildings demolition.
- 6.20 The submitted planning statement also makes reference to the public benefits of the scheme, including enhancement of the street scene and conservation area, infilling of the 'gap' in the street scene between Red House and Maybush Inn, enhancement of amenity area, provision of rental accommodation, provision of a community facility and local business in the centre of the village and improvements to highway safety. However, little information is submitted to demonstrate that a restaurant/tea room community hub would provide significant public benefits for the community, while there are also no significant public benefits as a result of three residential units that outweigh the harm discussed previously.
- 6.21 Consequently in the absence of the historic statement providing sufficient analysis of the affected heritage assets and the structural survey not sufficiently justifying a robust case for

the buildings demolition, the proposal is considered to be contrary to the aforementioned local and national planning policies.

#### Detailed Design

- 6.22 The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.23 Saved policy EN17 concerns development within conservation areas and states that development must preserve or enhance the character or appearance of the conservation area. The policy goes on to add that development will be refused where it would harm the character or appearance of the conservation area including historic plan form, relationship between buildings, the arrangement of open areas and their enclosure, grain or significant natural or heritage features. The policy also states that development will not be supported where the height, siting, form, massing, proportions, elevation, design or materials would not preserve or enhance the character of an area.
- 6.24 Notwithstanding the concerns raised above in respect of the demolition of the existing building, the detailed design of the replacement building is not considered to preserve or enhance the special character of this section of the Great Oakley Conservation Area. In the Great Oakley Conservation Area Appraisal it states that the High Street frontage in this location is the most consistently developed frontage in the village as all the properties rise from the back of the pavement and have roofs parallel to the main road. The uninterrupted roof slopes and eaves of these properties also contribute to their consistent appearance.
- 6.25 While there have been amendments to the previous design, in this case the High Street elevation would include large first floor windows that would break the eaves line and partly occupy the roof slope. This would be at odds with the appearance of the properties situated along the High Street to the north-east and would erode the sense of consistency that the appraisal identifies as being a key characteristic of this section of the conservation area. To the Farm Road elevation a first floor link is proposed with an undercroft below to access the flats and parking areas to the rear. The link also includes windows that break the eaves which is again at odds with the appearance of properties along this Farm Road frontage. Furthermore, the construction of the weatherboarded link and undercroft, which proposes to enclose the gap between The Red House and Maybush Public House, would appear overly urban and out of character in this section of Farm Road which comprises of stand-alone buildings. The enclosure of this gap within the street scene with a feature out of keeping with the pattern of built form in the locality would not preserve or enhance the appearance of the conservation area.

#### Car Park Visual Impact

- 6.26 The proposed car parking area is to be situated within an agricultural field located at the south-eastern end of the built form present along Farm Road. The parking area would accommodate 12 parking spaces (previously 24) and has removed the recycling area within the previous submission, and also now proposes new hedging to the exposed perimeter to help soften the impacts. Notwithstanding this point, the construction of a car parking area measuring approximately 50m in length would cause harm to the character of the area as it would represent an unjustified intrusion into open countryside and contribute to the urbanisation of the village and the gradual erosion of the countryside. Whilst the mature hedgerow along Farm Road is to be retained, views of the parking area would be particularly harmful from the public footpath running from east to west along the southern boundary of the site.

- 6.27 The Council's Trees/Landscaping Officer agrees with the view that the car park would be harmful but in respect of the impact upon trees states that while it is important to note the land is constrained by an existing countryside hedgerow, the proposed use of the car park does not appear to necessitate the removal of any major sections of the hedgerow, as the access and egress would be by way of existing field entrances.

#### Residential Amenities

- 6.28 The redevelopment of the site would not result in any additional harm to local residents in respect of privacy, outlook or the light they receive. The building would occupy largely the same footprint and would include the rear facing window as it does currently. At the rear the parking and bin store areas would be located where a current garage building is situated and would not therefore cause any harm in respect of noise or disturbance to existing residents.
- 6.29 The tea room/restaurant use at ground floor may require extraction equipment. This could however be conditioned to control its position and noise levels. Further conditions controlling the demolition process in view of the proximity of nearby residents would be included if approval is forthcoming.
- 6.30 In terms of amenity space the flats will be provided with a communal space of a size that accords with the requirements of saved policy HG9.

#### Highway Safety

- 6.31 Essex County Council Highway have no objections to the development subject to a number of conditions relating to the vehicular access, visibility splays, the use of no unbound materials, a car parking and turning area for the car park, details of cycle storage provision and the submission of a Construction Method Statement.
- 6.32 One parking space is proposed for each property which is in accordance with the requirements of the parking standards. The 12 space parking area proposed for the restaurant use is of sufficient size to accord with the parking standards. Further parking is available within the square opposite the site. The Adopted Car Parking Standards state there should be provision for 1 parking space per 5sqm, which will equate to approximately 20 parking spaces. While the car park only has provision for 12 spaces, the proposal is for a community hub where it would not be expected people will visit via vehicle. Therefore, on balance, this parking provision is acceptable.

#### Habitat Regulations Assessment

- 6.33 Legal advice has been sought in relation to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) which supports the view that Tendring District Council can seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The HRA has therefore been amended to confirm that the mitigation will be the RAMS level contribution as recommended by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any adverse impact the proposal may have on European Designated Sites. The recommendation seeks to secure this by way of legal agreement within six months of a Committee resolution to approve, otherwise planning permission would be refused in its absence on the grounds that there is no certainty that the development would not adversely affect the integrity of European Designated Sites.
- 6.34 A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast RAMS requirements. As submitted, there is no certainty that the development would not adversely affect the integrity of Habitats sites.

- 6.35 The proposal is therefore considered to be contrary to Policies EN6 and EN11a of the Saved Tendring District Local Plan 2007 and Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Legal Obligations

- 6.36 The Council's Public Open Space and Play Team confirm there is a deficit of -0.76 hectares of equipped play in Great Oakley, however due to the size of the current development it is unlikely that there will be a significant impact on the current facilities. Therefore no contribution is being requested.

Overall Planning Balance/Conclusion

- 6.37 Significant harm has been identified in relation to the demolition of Red House, an important building which would cause substantial harm to the Great Oakley Conservation Area if demolished. Its replacement is not considered to be of a sympathetic design that respects and adheres to the areas character or appearance. Further, the proposed car park, while reduced from the previous scheme, is considered to represent an unjustified intrusion into open countryside and contribute to the urbanisation of the village and gradual erosion of the countryside. Given this, and the lack of a financial contribution for RAMS, the recommendation is one of refusal.

Background Papers

None.

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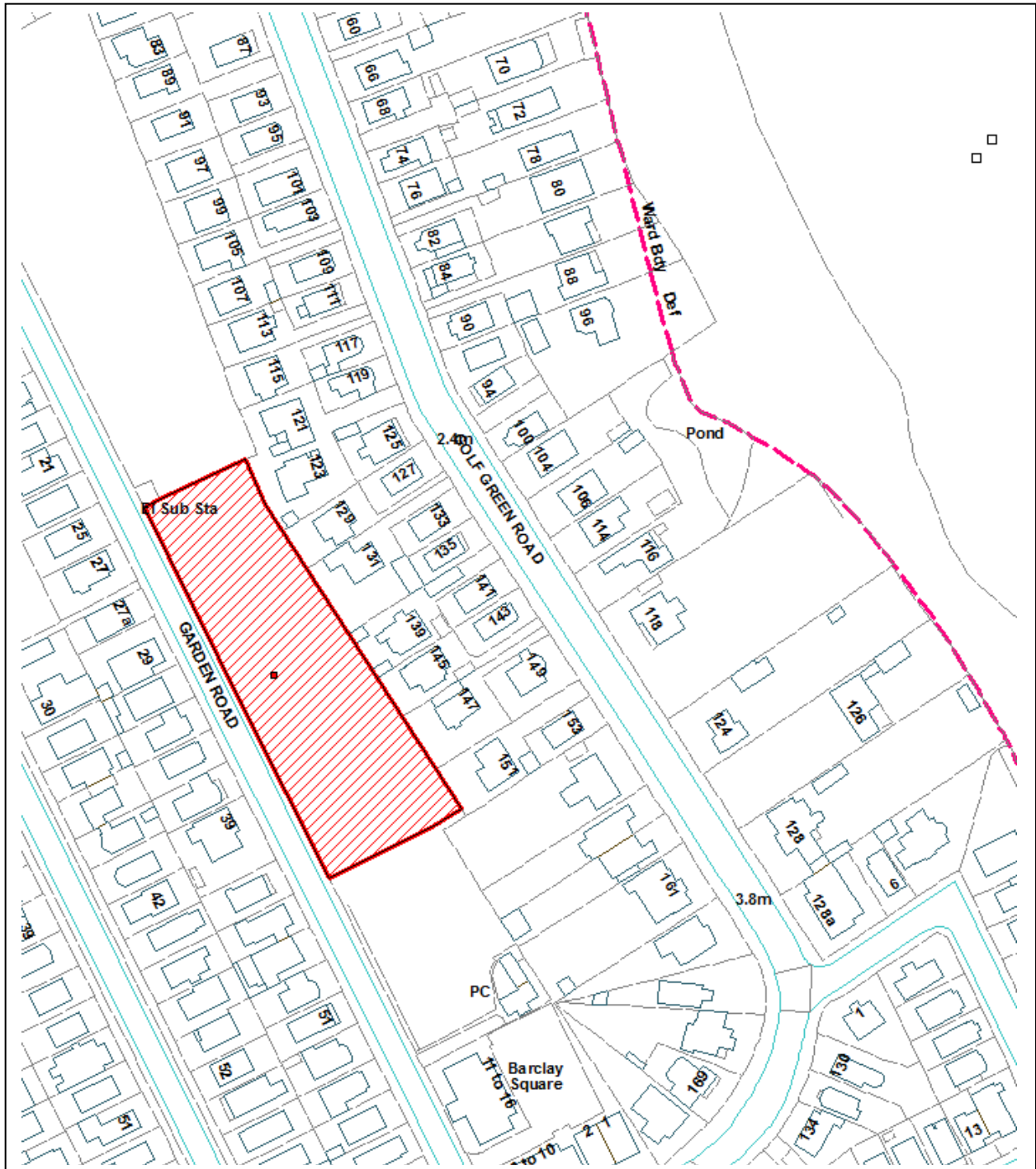


