



PLANNING COMMITTEE

DATE: Tuesday, 22 October 2019
TIME: 6.00 pm
VENUE: Council Chamber - Council Offices,
Thorpe Road, Weeley, CO16 9AJ

MEMBERSHIP:

Councillor White (Chairman)
Councillor Bray (Vice Chairman)
Councillor Alexander
Councillor Cawthron
Councillor Codling

Councillor Fowler
Councillor Harris
Councillor McWilliams
Councillor Placey

Most Council meetings are open to the public and press.

Agendas and Minutes are published on the Council's website 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 or Ian Ford on 01255686585 or 01255686584

DATE OF PUBLICATION: Tuesday, 15 October 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 - 14)**

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on 24 September 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- 18/01888/FUL - Mulleys Farm, Bentley Road, Little Bromley, Manningtree, CO11 2PL (Pages 15 - 28)**

Change of use of agricultural and storage buildings to mixed open use (B1, B2 and B8) and the erection of an extension following the removal of a lean-to structure.

6 **A.2 - Planning Application -18/00767/OUT - Land to the North of Stourview Close, Mistry, CO11 1LT (Pages 29 - 84)**

Proposed new access road and the erection of up to 72 dwellings and associated works.

7 **A.3 - Planning Application -19/00610/FUL - Land at Oakmead Road, St Osyth, CO16 8NW (Pages 85 - 106)**

Construction of 4 No detached houses with associated accesses.

8 **A.4 - Planning Application- 19/01261/FUL - Land adjacent 2 Wivenhoe Road, Alresford, CO7 8AD (Pages 107 - 122)**

Residential development of 3no. dwelling houses.

9 **A.5 - Planning Application -19/01353/OUT - Wisteria House, Back Lane East, Great Bromley, CO7 7UE (Pages 123 - 142)**

Construction of a self-build/custom build bungalow with associated single garage, driveway and garden area.

MEETING OVERRUN DATE

In the event that all business is not concluded, the meeting will reconvene on 24.10.19 at 6.00 p.m. in the Council Chamber, Council Offices, Thorpe Road, Weeley to consider any remaining agenda items

Date of the Next Scheduled Meeting

The next scheduled meeting of the Planning Committee is to be held in the Council Offices, Thorpe Road, Weeley, CO16 9AJ at 6.00 pm on Tuesday, 19 November 2019.

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 Web: 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**

This page is intentionally left blank

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON TUESDAY, 24TH SEPTEMBER, 2019 AT 6.00 PM
IN THE COUNCIL CHAMBER - COUNCIL OFFICES, THORPE ROAD, WEELEY,
CO16 9AJ**

Present:	Councillors White (Chairman), Bray (Vice-Chairman), Alexander, Cawthron, Codling, Fowler, Harris, McWilliams and Placey
Also Present:	Councillor Alan Coley, Councillor Chris Griffiths, Councillor Valerie Guglielmi and Councillor Daniel Land
In Attendance:	Cath Bicknell (Head of Planning), Graham Nourse (Planning Manager), Trevor Faulkner (Planning Team Leader), Matthew Lang (Planning Officer), Lisa Hastings (Head of Governance and Legal Services), Charlotte Cooper (Committee Services Officer)

40. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none on this occasion.

41. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Committee, held on 28 August 2019, were approved as a correct record and signed by the Chairman.

42. DECLARATIONS OF INTEREST

Councillor Alexander declared that, in relation to Planning Application 19/01044/FUL, he was pre-determined on this application and he would vacate to the public gallery whilst the Committee deliberated on the application and reached its decision.

43. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37

There were none on this occasion.

44. A.1 - PLANNING APPLICATION - 19-00978-OUT - LAND TO THE EAST OF NEW ROAD, MISTLEY, CO11 2AL

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 Officer (ML) in respect of the application.

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

- (1) Correspondence from the applicant's agent addressing objections received.
- (2) Additional comment from Mistley Parish Council.
- (3) One additional representation from a local resident objecting to the development

Will Vote, agent acting on behalf of local residents, spoke against the application.

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

Andy Black, the agent acting on behalf of the applicant, spoke in support of the application.

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

- Inadequate amenity space.

45. A.5 - PLANNING APPLICATION - 19-00909-FUL - MULBERRY, HARWICH ROAD, BEAUMONT, CO16 0AU

With the approval of the Chairman of the Committee, Planning Application 19/00909/FUL was moved to be considered at an earlier stage in the agenda, the meeting would then proceed as normal.

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

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

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

(1) Amendments to paragraphs 1.3 and 6.4

Marilyn Peck, a local resident, spoke against the application.

Parish Councillor Trudy Carr, representing Beaumont Parish Council, spoke against the application.

Councillor Daniel Land, a local Ward Member, spoke against the application.

Peter Le Grys, the agent of behalf of the applicant, spoke in support of the application.

Following discussion by the Committee, it was moved by Councillor Bray, 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:

- 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

- b) the conditions stated below, subject to a correction to condition 9 to include the word 'not'.
- c) That the Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a Section 106 planning obligation.

Conditions and Reasons

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason – To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004

2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents; Drawing No. BHR-101 Revision A, Block Plan – Demolition Plan scanned 6th August and Planning Statement dated June 2019.

Reason – for the avoidance of doubt and in the interests of proper planning.

3. There should be no obstruction above ground level within a 2.4 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic for the three residential dwellings and retained free of any obstruction at all times.

Reason – To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety.

4. No unbound material shall be used in the surface treatment of the existing 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.

5. Prior to the occupation of the proposed dwellings, the existing private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of the Highway Boundary.

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.

6. 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.

7. Prior to the commencement of any above ground works, a scheme of hard and soft landscaping works for the site shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute Publication “BS 5837: 2012 Trees in relation to design, demolition and construction.

Reason – To obscure views of the site from Public Right of Way Network to the south west of the application site.

8. All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October – March inclusive) following the commencement of the development or in such other phased arrangements as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason – To ensure that the landscaping scheme is suitably implemented within an appropriate timescale.

9. The proposed dwelling shown on drawing no. BHR-101 Revision A hereby permitted shall not be occupied until all of the existing agricultural buildings as shown on Drawing Block Plan – Demolition Plan scanned 6th August, have been demolished and the resulting demolition materials removed from the site.

Reason – In the interests of protecting and enhancing the rural character and appearance of the area.

10. Notwithstanding the provisions of Classes A, B, C, D and E of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enhancing that Order), the dwelling shown on drawing no. BHR-101 Revision A hereby permitted shall not be extended or ancillary buildings or structures shall be erected within the curtilage, without the prior written approval of the local planning authority.

Reason – In the interests of protecting and enhancing the rural character and appearance of the area.

Informatives

Positive and proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Legal Agreement Informative – Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Building Control and Access

Fire Service access is required in accordance with B5.

Highways

Informative 1: As per the information contained in The Planning Statement, under item 2.5 it will be necessary to undertake some maintenance to the existing hedgerow and cut back any overhanging trees adjacent to Harwich Road to ensure that a 2.4 metres parallel band visibility splay will be provided for the entire site frontage.

Informative 2: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Informative 3: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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

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

Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

46. A.2 - PLANNING APPLICATION - 19-00539-DETAIL - LAND SOUTH OF LONG ROAD, AND TO THE WEST OF CLACTON ROAD, MISTLEY, CO11 2HN

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

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

An update sheet was circulated to the Committee prior to the meeting with details of amended proposed conditions; namely: Condition 1, Condition 6, and Condition 8,

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

Following discussion by the Committee, it was moved by Councillor Fowler, seconded by Councillor Bray 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, 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) the conditions stated below.
- c) That the Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a Section 106 planning obligation.

Conditions and Reasons

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan – CC011-PL-01 Rev A
Development Layout – CC011-PL-05 Rev C
Detailed Layout – CC011-PL-03 Rev C
Parking Layout – CC011- PL04 Rev C
Storey Heights – CC011-PL-08 Rev C
Landscape Masterplan – CC011-PL-07 Rev C
Walking Route Mitigation Plan – CC011-PL-09 Rev A
Emergency Drive-over Strip Detail – CC011-PL-10
House Type HT3Bd – 212
House Type HT2B – 203 Rev A
House Type HT3Ba – 205 Rev A
House Type HT3Bc – 206 Rev A
House Type HT3Bb – 207 Rev A
House Type HT4Ba – 208 Rev A
House Type HT4Bb – 209 Rev A
House Type HT4Bc – 210 Rev A
House Type HT4Bd – 211 Rev A
House Type HT4Be – 213 Rev 00
Garages Floor Plans & Elevations – CC011-GR
Garages SG1 and SG2 – CC011-GR-01
Garage SG3 – CC011-GR-02
Garage SG3 – CC011-GR-03
Street Elevations – CC011-ST-01 Rev B
Commercial Block 'A' Proposed Plans – CC011-CB-A1
Commercial Block 'A' Proposed Elevations –CC011-CB-A2
Commercial Block 'B' Proposed Plans – CC011-CB-B1
Commercial Block 'B' Proposed Elevations – CC011-CB-B2
Commercial Block 'C' Proposed Plans – CC011-CB-C1
Commercial Block 'C' Proposed Elevations – CC011
Commercial Block 'D' Proposed Plan – C011-CB-D1
Commercial Block 'D' Proposed Elevations – C011-CB-D2

Reason – for the avoidance of doubt and in the interests of proper planning.

2. No development shall commence until details of existing and proposed levels of the site, finished floor levels and identifying all areas of cut or fill, have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the agreed scheme prior to occupation.

Reason – To ensure a satisfactory form of development having particular regard to drainage and the provision of level access.

3. Prior to commencement of development, details of the estate roads, parking courts 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.

Reason – To ensure roads/parking courts/footways are constructed to an appropriate standard in the interests of highway safety.

4. The proposed estate roads shall be constructed prior to the commencement of the erection of any residential development proposed to have access from such road and the proposed road and turning space, where applicable shall be constructed in such a manner as to ensure that each dwelling before it is occupied shall be served by a properly consolidated and surfaced carriageway between the dwellings and the existing highway. The footways and footpaths commensurate with the frontage of each dwelling shall be constructed and completed within twelve months from the date of occupation of the dwelling; and a management plan, including management responsibilities and maintenance schedules for all parking areas other than those forming part of the public highway, or on private domestic property shall be submitted to and approved, in writing, by the Local Planning Authority prior to the first occupation of the development. The management plan shall be carried out as approved in accordance with the details and timescales in the plan.

Reason – In the interests of highway safety, to ensure satisfactory access at all stages of development and to ensure the maintenance of shared vehicular surfaces.

5. No development shall take place until:
 - a) There has been submitted to and approved in writing by the Local Planning Authority, a scheme of hard and soft landscaping works for the site, to include all areas of open space, all play areas, all amenity areas, all street trees, all verges and all other planted or open areas excluding private residential curtilages. The scheme shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication “BS 5837 :2012 Trees in relation to design, demolition and construction. The development shall be carried out in accordance with the approved details.

- b) Existing trees on the site, agreed with the Local Planning Authority for inclusion in the scheme of landscaping (above), have been protected by the erection of temporary protective fences of a height, size and in positions which shall previously have been agreed, in writing, with the Local Planning Authority. The protective fences shall be retained throughout the duration of building and engineering works in the vicinity of the trees to be protected. Any trees dying or becoming severely damaged as a result of any failure to comply with these requirements shall be replaced with trees of appropriate size and species during the first planting season or in accordance with such other arrangement as may be agreed in writing with the Local Planning Authority.

Reason – To ensure a satisfactory standard of landscaping and the protection of retained trees.

6. A landscape implementation and management plan for all public areas of the site, including planting schedules and long term design objectives, management responsibilities and maintenance schedules for all hard and soft landscape areas within public areas of the site, shall be submitted to and approved, in writing, by the Local Planning Authority prior to the first occupation of the development. The landscape implementation and management plan shall be carried out as approved in accordance with the details and timescales in the plan.

Reason – To ensure the timely implementation, management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

7. No street lighting or lighting of common area shall be installed until details of an illumination scheme have been submitted to and approved in writing by the Local Planning Authority. Development shall only be carried out in accordance with the approved details.

Reason – in the interests of amenity to reduce the impact of night time illumination on the character of the area.

8. Prior to the first occupation of the dwellings, details of cycle storage required to serve each dwelling shall be submitted to and approved in writing by the Local Planning Authority. All cycle storage so approved shall be provided prior to first occupation of the dwelling to which it relates and shall be retained thereafter as approved.

Reason – To ensure a satisfactory development in terms of appearance and functionality and sustainability, so that cycling is encouraged as a sustainable means of transport.

9. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visible splay.

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.

10. Notwithstanding the provision of Article 3, Schedule 2 Part 3 of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking and re-enacting that Order with or without modification), the commercial buildings hereby approved shall be used as offices and for no other purpose including any other purpose in Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any Statutory instrument and re-enacting that Order with or without modification).

Reason – To protect the amenities and privacy of occupiers of adjoining properties and in the interests of visual amenity.

Informatives

Informative 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 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 be 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.

Informative 2: The applicant has advised that it is intended that the roads will be privately maintained and not put forward for adoption.

Informative 3: Prior to occupation, the development shall be served by a system of operational street lighting of design approved from the Highway Authority along the Primary route, which shall thereafter be maintained in good repair.

Informative 4: the areas directly adjacent to the carriageway(s) in which the trees are to be planted should not be less than 3 metres wide, exclusive of the footway and the trunks of the trees should be no nearer than 2 metres to the channel line of the road. The same dimensions should be used in situations where the footway is located adjacent to the carriage way.

In paved areas, whether or not the planted areas are to be adopted highway, trees should be sited no closer than 2 metres to the defined (or undefined) edge of the carriageway. Where the adopted highway is to be an independent path, trees should be planted no closer than 1 metre from the edge of the highway. In all cases, trees should be provided with root barriers to prevent damage to underground service.

Informative 5: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Informative 6: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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

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

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

47. A.3 - PLANNING APPLICATION- 19/00283/FUL - LAND EAST OF HALSTEAD ROAD KIRBY CROSS FRINTON ON SEA CO13 0LR

With the approval of the Chairman of the Committee (Councillor White) Planning Application 19/00283/FUL, Land East of Halstead Road, Kirby Cross, Frinton On Sea, CO13 0LR, had been deferred prior to the commencement of this meeting to be considered at a later date for the following reasons;

- Amended Plans had been received regarding highway/parking layout which need to be subject of further consultation with County Highways;
- Further supporting evidence for application being sought from the applicant's (Linden Homes)

48. A.4 - PLANNING APPLICATION - 19-00738-FUL - LAND REAR OF 1 & 2 THE PADDOCKS, WINDMILL ROAD, BRADFIELD, CO11 2QR

With the approval of the Chairman of the Committee (Councillor White) Planning Application 19/00738/FUL, Land to the Rear of 1 & 2 The Paddocks, Windmill Road, Bradfield, CO11 2QR, had been deferred prior to this meeting to allow for the site plan and application form to be updated to accurately reflect the application as amended and to allow time for re-consultation before determination.

49. A.6 - PLANNING APPLICATION - 19-01157-FUL - LAND ADJACENT TO LITTLE THATCH MILL LANE THORPE LE SOKEN, CO16 0ED

With the approval of the Chairman of the Committee (Councillor White) Planning Application 19/01157/FUL, Land Adjacent to Little Thatch, Mill Lane, Thorpe Le Soken, CO16 0ED, had been deferred prior to this meeting to allow the Planning Officers more time to provide a full ecology survey to the Committee.

50. A.7 - PLANNING APPLICATION - 19-01044-FUL - 108A PIER AVENUE, CLACTON ON SEA, CO15 1NJ

Councillor Alexander had previously declared that, with regards to Planning Application 19/01044/FUL, he was predetermined on this application. He therefore vacated to the public gallery 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 Officer (ML) in respect of the application.

Councillor Alexander, speaking in his capacity as a local ward Councillor, spoke against the application.

Councillor Griffiths, a local ward Councillor, spoke against the application.

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

Following discussion by the Committee, it was moved by Councillor Cawthron, Seconded by Councillor McWilliams and **RESOLVED** that, contrary to the Officer's recommendation of approval, the Head of Planning (or equivalent authorised officer) be authorised to refuse planning permission for the development due to the following reasons:-

- Contrary to Policy QL11
- Contrary to Policy QL9

51. REPORT OF THE HEAD OF PLANNING - PLANNING COMMITTEE APPEALS REPORT

The Committee had before it a report of the Head of Planning, this report informed Members of the number of appeals that had been received and determined over the past 24 months and analysed the Council's performance in terms of decisions made by the Planning Inspectorate.

The Committee was informed that a total of 78 appeals had been determined between September 2017 and August 2018 of which 39% had been allowed. A total of 79 appeal decisions had been received between September 2018 and August 2019 of which 31% had been allowed. The Planning Inspectorate currently allowed 28% of appeals on average nationally. The national performance measure, which local authorities were required to meet, required that no more than 10% of all planning applications determined in the past two years were allowed on appeal. At present during the period April 2016 – March 2018, a total of 5.78% of major application decisions had been allowed on appeal within Tendring, well within the 10% target. For non-major applications the figure was 2.21%.

The Council's performance in dealing with appeals was set out in Appendix A of the report.

A summary of appeal cost decisions was set out in Appendix B of the report.

After deliberation by the Committee, it was **RESOLVED** that the Committee noted the contents of the report.