## PLANNING COMMITTEE

9 April 2019

### REPORT OF THE HEAD OF PLANNING

#### **A.5 PLANNING APPLICATION - 15/01745/OUT - FORMER PUTTING GREEN** **GARDEN ROAD JAYWICK CO15 2RT**



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<b>Application:</b>	15/01745/OUT	<b>Town / Parish:</b> Clacton Non Parished
<b>Applicant:</b>	Mr and Mrs D Rendell	
<b>Address:</b>	Former Putting Green Garden Road Jaywick	
<b>Development:</b>	Change of use of land to residential to incorporate the erection of up to 10 dwellings.	

## 1. **Executive Summary**

- 1.1. This application seeks planning permission for the change of use of land to residential to incorporate the erection of up to 10 dwellings on the Former Putting Green, Garden Road, Jaywick. When the application was previously submitted up to 20 dwellings were proposed (including apartments), but amended plans have been received reducing the number and removing the proposed apartments.
- 1.2. The application is in outline form with all matters reserved; therefore the application seeks to establish the principle of development only. Issues of access, appearance, landscaping, layout and scale are not under consideration and are reserved for a future application.
- 1.3. As the site lies within the settlement development boundary the principle of residential development is generally accepted by saved Policy HG3 and draft Policy SPL2, subject to the detail of the proposal being acceptable. However, notwithstanding the above the site is allocated as Recreational Open Space in the saved Local Plan and Safeguarded Local Green Space in the emerging Local Plan. The proposal is clearly contrary to policy as it results in the loss of protected open space; however, the land is in private ownership which means any maintenance and access is at the discretion of the owner. It is therefore considered that there is no means of insisting that the land is used for open space purposes and on this basis it is considered that the allocation should be given limited weight and this issue balanced against all material planning considerations is set out within this report.
- 1.4. The regeneration of Jaywick is one of the Council's top long-term objectives and the Council has been leading a multi-agency project to explore and deliver improvements in the area to better the quality of life for residents and secure a long-term sustainable future for the community. Part of the strategy for regenerating Jaywick is to actively encourage the redevelopment of the poorest and most vulnerable properties in the area and to introduce a new benchmark for built design that addresses flood risk concerns, improves the quality of accommodation, maximises the enjoyment of Jaywick's assets (particularly the beach) and inspires property owners and developers to redevelop and remodel other parts of the area.
- 1.5. The scale of any development permitted on this site would be prominent in this location and out of character with the existing scale of development. It is also considered that the proposal would result in an adverse impact on the amenities of neighbouring residents, in particular those in Golf Green Road in terms of loss of light, overshadowing and loss of privacy. There would also be some impact on the residents of Garden Road, although this would be to a lesser extent given the greater separation distance.
- 1.6. It is likely that in any other location Officers would advise that such a development would be inappropriate due to the character of the existing area and impact on residential amenity. However, this part of Jaywick is a priority area for regeneration and an area where the current standard of residential property places residents at a high risk of flooding. For the proposed development to be acceptable at reserved matters stage there would be no living

accommodation on the ground floor the risk to residents in the event of a flood is therefore kept to a minimum. With this in mind, Officers are advising the Committee to consider whether an exceptional approach is justified and to set aside normal planning concerns in order to facilitate a development that could support the future regeneration of the area.

**Recommendation: Approval**

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

- a) Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):
- Affordable housing – method of provision to be agreed
  - Financial Contribution towards RAMS
  - Open Space Contribution
- b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning in their discretion considers appropriate).

**Conditions:**

1. Standard 3 year time limit for submission of reserved matters application
2. Standard 2 year limit for commencement of development following approval of reserved matters
3. Details of access, appearance, layout, scale and landscaping (the reserved matters)
4. Provision of vehicular visibility splays
5. Provision of pedestrian visibility splays
6. Details of vehicular accesses
7. No unbound materials within 6m of the highway boundary
8. No discharge of surface water onto the highway
9. Provision of Residential Travel Information Packs
10. Construction Management Plan to include noise, emission, dust, lighting controls, wheel cleaning facilities and parking during the construction phase.
11. Development to be carried out in accordance with the Flood Risk Assessment (FRA)
12. No development to take place until a detailed surface water drainage scheme has been agreed
13. No development to take place until a scheme to minimise the risk of offsite flooding and prevent pollution during construction works has been agreed
14. Maintenance Plan for surface water drainage system
15. Yearly Logs of maintenance of surface water drainage system
16. All ecological mitigation & enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal Report (ArbTech, Oct 2017) and Reptile Survey (EECOS, Oct 2018)
17. No development shall take place (including any demolition, ground works, site clearance) until a Reptile Method Statement has been submitted to and approved in writing by the local planning authority.
18. A lighting design scheme for biodiversity.
19. A Biodiversity Enhancement Layout for Protected and Priority species.

**2. Planning Policy**

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1	Spatial Strategy
QL2	Promoting Transport Choice
QL3	Minimising and Managing Flood Risk
QL6	Urban Regeneration Areas
QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
QL12	Planning Obligations
HG3	Residential Development Within Defined Settlements
HG3A	Mixed Communities
HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
HG14	Side Isolation
COM6	Provision of Recreational Open Space for New Residential Development
COM7	Protection of Existing Recreational Open Space Including Children's Play Areas and Pitch and Non-Pitch Sports Facilities
EN6	Biodiversity
EN6A	Protected Species
EN11A	Protection of International Sites European Sites and RAMSAR Sites
EN11B	Protection of National Sites SSSI's, National Nature Reserves, Nature Conservation Review Sites, Geological Conservation Review Sites
TR1A	Development Affecting Highways
TR3A	Provision for Walking
TR7	Vehicle Parking at New Development
CL15a	Jaywick Regeneration

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

SPL1 Managing Growth  
SPL2 Settlement Development Boundaries  
SPL3 Sustainable Design  
HP4 Safeguarded Local Greenspace  
HP5 Open Space, Sports & Recreation Facilities  
LP1 Housing Supply  
LP2 Housing Choice  
LP3 Housing Density and Standards  
LP4 Housing Layout  
PP14 Priority Areas for Regeneration  
PPL1 Development and Flood Risk  
PPL4 Biodiversity and Geodiversity  
CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Provision of Recreational Open Space for New Development

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

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) 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 48 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.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. 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 48 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.