The meeting was declared closed at 9.11 pm

Chairman

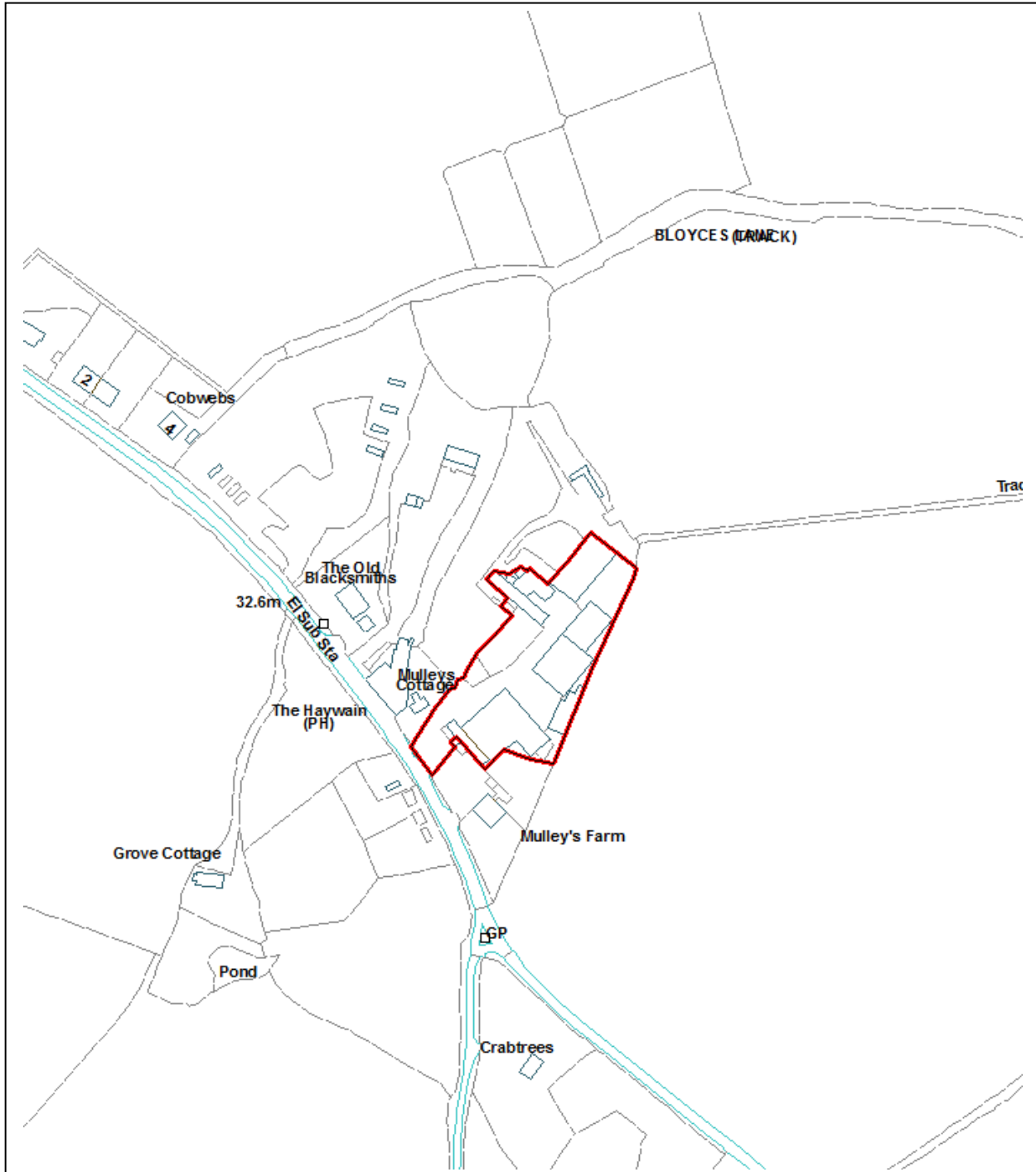
This page is intentionally left blank

PLANNING COMMITTEE

22 OCTOBER 2019

REPORT OF THE HEAD OF PLANNING

A.1 PLANNING APPLICATION – 18/01888/FUL – MULLEYS FARM BENTLEY ROAD LITTLE BROMLEY MANNINGTREE CO11 2PL



DO NOT SCALE

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

Application: 18/01888/FUL

Town / Parish: Little Bromley Parish Council

Applicant: Mrs Cooper

Address: Mulleys Farm Bentley Road Little Bromley Manningtree CO11 2PL

Development: Change of use of agricultural and storage buildings to mixed open use (B1, B2 and B8) and the erection of an extension following the removal of a lean-to structure.

1. **Executive Summary**

- 1.1 Councillor Stock has called for the application to be determined by Planning Committee due to the impacts to neighbouring properties through noise disturbances, and also harm to a listed building.
- 1.2 National and local plan policies support the proposed development for an expansion to the established business in a rural location providing the proposal can be accommodated without an adverse impact on the landscape character of the countryside, without harming the amenity of local residents, and satisfactory vehicular access and adequate car parking is provided.
- 1.3 The single storey side extension will not appear prominent and will result in a neutral impact to the existing street scene, while also being sited with sufficient distance to neighbouring properties and the nearby listed building to ensure no harm.
- 1.4 Following concerns raised with regard to the noise impacts of the proposal, a noise assessment has been submitted. The assessment concludes that the noise levels from the use of the site are marginally above the existing ambient noise levels and are not considered significant. Therefore, subject to the installation of acoustic fencing and noise control measures, the buildings can be used for metal fabrication without causing significant impact or disturbance to local residents.
- 1.5 Essex Highways Authority have raised no objections, while there is considered to be sufficient parking provision for the flexible use being proposed.

Recommendation:

That the Head of Planning be authorised to grant planning permission for the development subject to the conditions stated in section 8.2.

2. **Planning Policy**

- 2.1 The following Local and National Planning Policies are relevant to this planning application:

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

COM22 Noise Pollution

- EN23 Development Within the Proximity of a Listed Building
 - ER7 Business, Industrial and Warehouse Proposals
 - ER11 Conversion and Reuse of Rural Buildings
 - EN1 Landscape Character
 - QL9 Design of New Development
 - QL10 Designing New Development to Meet Functional Needs
 - QL11 Environmental Impacts and Compatibility of Uses
 - TR1A Development Affecting Highways
- Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)
- PPL9 Listed Buildings
 - SP4 Providing for Employment and Retail
 - SPL3 Sustainable Design

Status of the Local Plan

- 2.2 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.
- 2.3 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.
- 2.4 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

03/01778/FUL	Rear extension	Approved	21.10.2003
--------------	----------------	----------	------------

05/01218/FUL	Temporary permission for siting of caravan whilst rebuilding of Mulley Cottage is carried out.	Approved	17.10.2005
07/02031/FUL	Change of use of 3 No. agricultural buildings to storage (B8 Use), retention of 3 No. agricultural buildings in storage (B8 use) and retention of 2 No. former agricultural buildings for use by Brick Logic (B2 Use). As amended by letter and attached plan dated 7th May 2008 and amplified by letter dated 20 May 2008 and External Lighting plan received on 10 June 2008.	Approved	11.07.2008

4. Consultations

ECC Highways Dept

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

The site has previously had approval for B2 and B8 use back in 2008; the proposed extension will not impact on the highway therefore:

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

1. Prior to first occupation of the development the areas within the site identified for the purpose of loading/unloading/reception and storage of materials and manoeuvring shall be provided clear of the highway and retained thereafter for that sole purpose.

Reason: To ensure that appropriate loading / unloading facilities are available in the interest of highway safety in accordance with policy DM1.

2. Prior to first occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be provided 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 in accordance with policy DM1

3. The proposed development shall not be occupied until such time as the vehicle parking has been identified for staff and delivery vehicles, has been set aside marked out in parking bays. The vehicle parking area and

associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the site unless otherwise agreed with the Local Planning Authority.

Reason: To ensure that on street parking of vehicles (in particular, heavy good vehicle lorries) on Bentley Road does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8.

4. The existing access within the proposed formal parking area shown on the parking plan (DWG 60146) shall be suitably and permanently closed incorporating the reinstatement to full height of the highway verge / footway / cycleway / kerbing immediately the proposed new access is brought into first beneficial use.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety in accordance with policy DM1.

5. Areas within the curtilage of the site for the purpose of the reception and storage of building materials (for the extension) shall be identified clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in 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 1: The internal access arrangements being sufficient width throughout to permit opposing vehicles to pass and incorporating a vehicular turning space of sufficient dimensions to cater for articulated heavy goods vehicles and should be maintained free of obstruction at all times.

Informative 2: Any work 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.

5. Representations

5.1 Little Bromley Parish Council object to the application for the following reasons:

- The site is not connected to a mains sewer;
- Access road is too narrow and not suitable for large commercial vehicles; and
- Impact to neighbouring property.

5.2 There have been 11 letters of objection received, with their comments summarised below:

- Not a mains sewer on site;
- Highway safety concerns;
- Noise and light pollution;
- Harm to structure of adjacent listed building;
- Increase in traffic movements;
- Access not suitable for large commercial vehicles;
- Anti-social working hours; and
- Noise Assessment is not accurate enough and is flawed.

6. **Assessment**

Site Context

- 6.1 The application site is Mulleys Farm, which is located to the eastern section of Bentley Road within the parish of Little Bromley. The site measures approximately 0.51 hectares and contains a number of buildings. The character of the surrounding area is rural, with agricultural land notably to the east, south and west. There is however a small area of built form adjacent to the north of the site, which includes The Haywain Public House.
- 6.2 The site is not situated within a recognised Settlement Development Boundary in either the Saved Tendring Local Plan 2007 or Emerging 2013-2033 Tendring Local Plan Publication Draft.

Site History

- 6.3 Under planning reference 07/02031/FUL, planning permission was granted for the change of use of the site so that the buildings usage included 6 x B8 Storage and Distribution use and 2 x B2 General Industry use.
- 6.4 It is important to note that a condition was attached to this decision to restrict the two buildings in B2 General Industry use only to a company known as 'Brick Logic'. This was because the B2 General Industry use was considered at that time to have the potential to cause disturbance to nearby residents. This occupier has since vacated the premises and the buildings therefore reverted to its original agricultural use.
- 6.5 Therefore the site in its current form has planning permission for B8 Storage and Distribution use, except for two buildings to the north-east of the site which have a restricted B2 General Industry use.

Description of Proposal

- 6.6 This application seeks retrospective planning permission for the change of use of nine individual buildings (with one of the existing eight buildings being sub-divided) on site to a mixed open use of B1 Business, B2 General Industry and B8 Storage and Distribution. The site has been operating in this manner since September 2016.
- 6.7 The application also seeks retrospective consent for the erection of a single storey extension to the side elevation of the building located to the south-western corner of the site.