In relation to housing supply:

The NPPF 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 an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

### 3. Relevant Planning History

00/00967/FUL	Tennis courts and general recreation use - building to be used to complement this use. Three metre fence to be erected to keep ball in play area	Refused	20.09.2000
00/01640/FUL	Tennis courts and general recreational use building to be used to complement this use, two metre fence to be erected to keep the ball in the play area	Refused	22.11.2000
00/02096/FUL	Change of use building and land to be used as tennis courts with general recreational use	Refused	15.03.2001
92/00905/FUL	(Land - Garden Road, Jaywick Sands, Clacton on Sea) Proposed creche	Withdrawn	20.10.1992
92/01040/OUT	(Site - Garden Road, Jaywick Sands, Clacton on Sea) Doctors and dental surgery (single storey)	Refused	24.11.1992
93/00819/FUL	Four tennis courts, 3 metre high concrete post and chainlink perimeter fence, additional parking spaces and variation of condition	Refused	23.11.1993

4 of TEN/1339/90 to allow replacement sports equipment and refreshment bar to be

94/00192/FUL	Garden Display and Retail Outlet Area (Change of use from Putting Green)	Refused	26.04.1994
96/00160/FUL	(Land at Garden Road, Jaywick) Proposed pets cemetery and memorial garden incorporating equipment store, office, staff room and toilets	Refused	14.05.1996
96/00935/FUL	(Land at Garden Road, Jaywick) Proposed pets cemetery and memorial garden	Refused	17.09.1996
15/00931/OUT	Change of use to residential.	Application Returned	

#### 4. Consultations

Environment Agency 18.01.2016	<p>The site lies in Flood Zone 3, the high probability flood zone. The proposed development is considered to be a more vulnerable land use in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance: Flood Risk and Coastal Change. The application therefore needs to pass the Sequential and Exception Tests and to be supported by a site specific Flood Risk Assessment (FRA).</p> <p>An FRA prepared by ARK Ltd (dated 16<sup>th</sup> November 2015) has been submitted as part of the application. This document has been reviewed and a holding objection is raised to the following reasons. In particular, the submitted FRA fails to:</p> <ul style="list-style-type: none"> <li>• Adequately characterise flood risk</li> <li>• Take the impacts of climate change into account correctly</li> <li>• Provide finished floor levels for the proposed dwellings.</li> </ul>
Environment Agency 11.04.17	<p>The application has been inspected and there is no objection in regards to flood risk because the site is currently defended and the Shoreline Management Plan (SMP) policy for this area has an aspiration for hold the line.</p>
Environment Agency 03.07.17	<p>It appears that the revision to the FRA are concerned with the SUDs proposed in relation to the surface water drainage for the development site, this being a matter for the lead local flood authority. Accordingly, our comments remain as made in our previous letter dated 11<sup>th</sup> April 2017.</p>
Environment Agency 06.02.19	<p>There is no objection to this planning application, providing that the following condition is appended to any grant of permission and that you have taken into account the flood risk considerations which are your responsibility.</p>

Our maps show the site lies within tidal Flood Zone 3a defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as

having a high probability of flooding. The proposal is for Change of use of land to residential to incorporate the erection of up to 10 dwellings which is classified as a 'more vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment (FRA). If you are satisfied that the application passes these Tests and will be safe for its lifetime, we request the following conditions are appended to any permission granted:

#### Condition

The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) prepared by Evans Rivers and Coastal Ltd, referenced 1697/RE/09-16/01 and dated September 2016 and the following mitigation measures detailed within the FRA:

- Finished ground floor levels are set no lower than 2.08 metres above Ordnance Datum (AOD)
- Finished first floor levels are set no lower than 4.63 metres above Ordnance Datum (AOD).
- Finished second floor levels are set no lower than 7.18 metres above Ordnance Datum (AOD).

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

#### Reason

To reduce the risk of flooding to the proposed development and future occupants.

Anglian Water Services  
Ltd  
18.01.2016

Records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.

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

The sewerage system at present has available capacity for these flows. If the developer wishes to connect to the sewerage network they should serve notice under S106 of the Water Industry Act 1991.

Anglian Water Services  
Ltd  
28.03.2017

Records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.

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

The sewerage system at present has available capacity for these flows. If the developer wishes to connect to the sewerage network



they should serve notice under S106 of the Water Industry Act 1991.

ECC SuDS Consultee  
02.06.17

Raise a holding objection to the granting of planning permission based on the following:

- No drainage scheme has been provided. This therefore does not meet local and national standards for surface water drainage.

ECC SuDS Consultee  
27.07.17

Do no object to the granting of planning permission.

The proposed development will only meet the requirements of the NPPF if the following measures as detailed in the FRA and the documents submitted with this application are implemented and secured by way of a planning condition on any planning permission.

#### Condition 1

No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Limiting discharge rates to 0.3l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change based on an impermeable area of 0.1ha
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

#### Reason

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- To ensure the effective operation of SuDS features over the lifetime of the development.
- To provide mitigation of any environmental harm which may be caused to the local water environment

#### Condition No. 2

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

#### Reason

The National Planning Policy Framework paragraph 103 and paragraph 109 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of top soils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

#### Condition No. 3

No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

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

#### Reason

To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

#### Condition No. 4

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

#### Reason

To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

UU Housing Consultation	<p>The Housing Department are satisfied that there is a requirement for affordable housing to be delivered on this application as the site proposes 10 or more dwellings and is therefore classed as a major development as set out in the National Planning Policy Framework published in July 2018. As per the council's emerging Local Plan, 3 of the 10 homes should be delivered as affordable housing.</p> <p>Given the location of the site and other factors, further discussions are required to decide how the affordable housing should be delivered.</p>
UU Open Spaces	<p>There is currently a deficit of 41.08 hectares of play in the Clacton/Holland area.</p> <p>Any additional development in Clacton will increase demand on already stretched facilities.</p> <p>The nearest play area to the proposed development is located at Crossways, Jaywick, which is approximately 0.3 miles from the proposed development. The play area has facilities for all age groups.</p> <p>Due to the proximity to the site it is highly likely that the biggest impact would be felt at this play area. Therefore, to ensure the facilities are able to cope with the additional usage it would be necessary to improve the level of provision.</p> <p>Due to the significant deficit in terms of play it is felt a contribution towards play is justified and relevant to this planning application. The toddler area is in need of improvement and contribution would be spent providing new safety surfacing under the play equipment at Crossways play area, Jaywick.</p>
ECC Highways Dept. 14.01.16	<p>The Highway Authority raises an objection to the above application for the following reasons:</p> <p>As far as can be determined from the submitted plans the proposal fails to provided off street parking spaces with dimensions in accord with current Parking Standards which is likely to lead to vehicles being left parked in the adjacent highway causing conditions of danger, obstruction or congestion contrary to highway safety and Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.</p> <p>There is insufficient space in front of the proposed new dwellings (Plots 1-8) for a vehicle to stand clear of the footway which will constitute a danger to pedestrians contrary to highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.</p> <p>The proposal fails to provide sufficient off road parking facilities in accord with current Parking Standards. The proposal would lead to additional vehicles being left parked in the adjoining highway causing conditions of congestion, danger and obstruction, contrary to the interests of highway safety and contrary to Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.</p>

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

Prior to occupation of the development, the full width of the site frontage shall be provided with a clear to ground parallel visibility band with dimensions of no less than 2m depth as measured from and along the nearside edge of the highway. Such vehicular visibility band shall be provided before access is first used by vehicular traffic and retained free of any obstruction at all times.

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

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

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

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

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

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

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

Any double garages should have a minimum internal measurement of 7m x 6m. All garages shall be retained for the purposes of vehicle parking in perpetuity

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

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.

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, adopted as County Council Supplementary Guidance in February 2011.

ECC Highways Dept.  
13.03.19

The information that was submitted in association with the application has been fully considered by the Highway Authority.

The site is located within an existing 30-mph speed limit; there are a number of existing dwellings in the vicinity while the proposed application provides adequate off road parking therefore:

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

Prior to first occupation of the development, each access at its centre line shall be provided with a visibility splay with dimensions of 2.4 metres by 43 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road access is first used by vehicular traffic and retained free of obstruction above 600mm at all times.  
Reason: To provide adequate inter-visibility between vehicles using the road access and those in the existing public highway in the interest of highway safety in accordance with policy DM1

Prior to first occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.  
Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety in accordance with policy DM1

Prior to first occupation of the development each vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of low kerbs at the access at its junction with the highway shall not be more than 3.6 metres (4 low kerbs), shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway.  
Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1.

No unbound material shall be used in the surface treatment of the vehicular access within x metres of the highway boundary.  
Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

There shall be no discharge of surface water onto the Highway.  
Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1.

Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8

The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

Prior to occupation of the proposed dwelling, 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.

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.

No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- the parking of vehicles of site operatives and visitors
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- wheel and underbody washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM 1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Essex County Council  
Ecology  
29.01.19

No objection subject to securing the following:

- A proportionate financial contribution towards visitor management measures at Essex Coast Habitats (European) sites.
- Biodiversity mitigation and enhancement measures.

We have reviewed the Preliminary Ecological Appraisal Report (ArbTech, Oct 2017) and Reptile Survey (EECOS, Oct 2018) supplied by the applicant, relating to the likely impacts of development on Protected & Priority habitats and species, particularly reptiles and identification of proportionate mitigation.

We are satisfied that there is sufficient ecological information available for determination of this application. This is needed to enable the LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

In addition, the development is for up to 10 dwellings within the Zone of Influence (ZOI) of the Essex Coast Recreational disturbance Avoidance & Mitigation Strategy (RAMS) in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) in particular the Colne Estuary SPA & Ramsar site and Hamford Water SAC, SPA and Ramsar site. Within this ZOI, residents of new housing are considered likely to regularly visit relevant designated sites for recreation.

It is considered to be "relevant development" in the context of the RAMS and so requires further consideration through the Appropriate Assessment stage to secure any mitigation measures necessary to avoid adverse effects on site integrity. Therefore, Natural England's advice to ensure new residential development and associated recreational disturbance mitigation for designated site impacts is compliant with the Habitats Regulations 2017 applies.