6.8 The proposal states the following opening hours of:

- Monday to Friday – 7am to 6pm
- Saturday – 7am to 12pm
- Sunday and Bank Holidays – Closed

These hours are in accordance with the operating hours previously approved under planning permission 07/02031/FUL.

Principle of Development

- 6.9 Paragraph 80 of the National Planning Policy Framework (2019) states planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 6.10 Paragraph 83 of the 2019 (NPPF) states that planning policies and decisions should help build a strong, competitive economy by enabling the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings. Paragraph 84 of the 2019 (NPPF) states that planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances, it will be important to ensure that development is sensitive to its surrounding, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable. The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.
- 6.11 The preamble of saved Policy ER7 of the adopted Tendring District Local Plan 2007 explains how the Council wishes to support the growth of existing firms and will grant permission for extensions to established business premises in rural locations providing they have an acceptable impact on visual amenity. Saved Policy ER7 itself states that in rural locations permission may exceptionally be granted for extensions to existing businesses where new employment opportunities would be generated providing the proposals can be accommodated without an adverse impact on the landscape character of the countryside and satisfactory vehicular access and adequate car parking is provided.
- 6.12 The preamble of saved Policy ER11 of the adopted Tendring District Local Plan 2007 states that in the interest of encouraging a lively and viable rural economy the re-use or conversion of rural buildings for employment purposes is encouraged, but that the type and scale of activity proposed should be compatible with the character of the surrounding area, and the potential impact on the amenity of local residents will be an important consideration.
- 6.13 In summary, national and local plan policies support the proposed development for an expansion to the established business in a rural locations providing the proposals can be accommodated without an adverse impact on the landscape character of the countryside, without harming the amenity of local residents, and satisfactory vehicular access and adequate car parking is provided.
- 6.14 It is acknowledged the application will see an intensification of an employment use in a rural area away from any significant settlement. However, given the existing permission of a mixed B8 and restricted B2 use at the site, on balance it is considered that this intensification is not significant enough to warrant recommending a reason for refusal, subject to the detailed consideration below.

Visual Impacts

- 6.15 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).
- 6.16 The proposed scheme results in one external alteration to the existing site, a single storey side extension to the building located to the south-western corner of the site, currently occupied by Datum Group Ltd.
- 6.17 Given that the extension is sited approximately 30 metres from Bentley Road and is located to the rear of existing built form, it will not appear prominent, thereby resulting in a neutral impact to the street scene. Further, the overall design and material use is in-keeping with the existing development and is considered an acceptable addition.

Impact to Setting of a Listed Building

- 6.18 Policy EN23 of the Adopted Plan states that development within the proximity of a Listed Building that would adversely affect the setting of a Listed Building, including group value and long distance views, will not be permitted. The sentiments of this policy are carried forward within policy PPL9 of the Emerging Plan.
- 6.19 The application site is located adjacent to the east of Mulley's Cottages, which is a Grade II Listed Building. However the only external amendment being proposed within this application is a single storey extension, which is to be located approximately 20 metres apart. Given this significant separation distance, the extensions single storey nature and that any long distance views will be maintained, there is not considered to be any significant impacts to the setting of the Grade II Listed Building.

Impact to Neighbouring Amenities

- 6.20 Paragraph 127 of the National Planning Policy Framework (2019) states that planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 6.21 Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:
- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;
 - b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and
 - c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

- 6.22 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).
- 6.23 Given the potential noise/vibration impact associated with the development proposal it was considered necessary that a noise assessment be submitted to explore whether the proposed change of use could be carried out without causing significant harm to the amenities of the adjacent neighbours. Accordingly a noise assessment has been undertaken.
- 6.24 The submitted assessment details that a series of noise measurements were carried out at the site on 21 February 2019, taken 10 metres from the site boundary to Mulley's Cottage, which is the closest related property. The survey results included noise with and without the site operating. Measurements were taken to represent overall activity at the site, including internal welding, electric fork lift truck activity, and van and other vehicle arrivals and departures. Other background noises noted include passing local traffic, including agricultural vehicles, occasional aircraft and distant road traffic noise from the A120 approximately 1.8km to the south.
- 6.25 The assessment concludes that the noise levels from the use of the site are marginally above the existing ambient noise levels and are not considered significant. The buildings can operate for metal fabrication without causing significant impact or disturbance to local residents. The noise from the use of the site is less than the significant adverse impact threshold referred to within the NPPF (2019). It has therefore been concluded that the proposed change of use will not result in significant noise pollution to the serious detriment of the adjacent neighbouring properties.
- 6.26 The noise assessment also states that a 2 metre high acoustic screen to the boundary of Mulley's Cottage is essential to further reduce noise impacts, and provides details of physical and management noise control measures. These are recommended as conditions to this decision.
- 6.27 The development also includes a single storey side extension; however given its size and distance to nearby neighbouring properties, there is considered to be a neutral impact to existing amenities as a result.

Highways Impacts

- 6.28 Essex Highways Authority initially stated it has no objections subject to conditions relating to a vehicular turning facility, vehicle parking for staff and delivery vehicles being marked out and areas of the site identified for loading, unloading and storage of materials being provided clear of the highway.
- 6.29 Following these comments, a meeting between Essex Highways Authority, the agent for the application, a local councillor and the Chairman for the Parish Council took place on 6 August 2019, following information supplied by the Parish Council discussing the practices taking place on the site; notably vehicles parking on Bentley Road as opposed to the application site and vehicles not leaving the site in a forward gear.
- 6.30 Following this meeting, the agent for the application provided details of a Swept Path Analysis, which provides two options to show how vehicles are able to leave the site in forward gear, and also details of a turning and manoeuvring area within the site. As such Essex Highways Authority has submitted slightly revised comments that are still in support of the application but add additional emphasis to avoid the parking of vehicles on Bentley Road. The condition requesting a vehicular turning facility however is now not relevant following the

submission of the above information, and is therefore not recommended as a condition to this decision.

- 6.31 Adopted Car Parking Standards state that for a B8 Storage or Distribution use, provision should be made for a minimum of one parking space per 150sqm. For a B1 Business use provision should be made for 1 parking space per 30sqm, while for B2 General Industrial use there should be provision for 1 parking space per 50sqm.
- 6.32 The total size of all nine units is approximately 2,600 square metres. Against the above standards this would require a maximum of 18 spaces if all the units were B8, a maximum of 52 spaces if all the units were B2, and a maximum of 86 spaces if all the units were B1. The site currently has planning permission for six units as a B8 Storage or Distribution use, and two units as a B2 General Industrial use.
- 6.33 Given the increase in required parking provision Officers requested that a parking layout be submitted to demonstrate the levels of parking required is achievable.
- 6.34 The submitted parking layout shows provision for 48 parking spaces. As per the calculations above the site should demonstrate a minimum of 18 parking spaces and a maximum of 86 spaces; the provision falls approximately in the middle of these two figures, while it is acknowledged that the site in its existing layout predominantly includes B8 Storage and Distribution uses. Therefore it is considered that the parking provision highlighted is acceptable for the site. The parking layout also shows provision in front of the existing access point to the south-eastern corner of the site, and accordingly Essex Highways Authority have recommended a further condition to ensure this access point is suitably and permanently closed.

7. Conclusion

- 7.1 In summary, national and local policies are in support of growth to rural businesses. While the proposal represents an intensification to the existing use, it is not considered to be excessively so. The scheme involves few external changes, with the single storey extension being a minor addition that neither harms the character of the area or impacts neighbouring amenities. The change of use to include a flexible B1, B2 and B8 use across the site does have the potential to increase noise levels, both through additional comings and goings of vehicles and through noise associated with a B2 use in particular. While a restriction was put on the B2 General Industry use at this site in the previous planning permission, this was because it was unclear if there would be significant harm to neighbouring amenities. However, a noise assessment has been provided which has concluded noise levels from the use of the site are marginally above the existing ambient noise levels. Further, Essex Highways Authority offer no objections, while the parking provision is considered to be acceptable. Therefore, subject to conditions shown below, the development is recommended for approval.

8. Recommendation

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives. Given the nature of the application a section106 legal agreement is not required in this instance.

8.2 Conditions and Reasons

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans, titled 'Site Location Plan' received 19 June 2019, 'Block Plan', 'Site Plan', 'Parking Plan', 'Environmental Noise Report', drawing number 512/18 and the two untitled swept path analysis models received 3 October 2019.

Reason - For the avoidance of doubt and in the interests of proper planning.

- 2 Notwithstanding the approved plans, within three months of the date of this decision, a plan identifying areas within the site for vehicle parking for staff and delivery vehicles shall be provided and approved in writing by the Local Planning Authority. The vehicle parking area and associated turning area shall be completed within three months of approval of the plan by the Council and retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the site unless otherwise agreed with the Local Planning Authority.

Reason: To ensure that on street parking of vehicles in the adjoining road does not occur in the interests of highway safety.

- 3 Notwithstanding the approved plans, within three months of the date of this decision, a plan identifying areas within the site for the purposes of loading/unloading/reception and storage of materials and manoeuvring shall be provided and approved in writing by the Local Planning Authority. The proposed works shall be completed within three months of the Council approving the plan. These areas shall be clear of the highway and retained in this approved form thereafter for that sole purpose unless otherwise agreed by the Local Planning Authority.