The LPA is therefore advised that a contribution should be sought from the residential development within the ZOI specified, which will need to be secured by legal agreement or via a condition of any consent. The LPA will also need to prepare a HRA Appropriate Assessment record to determine any adverse effect on site integrity and then secure the developer contribution for delivery of visitor management measures at the Colne Estuary SPA & Ramsar site and Hamford Water SAC, SPA and Ramsar site in line with the Essex Coast RAMS. The proposal to erect 10 dwellings will trigger a proportionate financial contribution towards offsite visitor management measures, in line with the Essex Coast RAMS Strategy (£122.30 per dwelling) for delivery prior to occupation. This mitigation will avoid impacts from the development in combination with other plans and projects.

This provides certainty for the LPA of the likely impacts on Protected and Priority species and, with appropriate mitigation measures secured, the development can be made acceptable. I support the reasonable biodiversity enhancements that should also be secured by a condition on any consent. This will enable the LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

The mitigation and enhancement measures identified in the Preliminary Ecological Appraisal Report (ArbTech, Oct 2017) and Reptile Survey (EECOS, Oct 2018) should be secured and implemented in full. This is necessary to conserve and enhance Protected and Priority Species particularly reptiles. The provision of a suitable reptile receptor site is key to delivering sustainable development and implementation of enhancement measures will need to be undertaken in advance of any translocation of animals and secure its long term management.

Impacts will be minimised such that the proposal is acceptable subject

to the conditions below based on BS42020:2013. In terms of biodiversity net gain, the enhancements proposed will contribute to this aim.

Submission for approval and implementation of the details below should be a condition of any planning consent:

1. Habitat Sites Mitigation to be agreed

No development shall be carried out until proposals for the mitigation of the recreational impact of the development on protected Essex Coast Habitats (European) Sites have been submitted to and approved in writing by the Local Planning Authority, and the Local Planning Authority has confirmed in writing that the provision of the proposed mitigation has been secured. Such proposals must provide for visitor management measures in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).

The development shall be carried out in accordance with and subject to the proposals as may be approved.

Reason: In order to safeguard protected wildlife species and their habitats in accordance with the NPPF and Habitats Regulations 2017. This condition is required to be agreed prior to the commencement of any house building to ensure adequate time for any agreement to be secured and mitigation implemented prior to occupation.

2. Action Required in accordance with Ecological Appraisal Recommendations

All ecological mitigation & enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal Report (ArbTech, Oct 2017) and Reptile Survey (EECOS, Oct 2018) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

Reason: To conserve and enhance Protected and Priority species and allow the LPA to discharge its duties under the UK Habitats Regulations, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and s17 Crime & Disorder Act 1998

3. Reptile Method Statement

No development shall take place (including any demolition, ground works, site clearance) until a Reptile Method Statement has been submitted to and approved in writing by the local planning authority. The content of the reptile method statement shall include the following:



- a) purpose and objectives for the proposed works;
- b) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
- c) extent and location of proposed works shown on appropriate scale maps and plans;
- d) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- e) persons responsible for implementing the works;
- f) initial aftercare and long-term maintenance of the receptor site);
- g) disposal of any wastes arising from works.

The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To allow the LPA to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

#### 4. Wildlife Sensitive Lighting Design Scheme

A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason: To allow the LPA to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

#### 5. Biodiversity Enhancement Layout

A Biodiversity Enhancement Layout for Protected and Priority species shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Layout shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved

details and shall be retained in that manner thereafter."

Reason: To enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

Environmental Health  
11.01.19

In order to minimise potential nuisance to nearby existing residents caused by construction works, Pollution and Environmental Control ask that the following below are conditioned;

Prior to the commencement of any site clearance, demolition or construction works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from the Pollution and Environmental Control. The method statement (Demolition/Construction Management Plan) should include the following;

#### 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 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 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 5228:2014.
- 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 Local 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) A scheme of measures for the control and suppression of dust emissions shall be submitted to and approved in writing by the Local Planning Authority. Such agreed works shall be implemented in the approved form prior to the commencement of any development of the site and shall be maintained in the approved form until the development is completed and ready to be signed off as complete for the permitted purpose
- 2) All waste arising from the 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.
- 3) 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.

4) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

#### Dust Control

1) Dust suppression methods to be employed during construction so as to minimize likelihood of nuisance being caused to neighbouring properties. A scheme of measures for the control and suppression of dust emissions shall be submitted.

#### Lighting Control

1) Any lighting of the site under development shall be located, designed and directed [or screened] so that it does not cause avoidable intrusion to adjacent residential properties/ constitute a traffic hazard/cause unnecessary light pollution outside the site boundary. "Avoidable intrusion" means contrary to the Code of Practice for the Reduction of Light Pollution issued by the Institute of Lighting Professionals.

## 5. **Representations**

- 5.1. A petition which objects to the planning application on the grounds of excessive massing, loss of privacy, loss of light, no available parking, loss of recreational areas, appearance not in keeping with the area and breaking of a covenant on the land which has 49 signatures has been received.
- 5.2. A further 30 letters of objection have been received which raise the following concerns:
- Loss of Outlook
  - Overlooking
  - Loss of privacy
  - Loss of views
  - The proposed rear access path will pose a security risk and added fear of crime
  - Risk of Flooding – site located within a Flood Zone.
  - The land is not registered
  - Covenant protecting the land from development stating that it is always to remain as recreational open space.
  - Area is enjoyed by dog walkers
  - Loss of Sunlight – most of the morning sunlight into the properties in Garden Road would be blocked; all the evening sunlight into the gardens of the rear properties in Garden Road is blocked; spring time afternoon light to Golf Green Road is blocked; worstcase in December, the proposed properties would block more than half the available sunlight.

- Increasing the density of population in the area
- Impact on wildlife site home to adders, slow worms, newts and various other forms of British wildlife
- Adverse impact on protected species who occupy the site
- Increase in noise pollution of what is a very quiet area
- Further strain on the local health facilities
- Impact on School
- Lack of parking which is already an existing problem which restricts access for emergency vehicles.
- The nature of the development would be inappropriate in respect of its location as the majority of properties surrounding it were all built in the 1930's in a village type setting.
- There would be issues with emergency vehicle not being able to gain access to the properties in Golf Green Road in the event of a fire or a major incident as these properties are already 'double banked'.
- The drains in Garden Road cannot cope now and are often blocked.
- Jaywick does not have a shortage of land for housing; it has an excessive central demand for new houses to compensate for insufficient plans in other more affluent areas.
- Tendring and Jaywick in particular require permanent jobs for the existing residents.
- UK does not have a shortage of houses, there is a shortage of houses that people can afford and in the places where people want to live, which is generally in proximity to where they work. This position is firmly backed by data, for example, between 1997 when there was little discussion of housing shortage, and 2007m, there was an 8% increase in housing stock but only a 5% increase in population (source ONS). However, over the same period there was a threefold increase in average house prices (source Nationwide). There are 200,000 unoccupied homes in the UK. This development will not solve a UK based housing shortage.
- The rear access path shown on the application has not existed for many years and the land has been sold to neighbouring residents. This new path forms a public route through private land that connects two areas of public land.
- The land was previously used as an armaments store, and thus the ground is likely contaminated.
- No provision is made for refuse or recycling storage or collection from the apartment blocks.
- No properties of the scale and level proposed exist in either neighbouring sections of Golf Green Road or Garden Road.
- The amenity areas to the south of the two four apartment blocks fails to meet the guidelines of being the same area as the buildings.

- The proposal fails to meet the recommended 20m privacy distance from Garden Road properties that have a front porch.
- Properties on Garden Road will lose their view of one or other or both of the public spaces.
- There is no mains sewer in Garden Road.
- Rainwater drainage in both Golf Green Road and Garden Road is through soakaways and the ground is heavy clay only a couple of feet down. There is already standing water on the site after heavy rain.
- There is no published assessment that the substation to the north of the site is able to accommodate the proposed development.
- Water pressure is already viable especially in the summer, the proposed development could further impact this.
- Further sharing of fibre optic capability will exacerbate problems with service that other users already experience.
- It is inaccurate to state that the proposed land serves no social function. As well as the footpath connecting two areas of the existing public land, at least one business currently relies upon the space. Dog walkers use the area all the year round and during the summer when the grass is mown, the area is used for football as the adjacent public spaces are marked 'no ball games'.
- Planning has been rejected for building on this piece of land for the last 20 years.

## 6. **Assessment**

The main planning considerations are:

- Principle of Development/Loss of Recreational Open Space
- Jaywick Regeneration Policies
- Flood Risk
- Design, Layout and Impact on Residential Amenity
- Highway Safety and Parking
- Ecology
- Affordable Housing
- Open Space
- Foul and Surface Water Drainage

### Existing Site and Surrounding Area

- 6.1. The application site is situated on the east side of Garden Road and the west of properties in Golf Green Road, within the Settlement Development Boundary of Jaywick.
- 6.2. The site is currently undeveloped and comprises of an area of long grass, at the time of the site visit, a small part of the land was used for the storage of boats. The eastern boundary of the site is delineated by the boundary fences of properties in Golf Green Road the other boundaries of the site are delineated by posts.
- 6.3. The properties opposite the site in Garden Road are a mixture of sizes and designs, but they are predominately single storey and one and a half storey properties with gable ends which face the road. There is one two storey property opposite the application site, but this is very much the exception and of a different design to the other properties. The properties adjacent

to the site in Golf Green Road are also a mixture of single storey and one and a half storey properties of varying designs. To the north and south of the site are areas of public open space the area to the north houses a small substation building and the area to the south has a block of public toilets.

### Proposal

- 6.4. This application seeks planning permission for the change of use of land to residential to incorporate the erection of up to 10 dwellings on the Former Putting Green, Garden Road, Jaywick. When the application was previously submitted up to 20 dwellings were proposed (including apartments), but amended plans have been received reducing the number and removing the proposed apartments.
- 6.5. The application is in outline form with all matters reserved; therefore the application seeks to establish the principle of development only. Issues of access, appearance, landscaping, layout and scale are not under consideration and are reserved for a future application. The information shown on the submitted plans in respect of these issues are indicative only.
- 6.6. The indicative plans show 10 no. 3 storey dwellings with garage parking and storage at ground floor level. Each of the proposed dwellings has access via an external staircase to the first floor and provides 3 no. bedrooms on the second floor level.

### Principle of Development/Loss of Recreation Open Space

- 6.7. The site lies within the settlement development boundary for Jaywick which forms part of the 'town' of Clacton (as defined in Policy QL1 of the adopted Local Plan) and the 'strategic urban settlement' of Clacton-on-Sea (as defined in Policy SPL1 of the emerging Local Plan). As the site lies within the settlement development boundary the principle of residential development is generally accepted by saved Policy HG3 and draft Policy SPL2, subject to the detail of the proposal being acceptable.
- 6.8. However, notwithstanding the above the site is allocated as Recreational Open Space in the saved Local Plan and Safeguarded Local Green Space in the emerging Local Plan. Policy COM7 of the saved Local Plan states the 'development proposals will not be permitted that would prejudice the use or involve the loss of recreational open space' and Policy HP4 of the emerging Local Plan states that 'development that would result in the loss of the whole or part of areas designated as Safeguarded Local Greenspaces, as defined on the Policies Map and Local Maps will not be permitted unless the following criteria are met:
  - a. The site is replaced by the provision of a new site at least equal in quality and size and accessible to the community, which the existing site serves;
  - b. It is demonstrated that there is no longer a demand for the existing site;
  - c. The site is not appropriate for other open space functions; and
  - d. The development of the site would not result in the loss of an area important to visual amenity'
- 6.9. The proposal is clearly contrary to policy as it results in the loss of protected open space; however, the land is in private ownership which means any maintenance and access is at the discretion of the owner. It is therefore considered that there is no means of insisting that the land is used for open space purposes and on this basis it is considered that the allocation should be given limited weight and this issue balanced against all material planning considerations set out within this report.

### Jaywick Regeneration Policies

- 6.10. The Brooklands, Grasslands and Village Areas of Jaywick area defined as an urban regeneration area in Policy QL6 of the adopted Local Plan and a Priority Area for Regeneration in Policy PP14 of the emerging Local Plan. Such areas will be a focus for investment in social, economic and physical infrastructure and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety and accessibility. The policy supports proposals for development that are consistent with achieving these regeneration aims.
- 6.11. Jaywick is one of the most deprived areas in the country with many existing properties originally built as holiday homes. Most properties are substandard by modern day expectations and are within the high risk flood zone. The regeneration of Jaywick is one of the Council's top long-term objectives and the Council has been leading a multi-agency project to explore and deliver improvements in the area to better the quality of life for residents and secure a long-term sustainable future for the community. Part of the strategy for regenerating Jaywick is to actively encourage the redevelopment of the poorest and most vulnerable properties in the area and to introduce a new benchmark for built design that addresses flood risk concerns, improves the quality of accommodation, maximises the enjoyment of Jaywick's assets (particularly the beach) and inspires property owners and developers to redevelop and remodel other parts of the area.
- 6.12. Saved Policy CL15 sets out specific requirements for development in Jaywick which are:
- i) Any new residential development should take the form of single dwellings on combined plots, the desirable width and depth of resulting plots to be at least 18 metres and 15 metres respectively. The minimum width and depth of resulting plots to be 15 metres and 15 metres respectively;
  - ii) Only three storey development that excludes habitable rooms on the ground floor will be allowed;
  - iii) Direct road frontage access should be available to each plot;
  - iv) A minimum of 5 metres deep rear yard/amenity area shall be provided;
  - v) A minimum 1 metre space between side boundaries and any detached, semi-detached or end terraced dwelling, or a minimum distance of 2 metres between the flank walls of any two such dwellings will be required;
  - vi) Any off-street car parking should be provided within the ground floor of each dwelling;
  - vii) The front building line to be 2 metres from the highway;
  - viii) Subsequent extensions to new dwellings will not be allowed if they contain living accommodation on the ground floor in the form of habitable rooms;
  - ix) No development will be allowed within four metres of the ditch to the rear of Brooklands and Grasslands to allow for the passage of Maintenance Plant;
  - x) Development along the Brooklands Frontage will need to be set back 2 metres to allow for the expansion of the road and minimum 1.2 metre-wide footpath.
- 6.13. The policy then says the approval of any new dwellings will be subject to a contribution through a S106 legal agreement towards the continued wider regeneration of Jaywick.
- 6.14. However, this 2007 policy aimed at strictly controlling development to facilitate a phased programme of redevelopment has failed to bring about any positive changes in the area. Since the NPPF has given Council's more freedom to apply planning policies to better reflect local circumstances the Council, the Environment Agency and other partners have agreed that lifting some of the planning restrictions and moving towards flexible policies aimed at encouraging developers to provide high-quality, resilient and innovative new homes in the area is a better approach. This approach has seen an increasing number of predominately three storey redevelopments being approved within Jaywick.

## Flood Risk

- 6.15. The site and a large area of this part of Jaywick falls within Flood Zone 3a which is the highest area of risk due to its low-lying position on the coast. The NPPF, as supported by policy QL3 of the adopted Local Plan and policy PPL1 of the emerging Local Plan, requires a 'sequential approach' to the location of new development. The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. There are clearly many locations of lower risk where a development of up to 10 dwellings could be located. However, in Jaywick an exceptional approach is justified where new development can assist in the regeneration of the area and help to reduce the risk of flooding to life and property overall.
- 6.16. The NPPF and Local Plan policies refer to the 'Exception Test' which must apply if a development in a higher risk area is being considered having undertaken the sequential test. Paragraph 160 of the NPPF requires that for the exception test should be informed by a strategic or site-specific flood risk assessment. For the exception test to be passed it should be demonstrated that:
- a) The development would provide wider sustainability benefits to the community that outweigh the flood risk; and
  - b) The development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and where possible, will reduce flood risk overall.
- 6.17. The application is accompanied by a site-specific flood risk assessment. The Environment Agency confirms that they have no objection to this application, subject to the Sequential and Exception Tests being satisfied and a condition to secure compliance with the Flood Risk Assessment (FRA) and the following mitigation measures:
- Finished ground floor levels are set no lower than 2.08 metres above Ordnance Datum (AOD)
  - Finished first floor levels are set no lower than 4.63 metres above Ordnance Datum (AOD).
  - Finished second floor levels are set no lower than 7.18 metres above Ordnance Datum (AOD).
- 6.18. The indicative plans show compliance with these mitigation measures. However, as they are indicative plans only a condition is recommended to cover this issue.
- 6.19. The submitted FRA includes details about flood evacuation and this is necessary to ensure the safety of the development in the absence of safe access with internal flooding in the event of a breach flood.
- 6.20. The proposal is therefore considered to pass the sequential and exception tests and is acceptable in relation to flood risk.

## Design, Layout and Impact on Residential Amenity

- 6.21. As this application is in outline form, matters such as layout, scale and appearance are not under consideration at this stage, the information provided on these matters is indicative only. However, from the description of development it is clear that this application seeks permission for up to 10 dwellings and to apply with other Policies; in particular flood risk policies and Policy CL15a any proposed dwellings are required to be three storey in height with no habitat accommodation at ground floor level.
- 6.22. To the north and south of the site are areas of public open space; to the east of the site are residential properties in Golf Green Road which comprise of a mixture of single storey and one and a half storey dwellings, which predominately have a rendered finish. To the west of the site are residential properties in Garden Road which are a mixture of bungalows and one and



a half storey dwellings, with an occasional two storey dwelling. In Garden Road there is variety of materials uses, such a red and buff brick, render and a variety of roof tiles. Further to the north of the site (separated from the site by the open space) are larger scale buildings which are two and three storey in height.