Reason: To ensure that appropriate loading / unloading facilities are available in the interest of highway safety.

- 4 The existing access within the proposed formal parking area shown on the document titled 'Parking Plan' shall be suitably and permanently closed incorporating the reinstatement to full height of the highway verge / footway / cycleway / kerbing immediately the proposed new access is brought into first beneficial use.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety.

- 5 Notwithstanding any existing floodlighting or other means of external lighting on site, no floodlighting or other external lighting shall be installed until details of the illumination scheme have been submitted to and approved in writing by the Local Planning Authority. Development shall only be carried out in accordance with the approved details.

Reason - In the interests of amenity to reduce the impact of night time illumination on the character of the area, and in the interests of highway safety.

- 6 Notwithstanding the provisions of Article 3, Schedule 2 Part 7 Class H of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), there shall be no erection, extension or alteration to any of the hereby permitted buildings except in accordance with drawings showing the design and siting of such additions or building(s) which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - In the interests of neighbouring amenities.

- 7 No public announcement system or other form of external audio communication system shall be installed at the site except in accordance with details (to include position, height and full technical details), which shall have previously been submitted to, and agreed in writing by, the Local Planning Authority.

Reason - In the interests of neighbouring amenities.

- 8 Notwithstanding the approved plans, within three months of the date of this decision, details of the proposed acoustic fencing shall be submitted to and approved in writing by the Local Planning Authority. The fencing shall be erected within three months of approval of the proposed plans and be fully in accordance with the approved details and shall be retained thereafter as approved.

Reason – In the interests of avoiding noise disturbances to the adjacent neighbouring property.

- 9 Within three months of the date of this decision, details of the physical and management noise control measures, as indicated within Appendix B of the document titled 'Environmental Noise Report', shall be submitted to and approved in writing by the Local Planning Authority. These measures shall be implemented within three months of approval of the proposed noise control measures and completed in accordance with the approved details and shall be adhered to thereafter.

Reason – In the interests of avoiding noise disturbances to the adjacent neighbouring property.

- 10 Use of the premises as hereby permitted shall be confined to the following hours:

Mondays to Fridays: 7am – 6pm
Saturdays: 7am – 12pm
Sundays and Bank Holidays: Closed

Reason – To avoid disturbance in the interest of residential amenity.

8.3 Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Highways Informatives

The internal access arrangements being sufficient width throughout to permit opposing vehicles to pass and incorporating a vehicular turning space of sufficient dimensions to cater for articulated heavy goods vehicles and should be maintained free of obstruction at all times.

Any work 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.

Areas within the curtilage of the site for the purpose of the reception and storage of building materials (for the extension) shall be identified clear of the highway.

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built,

paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

10. Background Papers

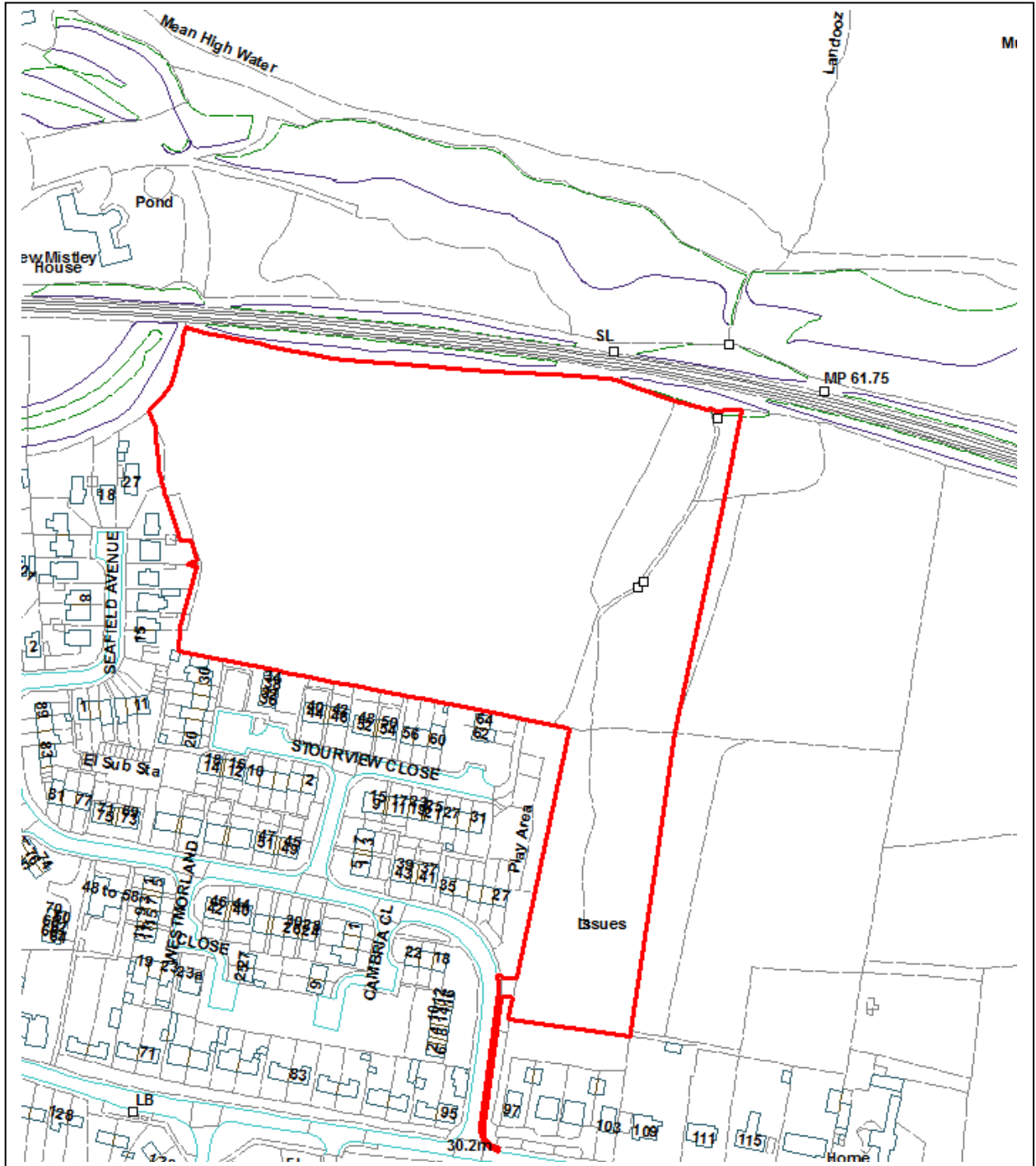
None.

PLANNING COMMITTEE

22 October 2019

REPORT OF THE HEAD OF PLANNING

A.2 PLANNING APPLICATION – 18/00767/OUT – LAND TO NORTH OF STOURVIEW CLOSE, MISTLEY, CO11 1LT



DO NOT SCALE

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

Application: 18/00767/OUT

Town / Parish: Mistley Parish Council

Applicant: Rose Builders (Properties) Limited

Address: Land to The North of Stourview Close Mistley CO11 1LT

Development: Proposed new access road and the erection of up to 72 dwellings and associated works.

1. Executive Summary

- 1.1 Outline planning permission for up to 70 dwellings with a new access road off Stourview Avenue, Mistley was granted in November 2015 under ref. 15/01810/OUT and subject to a Section 106 Agreement which required the provision of affordable housing, education and healthcare contributions together with the provision of open space and a habitat contribution. The current application is for the same site and for the same development but proposes a modest increase in numbers from 70 to 72 dwellings and also to vary the terms of the previous S106 to remove the requirement for affordable housing and the infrastructure contributions. The applicants have submitted that, after following the grant of outline permission they worked up the detailed drawings and the scale of the technical costs of the site then became apparent. These costs have been found to be significant and threaten the commercial viability of the project.
- 1.2 The applicants have therefore submitted a viability study in support of the application which sets out the costs. This has been the subject of detailed and lengthy consideration and testing by the Council's own independent consultants PNB Paribas. Further detailed information has also requested and has been provided by the applicants in respect of build costs and abnormal costs which have been accepted by the Council's consultants. They have therefore concluded that the proposed scheme can support a payment in lieu of some £0.26m and cannot therefore fund the contributions or provide the affordable housing as required in the 2015 planning permission. The applicants have confirmed their agreement to a contribution of £0.26m.
- 1.3 Officers are content that, subject to the carrying forward of the planning conditions from the earlier planning permission and a revised s106 planning obligation that makes provision for the in lieu payment of £0.26m which will need to include the RAMs payment, together with the provision of on-site public open space and its maintenance, the principle of development on the site remains acceptable. However, it is acknowledged that the development will not be able to fully mitigate the impacts it is likely to have on the local infrastructure. The scale of development is in keeping with both the site's location on the edge of Mistley and with the need to facilitate on site strategic landscaping, open space and the retention of existing landscape features. Furthermore, the proposal would ensure that the living conditions of existing and future residents would be protected from any materially detrimental impacts whilst significantly boosting housing supply within the district in line with the Council's own emerging Local Plan.
- 1.4 The recommendation is therefore to approve outline planning permission subject to the completion of a legal obligation under Section 106 of the Town and Country Planning Act 1990 and the imposition of the previous conditions.

Recommendation:

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):

- **Provision and transference of on-site public open space;**
- **Financial contribution towards affordable housing;**
- **Financial Contribution towards RAMS**

Subject to the conditions stated in section 8.2.