- 6.23. The scale of any development permitted on this site would be prominent in this location and out of character with the existing scale of development. It is also considered that the proposal would result in an adverse impact on the amenities of neighbouring residents, in particular those in Golf Green Road in terms of loss of light, overshadowing and loss of privacy. There would also be some impact on the residents of Garden Road, although this would be to a lesser extent given the greater separation distance.
- 6.24. It is likely that in any other location Officers would advise that such a development would be inappropriate due to the character of the existing area and impact on residential amenity. However, this part of Jaywick is a priority area for regeneration and an area where the current standard of residential property places residents at a high risk of flooding. Because for the proposed development to be acceptable at reserved matters stage there would be no living accommodation on the ground floor the risk to residents in the event of a flood is kept to a minimum.
- 6.25. With this in mind, Officers are advising the Committee to consider whether an exceptional approach is justified and to set aside normal planning concerns in order to facilitate a development that could support the future regeneration of the area. If the Committee agrees that an exceptional approach is needed, this development provides an opportunity to inspire other property owners to consider redevelopment to a more resilient, lower flood risk form of development. If the Committee feels that the harm to the character of the area and to the amenities of neighbouring residents is not outweighed by the potential benefits, then refusal would be justified in planning terms.
- 6.26. Whilst design does not form part of this application, it is considered that the design of the proposed dwellings could reflect other examples of recent development allowed in Jaywick which is likely to be acceptable.
- 6.27. Policy HG9 of the saved Local Plan states that private amenity space shall be provided to new dwellings in accordance with the following standards: three or more bedroom house- a minimum of 100 square metres; two bedroom house – a minimum of 75 square metres and a one bedroom house – a minimum of 50 square metres. This is a matter that would be considered at outline stage, however, the indicative plan shows that with some amendments that the above private amenity space standards could be achieved.
- 6.28. TDC Pollution team request a condition requiring submission of a demolition and construction method statement which would minimise disturbance to neighbours during site clearance and construction in terms of noise, dust and lighting.

#### Highway Safety and Parking

- 6.29. The application is in outline form so details provided regarding access and layout are indicative only. Essex County Council Highways have been consulted on the application and do not raise an objection to the proposal subject to conditions to secure vehicular visibility splays; pedestrian visibility splays; details of vehicular access; proposed surface materials; no discharge of surface water onto the highway; provision of residential travel packs and a construction method statement. These conditions are included within the above recommendation. Conditions have also been recommended to ensure parking spaces are of a sufficient size and cycle parking is provided; these are matters for a reserved matters application.

- 6.30. The Adopted Parking Standards state that off-street parking spaces should measure 5.5 metres by 2.9 metres and garages (if relied upon for parking provision) should measure 7 metres by 3 metres. For a 1 bedroom dwelling 1 space per dwelling is required and for dwellings with 2 or more bedrooms 2 spaces per dwelling are required. Whilst this is a matter for the reserved matters application the indicative plan shows that parking in accordance with the adopted standards is achievable and therefore sufficient off-street parking to serve the proposed development can be provided.

#### Ecology/Habitat Regulations Assessment

- 6.31. As part of the application a Preliminary Ecological Appraisal Report was submitted, this identified that further presence/likely-absence surveys were required to confirm if any reptile species use the site and provide an indication of distribution. Therefore a Reptile Survey was submitted which concluded that the site contains suitable habitat for reptiles within mainly tall grassland and ruderal vegetation with small areas of Bramble scrub. The survey recorded common lizards and slow worms on the site with a peak count of 35 common lizards and 6 slow worms. The clearance of a significant proportion of the current habitat and construction of up to 10 residential dwellings will result in significant impacts on reptiles and, therefore, a translocation of reptiles to another site is required.
- 6.32. Both surveys have been reviewed by Essex County Council Ecology who are satisfied that there is sufficient ecological information available for determination of this application and raise no objection to the application subject to securing:
- a) A proportionate financial contribution towards visitor management measures at Essex Coast Habitats (European) sites (to be secured through legal agreement)
  - b) Biodiversity mitigation and enhancement measures; to be secured by conditions included within the above recommendation.
- 6.33. Legal advice has been sought in relation to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) which supports the view that Tendring District Council can seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The HRA has therefore been amended to confirm that the mitigation will be the RAMS level contribution as recommended by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any adverse impact the proposal may have on European Designated Sites. The recommendation seeks to secure this by way of legal agreement within six months of a Committee resolution to approve, otherwise planning permission would be refused in its absence on the grounds that there is no certainty that the development would not adversely affect the integrity of European Designated Sites.

#### Affordable housing

- 6.34. In July 2018 the NPPF amended the definition of major development to include development of 10 or more dwellings and therefore under paragraph 63 of the NPPF affordable housing should be sought as part of this proposal, as this is the most recent guidance which overrides the local policies set out below.
- 6.35. Saved Policy HG4 of the Tendring District Local Plan (2007) requires up to 40% of new dwellings on residential schemes of 5 or more units to be provided in the form of affordable housing to meet the needs of people that are unable to access property on the open market. Policy LP5 of the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017), which is based on more up-to-date evidence of housing need and viability, requires for developments of 11 or more dwellings, the Council expect 30% of new dwellings to be made available to Tendring District Council or an alternative provider to acquire at a discounted value for use as affordable housing, or as an alternative, the Council will accept a minimum of 10% if new dwellings are to be made available alongside a financial contribution

toward the construction or acquisition of property for use as affordable housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement.

- 6.36. Given the location of the site and other factors, further discussions are required with the Councils Housing Department to decide how the affordable housing should be delivered. These discussions are currently on-going and an update will be provided at the meeting. But any affordable housing provision would be secured by a S106 agreement.

#### Open Space

- 6.37. Policy COM6 of the Saved Plan states that for residential developments below 1.5 hectares in size, where existing open space facilities are inadequate to meet the projected needs of the future occupiers of the development, a financial contribution shall be made to the provision of new or improved off-site facilities in scale and kind to meet these needs.
- 6.38. There is currently a deficit of play space in the area. The nearest play area to the proposed development is located at Crossways, Jaywick. Due to the proximity to the site it is highly likely that the biggest impact would be felt at this play area. Therefore to ensure the facilities are able to cope with the additional usage it would be necessary to improve the level of provision. This contribution would be based on the number of bedrooms the development provides.

#### Foul and Surface Water Drainage

- 6.39. Anglian Water raises no objection to the application and have confirmed that Jaywick Water Recycling Centre will have sufficient capacity to deal with the foul drainage flows from the proposed development.
- 6.40. The applicant has submitted a Drainage Strategy which has been considered by Essex County Council as the authority for sustainable drainage. Essex County Council do not object to the granting of planning permission subject to conditions relating to the submission and subsequent approval of a detailed surface water drainage scheme, a maintenance plan and a scheme to minimise the risk of offsite flooding and prevent pollution during construction.

#### Other Issues

- 6.41. The fact that there is a covenant on the land is not a material planning consideration. The granting of planning permission does not override any existing covenant.

#### Overall Planning Balance/Conclusion

- 6.42. In the overall planning balance, Officers consider that this a prime opportunity to facilitate regeneration in Jaywick and whilst under normal circumstances such a development would not be acceptable, the Committee needs to consider what alternative means of regenerating the area might be available. The recommendation is approval subject to a set of conditions and a legal agreement, but if the Committee feels that the appearance of the development and its impact on neighbours outweigh the potential benefits, then refusal would be a legitimate course of action.

#### Background Papers

None.

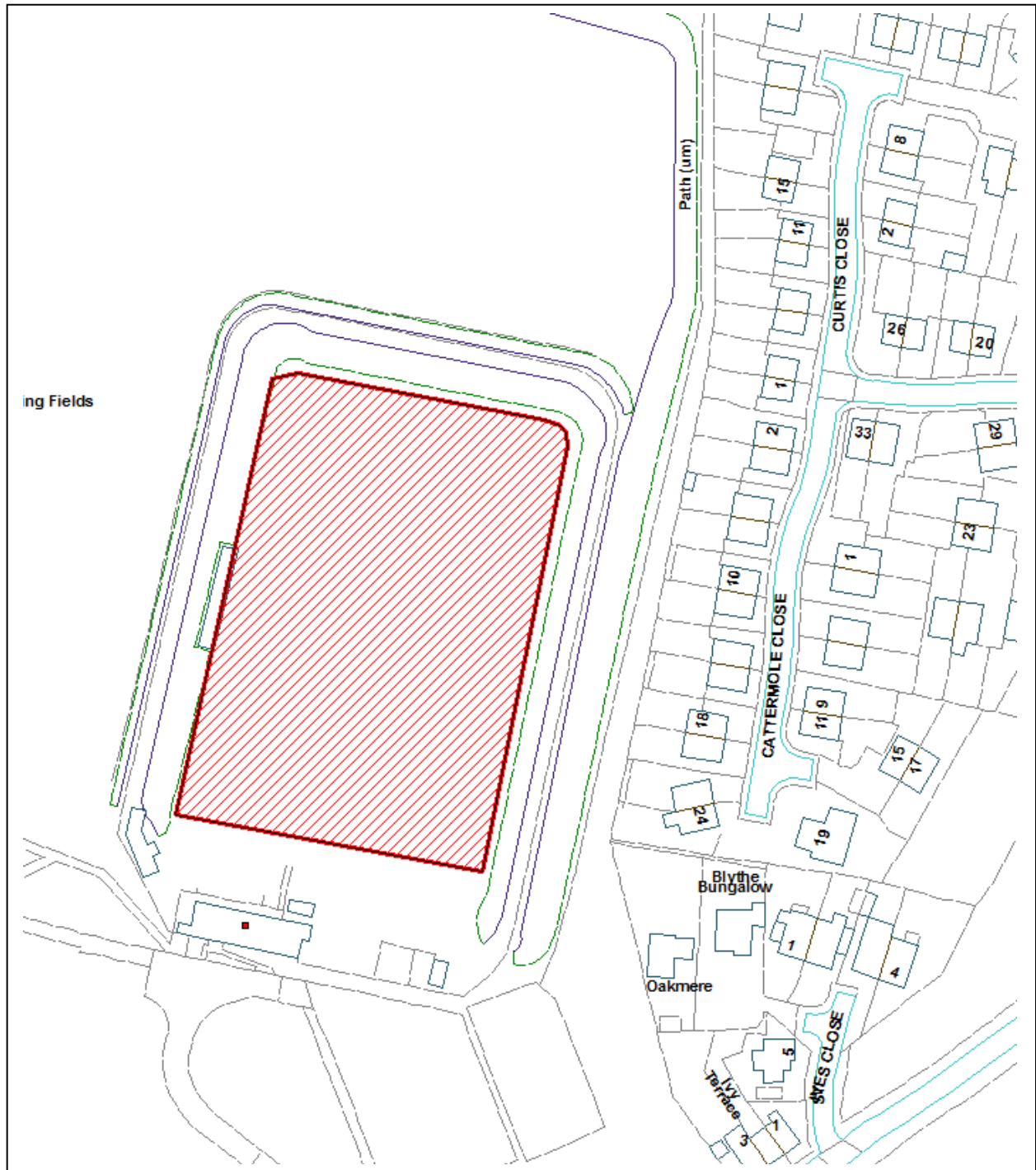
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## PLANNING COMMITTEE

9 April 2019

### REPORT OF THE HEAD OF PLANNING

#### A.6 PLANNING APPLICATION - 19/00235/FUL - RUSH GREEN BOWL RUSH GREEN ROAD CLACTON ON SEA CO16 7BQ



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<b>Application:</b>	19/00235/FUL	<b>Town / Parish:</b> Clacton Non Parished
<b>Applicant:</b>	Mr Stephen Andrews - FC Clacton Community Society	
<b>Address:</b>	Rush Green Bowl Rush Green Road Clacton On Sea	
<b>Development:</b>	Proposed replacement floodlights and spectator rail.	

## 1. Executive Summary

- 1.1 This application is before Members as the land is owned by Tendring District Council.
- 1.2 The application seeks full permission for the replacement of the 8 flood lighting columns and the spectator rail within the grounds of the Rush Green Bowl, home to Clacton Football Club, a well-established and protected recreational facility.
- 1.3 The delivery of these essential upgrades is being partly funded through a grant from the Football Foundation with the majority being funded by way of a Community Share issue.
- 1.4 The neighbouring dwellings to the east of the site have been notified of the application, the submission date for comments expires on the 18<sup>th</sup> April 2019. However, the commencement of the funding application process is subject to planning permission and due to application deadlines it is imperative that Members consider the application at this meeting.
- 1.5 The application is accompanied by a Flood Lighting Report to which the Council's Environmental Protection Department raise no concerns.
- 1.6 There is nothing to suggest that the proposal would result in any additional harm or impact. The development will upgrade a well-used and protected community and tourism facility.
- 1.7 The application is therefore recommended for approval subject to conditions as set out below.

**That the Head of Planning (or equivalent authorised officer) be authorised to grant planning permission for the development subject to:-**

- a) The expiration of the neighbour's consultation period which expires on 18<sup>th</sup> April 2019.
- b) Planning conditions in accordance with those set out below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate).

**Conditions:**

1. Standard Time Limit
2. Approved Plans
3. In accordance with Flood Light Report specifications
4. Time limit for flood lighting usage – not later than 10pm daily.

## 2. Planning Policy

National Planning Policy Framework 2019

## National Planning Practice Guidance

### Adopted Tendring District Local Plan 2007

QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
COM1	Access for All
COM4	New Community Facilities (Including Built Sports and Recreation Facilities)
COM7	Protection of Existing Recreational Open Space Including Children's Play Areas and Pitch and Non-Pitch Sports Facilities
COM7a	Protection of Existing Playing Fields, Including School Playing Fields
COM8	Provision and Improvement of Outdoor Recreational Facilities
COM21	Light Pollution
EN2	Local Green Gap

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

SPL3	Sustainable Design
HP2	Community Facilities
HP3	Green Infrastructure
HP4	Safeguarded Local Greenspace
PPL6	Strategic Green Gap

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

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) 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 48 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.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. 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 48 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**

TEN/742/87	Eight floodlighting columns	Approved	16.06.1987
91/00370/FUL	Retention of garage for use as	Approved	08.05.1991

	store for Archery Club equipment (Renewal of permission TEN/1003/89).		
91/00807/FUL	Use of land for car boot sales every Wednesday 4pm to 8pm	Withdrawn	15.04.1992
93/01057/FUL	(Rush Green Bowl, Rush Green Road, Clacton on Sea) Proposed toilet block	Approved	02.11.1993
95/00007/FUL	Extension to existing clubhouse and erect 2 No. portacabins	Approved	16.02.1995
99/00822/FUL	Electric lighting to youth training pitch	Approved	26.08.1999
99/00823/FUL	New football stand	Approved	26.08.1999
99/01134/FUL	New entrance porch to existing clubhouse	Approved	15.09.1999
01/01946/TELCOM	Mobile telephone base station with a 15m high monopole mast, incorporating 3 no. antennas providing 3 no. sectors of cover, two 400mm and 1 no 600mm microwave dish, new equipment cabinet, compound	Determination	17.12.2001

#### 4. Consultations

Environmental Protection     I have reviewed the application and have no adverse comment to make.

#### 5. Representations

5.1     The site is located within the non-parished are of Clacton on Sea.

5.2     At the time of writing this report, no letters of representation had been received. Members will be informed of any comments received via the Planning Committee Update Sheet on the day of the meeting.

#### 6. Assessment

The main planning considerations are:

- Site Context;
- Proposal;
- Principle of Development;
- Design/Impact, and;
- Impact on Neighbouring Amenities.



### Site Context

- 6.1 The application relates to the Clacton Town Football Club ground within the Rush Green Bowl to the north of Rush Green Road, Clacton on Sea.
- 6.2 Rush Green Bowl is located within the extensive public open space and play space facility with the only neighbouring properties being those to the east within St Ives Close and Cattermole Close.
- 6.3 The site is identified as a Protected Recreational Facility and within the Local Green Gap as defined within the adopted Tendring District Local Plan 2007.

### Proposal

- 6.4 This application seeks full planning permission for the like-for-like replacement of the existing 8 floodlighting columns and lights originally approved in 1987 and the replacement of the spectator rail (currently a post a rail design) with a 1.2 metre high powder coated mesh style fence.

### Principle of Development

- 6.5 Saved Policy COM8 relates to the provision and improvement of outdoor recreational facilities. This policy states that proposals for new outdoor recreational facilities will be permitted where; they meet the needs of the residents, the size and location of the site is capable of accommodating a viable outdoor recreational facility, they are readily accessible and the proposal is not materially detrimental to; residential amenity, highway and pedestrian safety and the landscape.
- 6.6 Furthermore, saved policy EN2 states that only minor development and compatible uses will be permitted in local green gaps. These include leisure and recreational uses.
- 6.7 The site forms part of an established leisure use. The provision of an upgrade to the existing floodlighting and spectator fencing is in accordance with the aims and aspirations of the aforementioned policies.

### Design/Impact

- 6.8 The development comprises a like-for-like replacement of the floodlighting columns with no material change in height or appearance.
- 6.9 The new spectator fencing is low level, well contained within the facility and will not be visible beyond the grounds.
- 6.10 The overall impact of the proposals upon the landscape character of the area would be acceptable.

### Impact upon neighbours

- 6.11 The low level spectator fencing will not be visible from neighbouring properties or harmful to their amenities in any way.
- 6.12 The floodlighting columns are a like-for-like replacement and their siting retaining in excess of 20metres from the rear boundary of neighbouring gardens.

- 6.13 The application is accompanied by a Flood Lighting Report to which the Council's Environmental Protection Department raise no concerns.
- 6.14 There is nothing to suggest that the proposal would result in any additional harm or impact.
- 6.15 Conditions will be applied to ensure the operating times for the floodlight use accords with the information provided and time restriction condition as set out within the original approval TEN/742/87.