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

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG1 Housing Provision

HG3 Residential Development within Defined Settlements

HG3A Mixed Communities

HG4 Affordable Housing in New Developments

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

COM2 Community Safety

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

COM6 Provision of Recreational Open Space for New Residential Development

COM21 Light Pollution

COM23 General Pollution

COM26 Contributions to Education Provision

EN1 Landscape Character

EN3 Coastal Protection Belt

EN4 Protection of the Best and Most Versatile Agricultural Land

EN5a Area proposed as an Extension to the Suffolk Coast and Heaths AONB

EN6 Biodiversity

EN6A Protected Species

EN6B Habitat Creation

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN11B Protection of National Sites

EN11C Protection of Local Sites

EN12 Design and Access Statements

EN13 Sustainable Drainage Systems

EN29 Archaeology

TR1A Development Affecting Highways

TR2 Travel Plans

TR3A Provision for Walking

TR4 Safeguarding and Improving Public Rights of Way

TR5 Provision for Cycling

TR6 Provision for Public Transport Use

TR7 Vehicle Parking at New Development

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

SP1 Managing Growth

SP2 Settlement Development Boundaries

SP3 Sustainable Design

SP5 Infrastructure & Connectivity

SP6 Place Shaping Principles

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP1 Improving Health and Wellbeing

HP2 Community Facilities

HP3 Green Infrastructure

HP5 Open Space, Sports & 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

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

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

- 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 has been required to address the Inspector's concerns and the North Essex Authorities are in the process of consulting on the additional work that has been carried out.
- 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:

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

15/01810/OUT	Proposed new access road and the erection of up to 70 dwellings and associated works.	Approved	30.05.2017
18/00767/OUT	Proposed new access road and the erection of up to 72 dwellings and associated works	Current	

4. Consultations

Essex County Council Archaeology	A Heritage Statement has been submitted with the application which identifies the potential for the site to contain significant archaeological remains associated with the adjacent site where an important Roman site was revealed during excavation in advance of the Mistley River View Estate. Within the site itself an undated cropmark indicates historic activity and may be related to the Roman settlement and industrial activity along the waterfront. Condition requiring a programme of Archaeological evaluation is recommended.
ECC SuDS Consultee	Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission based on the following conditions.
ECC Schools Service	<p>From the information received, the application is assessed on the basis of 72 houses all being 2 or more bedrooms. A development of this size can be expected to generate the need for up to 6.48 early years & childcare (EY&C), 21.6 primary school, and 14.4 secondary school places.</p> <p>Early Years and Childcare: There are only 2 childcare providers in the - 1 childminder and 1 after school club. The data shows after school vacancies but this will not meet our statutory duty to provide</p> <p>EEEE places, therefore I would like to request a contribution towards the development of new places. The proposed development is located within the Manningtree, Mistley, Little Bentley and Tendring ward. According to Essex County Council's childcare sufficiency data, published in July 2017 there are only 2 childcare providers in the - 1 childminder and 1 after school club. The data shows after school vacancies only and will not meet our statutory duty to provide EEEE places, therefore I would like to request a contribution towards the development of new places.</p> <p>For Essex County Council to meet its statutory duties it must both facilitate sufficient places to meet free childcare entitlement demand and also ensure a diverse range of provision so that different needs can be met. Although there is some EY&C capacity in the area, the data shows insufficient provision to meet demand from this proposal. It is, thereby clear that an</p>

additional provision would be needed within the ward.

An additional 6.48 places would be provided at an estimated total cost of £112,895 at April 2018 prices. This equates to £17,422 per place and so, based on demand generated by this proposal set out above, a developer contribution of £112,895 index linked to April 2018, is sought to mitigate its impact on local EY&C provision.

Primary Education: This development sits within the priority admissions area of Mistley Norman Church of England Primary School which has capacity for 105 pupils. According to Essex County Council's document 'Commissioning School Places in Essex', the School is expected to be full by the academic year 2021/22. This document also forecasts, in the absence of action, a deficit of 46 primary school places across the Manningtree area (Tendring Group 6). In response, Essex County Council's '10 Year Plan' to meet the demand for school places alludes to the option of a one form entry expansion of Lawford Primary School for September 2020.

An additional 21.6 places would be provided at an estimated total cost of £330,070 at April 2018 prices. This equates to £15,281 per place and so, based on demand generated by this proposal set out above, a developer contribution of £330,070 index linked to April 2018, is sought to mitigate its impact on local primary provision.

Secondary Education: With regards to secondary education, the Priority Admissions Area School for the development would be Manningtree High School. The School is expecting a full intake this September and in subsequent years. According to the forecast in Commissioning School Places in Essex, a deficit of 61 places can be anticipated by 2021. The 10 Year Plan suggests Manningtree High could be expanded by at least one form of entry as early as September 2020.

An additional 14.4 places would be provided at an estimated total cost of £334,282 at April 2018 prices. This equates to £23,214 per place and so, based on demand generated by this proposal set out above, a developer contribution of £334,282, index linked to April 2018, is sought to mitigate its impact on local primary provision.

It is clear from the above data that additional school places will be needed. This development would add to that need and, thereby, the scope of projects to provide additional school places is directly related to the proposal. The contribution will thus be fairly and reasonably related in scale and kind to the development and, thereby, Community Infrastructure Levy regulation 122 compliant. Five obligations naming the project alluded to above have not been entered into at this time and any section 106 agreement in favour of education is, therefore, also regulation 123 compliant.

Having reviewed the proximity of the site to the nearest primary and secondary schools, Essex County Council will not be seeking a school transport contribution, however, the developer should ensure that safe direct walking and cycling routes to local schools are available.

In view of the above, I request on behalf of Essex County Council that if planning permission for this development is granted it should be subject to a section 106 agreement to mitigate its impact on EY&C, Primary and secondary Education, Standard formula s106 agreement clauses that ensure the contribution would be fairly and reasonably related in scale and kind to the development are available from Essex Legal Services.

If your council is minded to turn down the application, I would be grateful if the lack of surplus EY&C, Primary and secondary education provision, primary and secondary transport in the area to accommodate the proposed new homes can be noted as an additional reason for refusal, and that we are automatically consulted on any appeal or further application relating to the site.

Natural England

Thank you for your email on the above consultation, dated 10 September 2019 which was received by Natural England on the same day.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

This development site falls within the 'Zone of Influence' (ZoI) of one or more of the European designated sites scoped into the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). Natural England has previously provided Tendring District Council with a suggested Habitats Regulation Assessment (HRA) Record template and associated guidance to help with this process where recreational disturbance to European sites is the sole HRA issue. Our reference for this earlier correspondence is 244199, dated 16th August 2018, with the template and guidance shown within APPENDIX 1.

I have included the template again with this letter as Appendix 1, as it also identified appropriate mitigation, and the conditions where Natural England should be consulted again, for example where the development site is adjacent to a European Sites.

Sites that have not been identified within the local authority housing allocation will not have been considered as part of the RAMS process and therefore require separate Habitat Regulation Assessment to determine whether adverse effects on the integrity of the internationally designated sites can be ruled out.

Developments that trigger the RAMS Impact Risk Zone (IRZ), may also trigger others relating to other aspects of Natural England's remit such as access, protected landscapes, designated sites, and protected species. In these instances Natural England should be consulted as normal.

In this particular case I note that Natural England only gave bespoke advice (our ref 247370 dated 14 June 2018) concerning adverse effects from the potential recreational disturbance on the integrity of the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site¹, the Essex Estuaries Special Area of Conservation (SAC) and the Colne Estuary SPA and Ramsar site. Consequently because of the introduction of the RAMS process, it seems appropriate to follow the RAMS guidance in this instance and to not consult Natural England on this case unless the proposal changes.

5. Representations

5.1 No representations have been submitted.

6. Assessment

6.1 The main considerations in this instance are;

- The Proposal;
- Principle of development;
- Any material changes since approval of the last application;
- Viability;
- Ecology;
- Open space;
- Potential layout, density and amenity;
- Impacts on Infrastructure/Affordable housing;
- Other material considerations; and,
- Overall planning balance.

Proposal

6.2 The proposal is largely the same as the previous application and seeks outline planning application with all matters reserved for the principle of up to 72 dwellings with a new access road off Stourview Avenue on the eastern part of the site. The proposal is not supported by any illustrative drawings, but it is intended as with the original application (as set out in the Design and Access Statement) that the main body of the site will contain the houses and the land to the east will accommodate the new access road which, itself, will connect the development from Stourview Avenue.

6.3 The main difference between the original planning application and the current one is the increase of 2 dwellings and the requirement for an amended S106 Agreement to reflect the changes now being put forward on viability grounds.

Principle of Residential Development

6.4 The principle of development of this site has already been established with the grant of planning permission 15/01810/OUT on 30 November 2015. The application has been

submitted because the applicants consider that the previous application proposal would be unviable and have submitted a viability appraisal to support their contention. The current application is virtually identical in all other respects to the previous application but now seeks outline planning permission for up to 72 units instead of 70 as approved. The original 70 dwellings are included within the Council's five year supply trajectory and the site is included within the revised settlement development boundary in the emerging Local Plan.

- 6.5 Any material Changes since the grant of planning permission for the previous application.
- 6.6 The application site continues to fall within the Coastal Protection Belt as shown in the adopted Local Plan and therefore subject to Policy EN3 which states that new development which does not have a compelling functional need to be located in the Coastal Protection Belt will not be permitted.
- 6.7 The emerging Local Plan retains the Coastal Protection Belt designation but has rationalised the boundary and now excludes the application site. This was a factor in granting planning permission for the previous development and remains the same for the current application. It is considered that circumstances have not changed and that limited weight can continue to be afforded to the adopted Coastal Protection Belt policy due to the site characteristics which result in the site being relatively well contained by landscaping and physical features so that views over the Estuary are very limited.
- 6.8 The application site also lies in the area proposed as an extension to the Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB). Policy EN5a in the adopted Local Plan seeks to ensure that, in determining planning applications, the natural beauty of the landscape within the area, and views towards it are protected – having regard to the Suffolk Coast and Heaths Strategy.
- 6.9 However, that designation is not yet confirmed and the site currently remains outside the AONB. The Council's Principal Trees and Landscapes Officer has commented on this application and has confirmed that, taking into account the location and topography of the application site and surrounding land as well as the relatively limited and distance views of the site, as set out in the LVIA, he considers that the development would, visually, be relatively well assimilated into its setting.
- 6.10 Circumstances have not substantially changed since the determination of the previous application in respect of the designated AONB and the proposals remain acceptable when assessed against these matters

Viability

- 6.11 The principle change since the grant of planning permission has been that the applicants now submit that the scheme cannot be made viable if the infrastructure costs set out in the S106 Agreement continue to be required. That Agreement required contributions towards education, affordable housing, health and habitat as follows:
 - Education Contribution: Primary School generator of £12,172.
Secondary School generator of £18,491.
 - Affordable housing: 5 dwellings for affordable rented housing.
 - Healthcare provision: £301.72 per dwelling
 - Habitat contribution: £3000.00

6.12 The S106 also requires the provision and transfer/management of the public open space.

6.13 The applicants have stated that after securing outline permission and upon working up detailed drawings, the scale of the technical costs of the site became apparent and have been found to be significant and threaten the commercial viability of the project. They have submitted that the additional costs derive largely from the following components of the scheme:

- There is relatively long access road required to access the site along which no units are proposed/ could be accommodated. Not only is such a road expensive, but it also means that the financial return from house sales happens at a later point than normal.
- Where the access road crosses a spring, significant geotechnical design and construction work will be needed.
- The route of the access road is parallel to the stream and is of suspect stability. This will require further investigation and design work to address. It will also require a retaining wall along its length to allow for the cross fall.
- Where the road crosses the stream, a substantial culvert structure will be required.
- Modelling of the stream needs to be undertaken to understand the flows.
- There are no straight-forward locations in which to site the attenuation basin. The best location in the north-east corner suffers from steep gradients. Slope stability will need to be adequately engineered to accommodate the basin.
- Site levels mean that some parts of the site cannot be drained by gravity to the public sewer. A pumped solution will add cost to the project and is complicated by having to provide a deep chamber.
- Retaining walls are required across the residential part of the site to deal with the challenging site levels.
- Due to the proximity of the adjacent railway line, the project may need Network Rail sign-off and retained funds to underwrite development on the site.
- Design fees are likely to be almost double the equivalent of similar sized project on level ground. Additional geotechnical fees associated with the access road would be in addition to this.

6.14 The applicants have argued that development of the site is unlikely to come forward and deliver housing and that the waiving of the requirements contained in the S106 is justified and essential.

6.15 The applicants have submitted a detailed viability assessment detailing the costs associated with the development. The Council has instructed independent viability consultants BNP Paribas Real Estate to assess the report and to advise the Council on the likely viability or otherwise of the scheme. The Council's consultants and the applicants have held long and detailed discussions regarding viability and BNP Paribas' final report has concluded that the scheme could be made viable but only with a considerably reduced level of infrastructure contribution. Initial conclusions in October 2018 indicated that the scheme might generate a larger surplus which could support 6 affordable units. However, the applicants submitted further information in respect of sales values, construction costs as well as abnormal costs. BNP Paribas have examined and tested these costs further and following further research have accepted that many of them are reasonable. They have therefore revised their assessment of the viability of the scheme and their final conclusion is that it will generate a surplus of only £0.26m when benchmarked against their agreed nominal site value. This means that the scheme can only support a payment in lieu of £0.26m instead of the infrastructure costs contained in the S106 as set out above.

- 6.16 The applicants have confirmed agreement to a payment of £0.26m in lieu of the costs set out in the S106 and have agreed that on this basis, the scheme could come forward and be viable.
- 6.17 The scheme would generate significantly lower contributions than are required to mitigate the impacts of the scheme and if approved, the development will generate additional demands on education and healthcare that cannot be addressed through infrastructure contributions. The development would also not provide any affordable housing, even the five units previously required, which was a level of provision significantly below the policy requirements set out in both the adopted and emerging local plans.
- 6.18 Your officers consider that the need to provide housing, both market and affordable housing, in the district continues to be important and the loss of this site for development would impact the Council's ability to continue to meet its five year housing requirement. The site is acceptable in all other respects subject to issues of ecology discussed below and it is considered that the special circumstances of this case where viability concerns have been proven and accepted by independent experts, justifies the grant of planning permission with a revised S106 Agreement for a significantly reduced level of contribution to allow development to come forward.

Ecology

- 6.19 Paragraph 170 of the NPPF requires that decisions should contribute to and enhance the natural and local environment. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission. Policy EN6 of the adopted Local Plan and Policy PPL4 of the emerging Local Plan give special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for.
- 6.20 Under Regulations 61 and 62 of the Habitats Regulations, local planning authorities as the 'competent authority' must have regard for any potential impact that a plan or project might have on European designated sites. The application site is not, itself, designated as a site of international, national or local importance to nature conservation but the urban area of Manningtree, Lawford and Mistley abuts the Stour Estuary which is designated as a Special Protection Area (SPA), a Ramsar Site and a Site of Special Scientific Interest (SSSI). Whilst the application site is located more than 400 metres from the Stour Estuary and separated from it by the railway line which prevents any direct disturbance, it was considered that the development could result in potential indirect effects on the designated area. A habitat contribution of £3000 was therefore sought and agreed as part of the Section 106 for the previous application.
- 6.21 The applicants have updated their previous Habitat Regulation Assessment and Natural England was initially consulted on the proposals and raised an objection on potential impacts. However, during the course of the application Natural England introduced the RAMs process and guidance which meant that it is no longer necessary to consult with Natural England on this size of development. Natural England have therefore been re-consulted and have confirmed that because of the introduction of the of the RAMS process, it seems appropriate to follow the RAMS guidance in this instance and to not consult Natural England on this case unless the proposal changes. Their previous objection therefore no longer applies.
- 6.22 The proposals include land within the scheme for extensive on-site open space which

can be conditioned. The surplus of £0.26m will contribute to the RAMs and in these circumstances it is considered that any impacts on designated sites can be adequately mitigated.

- 6.23 As before, the submitted Ecological Appraisal identifies potential on-site impacts in relation to bats, reptiles, invertebrates, breeding birds and badgers and a condition was attached to the original planning permission requiring an ecological plan to be agreed by the Council prior to the commencement of the development.
- 6.24 The RAMs contribution will be secured by Section 106 and it is proposed to retain the conditions of the earlier consent to deal with other matters of ecology and biodiversity.

Open Space

- 6.25 Policy COM6 in the adopted Local Plan and Policy HP3 of the emerging Local Plan require large residential developments to provide at least 10% of land as public open space or otherwise make financial contributions toward off-site provision. This would necessitate an area of at least 0.5ha of the land being provided as green infrastructure. The applicants have advised that some 1.4ha will be provided and that the areas of open space are to coincide with areas of wildlife sensitivity and surface water attenuation ponds. Accordingly, they will be a mixture of play space with amenity grass, wildlife areas and more formally planted areas. This space will allow for circular walks within the site and in doing so, reduce pressure on nearby wildlife areas. It will also function to offset and help mitigate the extra pedestrian traffic that nearby SSSI and SPA may experience and will incorporate much of the eastern parcel of land which is unsuitable for development. The detailed dimensions of the open space would be determined at reserved matters stage.
- 6.26 The current S106 allows for the transference of the on-site open space to Tendring District Council with a financial contribution towards maintenance but also contains provision for a management company to take over the future maintenance of the open space. It is considered that these provisions should be repeated in a revised S106 to allow for the District Council to acquire the land should it wish to and subject to a suitable maintenance contribution. If that is not forthcoming then the land would be maintained by the management company.

Potential Layout, Density and Amenity

- 6.27 The application remains in outline and whilst it has been amended to include a further 2 units, it is considered that the site is large enough to accommodate the additional dwellings without unacceptable impacts. The applicant has resubmitted their land use audit which shows that the eastern strip of land would accommodate the proposed access road together with the wildlife habitat areas and the SUDs. The 72 dwellings would be located in the wider western area on approximately 3 hectares. Boundary planting is shown on all sides which could provide a visual screen between the new and existing dwellings along Stourview Avenue and Seafield Avenue.
- 6.28 Notice has been served on the District Council as Tendring District Council owns some of the land at Stourview Avenue that would be required to create the proposed access road. Negotiations on that matter would be outside the determination of this application and, as before, the Planning Committee should consider the current application on planning grounds, irrespective of any interest that the Council, as landowner, has in the site.