Background Papers

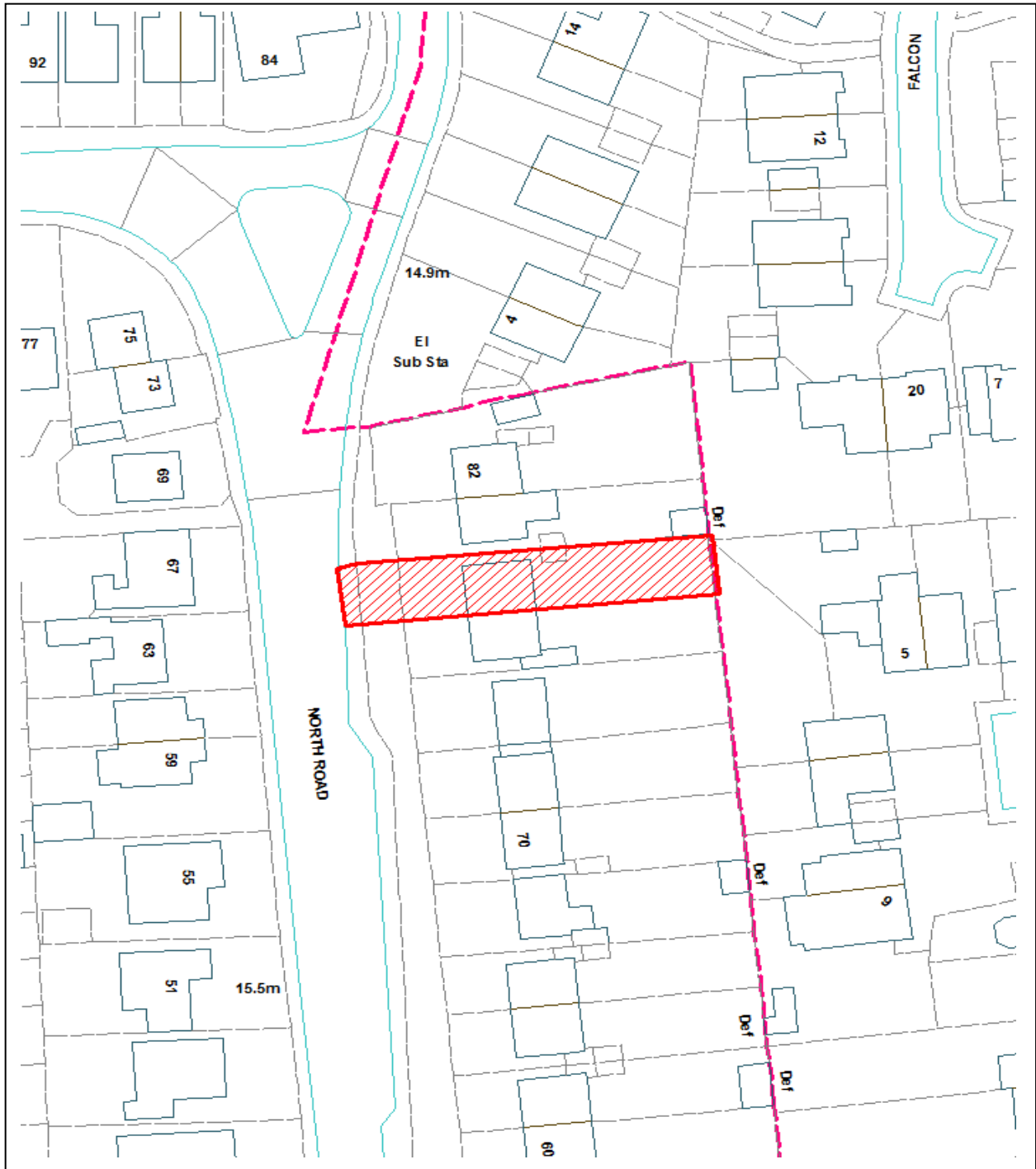
- 6.16 None.

## PLANNING COMMITTEE

9 APRIL 2019

### REPORT OF THE HEAD OF PLANNING

#### **A.7 PLANNING APPLICATION - 19/00019/FUL - 78 NORTH ROAD, CLACTON-ON-SEA, CO15 4DF**



DO NOT SCALE

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<b>Application:</b>	19/00019/FUL	<b>Town / Parish:</b> Clacton Non Parished
<b>Applicant:</b>	Mr Tom Lang	
<b>Address:</b>	78 North Road Clacton On Sea Essex	
<b>Development:</b>	Proposed dropped kerb.	

## 1. Executive Summary

- 1.1. The planning application has been referred to Planning Committee as 78 North Road is a Council owned property.
- 1.2. The applicant is also an Officer of Tendring District Council.
- 1.3. The application seeks permission for a dropped kerb vehicle access at 78 North Road which is sited within the settlement development boundary of Clacton on Sea.
- 1.4. The proposal will create a new vehicle crossover which will allow access to off road car parking which will not have a significant impact on the appearance and character of the local area and will not result in a harmful impact to neighbouring amenities.

### **Recommendation: Approve**

#### **Conditions:**

1. Time Limit
2. Approved Plans
3. Highways – construction of access
4. Highways – no unbound material
5. Highways – no discharge of surface water

## 2. Planning Policy

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

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

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) 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 48 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.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. 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 48 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**

19/00019/FUL	Proposed dropped kerb.	Current
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### **4. Consultations**

ECC Highways Dept	<p>The information that was submitted in association with the application has been fully considered by the Highway Authority. The proposal includes a new vehicle crossover to access off street vehicle parking within the curtilage, therefore:</p>
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From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following conditions:

1. The vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be more than 6 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1.

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

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

3. There shall be no discharge of surface water from the development onto the Highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

' The new access and dropped kerb will cross land owned by the Council. The applicant will require the grant of an access licence to cross the Council's land once all necessary consents and planning permission have been obtained.

' The applicant should be made aware of the potential relocation of the utility apparatus in the highway; any relocation shall be fully at the applicant's expense.

' All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to 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

pp Director for Highways & Transportation  
Enquiries to Caroline Tracey  
Telephone: 03330 130119  
Email: [caroline.tracey@essex.gov.uk](mailto:caroline.tracey@essex.gov.uk)

## 5. **Representations**

None received

## 6. Assessment

The main planning considerations are:

- Site context;
- History;
- Proposal;
- Design and Appearance;
- Residential Amenity; and,
- Highway Safety.

### Site Context

- 6.1. The application site comprises of a west facing semi detached house which is of a standard brick construction with a tiled roof. A grassed front garden is enclosed with mesh wire fencing and a pedestrian gate. In front of the garden boundary is a wide grass verge which is currently being utilised as off road car parking.
- 6.2. The site is located within the settlement boundary of Clacton on Sea within the Adopted Local Plan 2007 and Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

### Proposal

- 6.3. This application seeks planning permission for a dropped kerb vehicular access in front of the property.

### History

- 6.4. Although 78 North Road has no relevant planning history a planning application under reference CLA/141/67 granted permission for vehicular accesses to 7 of the council houses between numbers 60 and 82 North Road.

### Design and Appearance

- 6.5. The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed and relate satisfactorily to their setting. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.6. The immediate area comprises a row of semi-detached houses on the east side of North Road and a mixture of housing types on the western side of North Road, most of which have vehicular accesses and driveways. The immediate neighbours of 80 and 82 North Road have dropped kerb access onto the front of their properties.
- 6.7. The area of the proposed off road car parking is currently a grassed area with a garden path. New surfacing on this area to create the equivalent of 2 car parking spaces would not significantly impact the visual amenity of the immediate area.
- 6.8. The proposal will be publicly visible however due to its minor nature and other similar development within the area it would not detract from the character or appearance of the existing dwelling or the immediate area.

### Residential Amenity

- 6.9. The NPPF, at paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.
- 6.10. The proposed access and surfacing in front of the house will improve the provision for off road car parking in the immediate vicinity and prevent damage to the grass verge.
- 6.11. The parking area in front of the existing house is sufficient to allow two cars to park off the road and which meets the parking standards where one parking space measures 5.5 metres x 2.9 metres.
- 6.12. The minor nature of the proposal will not result in a harmful impact to neighbouring properties.

### Highway Safety

- 6.13. Essex County Council Highways have been consulted on the application and regard the proposal as acceptable subject to conditions regarding width of the proposed access, surface water drainage and the driveway materials to be used.
- 6.14. One condition suggested by Essex County Council Highways states that the access should be constructed to a width of no more than 6 metres rather than the 7.5 metres proposed. In this case, it is considered that if the width is reduced to 6 metres the proposal would be acceptable and this can be secured by condition.

### Conclusion

- 6.15. In conclusion as the proposal represents no significant visual harm or significant loss of residential amenities to neighbouring properties it is recommended for approval.

### Background Papers

None.



By virtue of paragraph(s) 5 of Part 1 of Schedule 12A of the Local Government Act 1972.

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