Impacts on Infrastructure/Affordable Housing

- 6.29 Education: Policy QL12 in the adopted Local Plan and Policy PP12 in the emerging Local Plan require that new development is supported by the necessary infrastructure which includes education provision. Essex County Council as the Local Education Authority has been consulted on the revised planning application.
- 6.30 ECC was satisfied with the original application that there would be sufficient provision of Early Years and Childcare facilities in the area to address the needs of the development but has now advised that a contribution towards additional provision is required for the current application and requests a contribution of £112,895. In terms of primary school provision, the site sits within the priority admissions area of Mistley Norman Church of England Primary School. This school is expected to be full by the academic year 2021/22 and ECC forecasts a deficit of 46 primary school places across the Manningtree area (Tendring Group 6). In response, Essex County Council's '10 Year Plan' to meet the demand for school places alludes to the option of a one form entry expansion of Lawford Primary School for September 2020. ECC consider that an additional 21.6 places would need to be provided at an estimated total cost of £330,070 at April 2018 prices.
- 6.31 With regards to secondary education, the Priority Admissions Area School for the development would be Manningtree High School which is also expected to be full both in the current intake year and in future years. ECC calculate that the development will generate an additional 14.4 places and would require a contribution of £334,282 towards secondary education.
- 6.32 It is clear that additional school places will be needed as a result of this development but also that the availability of places and level of contributions have changed since the previous permission. No early years contribution was required with the 2015 planning permission and it is not considered that it would be justified to require a contribution at this stage. In terms of primary and secondary education, it is clear that the development will generate a need for additional places but these cannot be funded by the development. The extensive examination and discussions on the viability of the development has confirmed that it cannot proceed if the previous infrastructure costs are required. Whilst it is accepted that the development will place additional strain on education facilities, it is also considered that there continues to be a need for housing to come forward which this site will provide. This site is included within the settlement development boundary in the emerging Local Plan where development is acceptable and has already been agreed. However, the construction costs which were previously unknown, now mean that the site cannot contribute towards education costs if it is to be developed.
- 6.33 Health Provision: The previous application included a Healthcare contribution of £21,120 towards improvement of local surgeries. As previously outlined under Education, the current application will not be able to contribute towards these costs. There would be an inadequate surplus to fund this and other infrastructure costs.
- 6.34 Affordable housing: Policy HG4 in the adopted Local Plan requires large residential developments to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy LP5 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 30% of new dwellings on large sites to be made available for affordable or Council Housing. The policy does allow flexibility to accept as low as 10% of dwellings on site, with a financial contribution toward the construction or acquisition of property for use as Council Housing (either on the site or elsewhere in the district) equivalent to delivering

the remainder of the 30% requirement. The Council accepted previously that the development should provide 5 properties to be 'gifted' to the Council (i.e. transferred to the Council or a nominated partner or trust at zero cost).

- 6.35 The Council's Housing Needs team has commented on the current application and advised that there is a high demand for housing in the Mistley area and that it would prefer to see affordable housing provided on site given the demand for housing in the area.
- 6.36 The applicants have argued that the development cannot support the provision of affordable housing on the site because of the high build costs. The Council's independent consultants have confirmed that development of the site will not be viable if affordable housing and the infrastructure costs continue to be required. As a consequence, a contribution towards affordable housing can be provided but this would be limited bearing in mind the agreed surplus of £0.26 million. It is considered however, that the surplus should be secured for affordable housing and the RAMS contribution so that the development can make some contribution to the provision of affordable housing as well as the market housing that will come forwards.

Other Material Considerations

- 6.37 Highways: The previous planning permission granted permission for the access which was not a reserved matter. The access proposals for the current application are identical to those already approved and are therefore acceptable.
- 6.38 Drainage: the application is accompanied by a Flood Risk Assessment. Essex County Council as the authority for sustainable drainage has confirmed that it does not object to the application subject to conditions being attached. These conditions are included in the list of conditions below.

Financial Contribution – RAMS

- 6.39 Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation); within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings.
- 6.40 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). A Habitat Regulations Assessment has therefore been undertaken to confirm that the mitigation will be a proportionate financial 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.
- 6.41 A unilateral undertaking is currently being prepared to secure this legal obligation and to ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

7. Conclusion

- 7.1 The principle of development of this site has already been established by the grant of planning permission 15/01810/OUT in November 2015. The current application is for virtually the same development as before but has increased the number of dwellings marginally from 70 to 72. Currently, the Council is not able to demonstrate a 5 year supply of housing land under the Standard Method and, as a consequence, the National Planning Policy Framework (NPPF) requires that development be approved unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits or the application of specific policies within the framework that protect areas of particular importance provide a clear reason for refusal.
- 7.2 In this instance, development of this site has the potential to result in adverse effects on the integrity of the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar, the Essex Estuaries Special Area of Conservation (SAC) and the Colne Estuary SPA and Ramsar site. Paragraph 175 of the NPPF confirms that when determining applications, local planning authorities should refuse development if significant harm to biodiversity cannot be avoided, adequately mitigated or, as a last resort, compensated. The current proposals would provide an extensive area of on-site open space which, subject to design, would help to mitigate effects through the provision of site walks, dog walking and bins etc. Furthermore, there would be sufficient money generated by the development to contribute to RAMs to allow mitigation off site. In these circumstances, it is considered that any potential adverse impacts can be adequately mitigated and therefore would not be contrary to Paragraph 175 of the NPPF.
- 7.3 The issue therefore remains whether the development can be considered to be acceptable if it cannot mitigate the impacts that it will have on local infrastructure. The applicants have submitted that development of this site cannot be made viable if the terms of the previous S106 Agreement are adhered to. This is largely due to the scale of the technical costs of developing the site. Your officers have been advised by independent consultants that, when taken into account, these costs reduce the viability of the scheme to the extent that only a small surplus would be generated to fund the infrastructure requirements. The surplus of £0.26m is not sufficient to provide affordable housing, or to fund the education and healthcare contributions and therefore the development will not be able to mitigate its impacts in these respects.
- 7.4 The application site is located within the proposed settlement development envelop for Mistley defined in the emerging Local Plan and the current proposal would bring about the construction of 72 market houses and therefore contribute to and help boost the supply of housing in the district in line with the requirements of the NPPF. The site is constrained by existing residential development and the railway line and it is considered that its development for residential purposes continues to be acceptable and would provide a more acceptable form of development than other potential uses. It is considered, on balance, that the adverse impacts do not significantly and demonstrably outweigh the benefits of bring forward residential development on this site and the application is therefore recommended for approval subject to a revised s106 legal agreement that requires the provision of the RAMs and the on-site public open space together with the balance of the £0.26m to be as a contribution towards the provision of affordable housing. The conditions of the previous planning permission are recommended to be brought forward.

8. Recommendation

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a section106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Provision and transference of on-site public open space; Financial contribution towards affordable housing; Financial contribution towards RAMS	£122.30 per dwelling
Total	Not to exceed £250,000

As established through the granting of outline application 15/01810/OUT, the principle of residential development on this site is acceptable and the application is recommended for approval. The conditions reflect those of the original planning permission.

8.2 Conditions

- 1 The approval of Reserved Matters must be submitted before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

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

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

- 3 No development shall be commenced until plans and particulars of "the reserved matters" referred to in the following conditions relating to appearance, layout, scale and landscaping have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason - The application as submitted does not provide sufficient particulars for consideration of these details.

- 4 No development shall commence until a Layout and Phasing Plan identifying details of the various elements of the development and the timing of their commencement; construction; provision; installation or occurrence has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details of the Layout and Phasing Plan as approved, unless otherwise previously agreed in writing with the Local Planning Authority.

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

and the character and appearance of the area and to ensure a satisfactory relationship between the various components of the development and adjoining land.

- 5 The maximum number of dwellings to be contained in the development shall be up to (but no more than) 72 dwellings.

Reason - For the avoidance of doubt and in the interests of proper planning.

- 6 Prior to commencement of the development a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include but not be limited to the following:

- Safe access to/from the site;
- The parking of vehicles of site operatives and visitors;
- The loading and unloading of plant and materials;
- The storage of plant and materials used in constructing the development;
 - The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Wheel washing facilities;
- Measures to control the emission of dust and dirt during construction;
- A scheme for recycling/disposing of waste resulting from construction works.
- Details of hours of site clearance or construction
- A scheme to control noise and vibration during the construction phase, including details of any piling operations
- Provision of a dedicated telephone number(s) for members of the public to raise concerns/complaints, and a strategy for pre-warning residents of noisy activities/sensitive working hours.
- A scheme to minimise the risk of off-site flooding caused by surface water run-off and groundwater during construction works and prevent pollution.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason - To protect highway efficiency of movement and safety.

- 7 No occupation of any dwelling shall take place until the following have been provided or completed:

- a) A priority junction off Stourview Avenue to provide access to the proposal site as shown in principle on planning application drawing number 10831/HW1
- b) Upgrading of the two bus stops in Harwich Road in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority
- c) A minimum 2 metre wide footway along the eastern side of the Stourview Avenue carriageway between the proposal site access and Harwich Road with dropped kerbs/tactile paving crossing points in Stourview Avenue immediately north of its junction with Harwich Road as shown in principle on planning application drawing number 10831/HW1 and in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority
- d) Residential Travel Information Packs

Reason - To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

8 A. No development or preliminary ground-works shall commence until a programme of archaeological trial trenching has been secured and undertaken in accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved in writing by the Local Planning Authority. Following the completion of this initial phase of archaeological work, a summary report shall be prepared and a mitigation strategy detailing the approach to further archaeological excavation and/or preservation in situ through re-design of the development, shall be submitted to and approved in writing by the Local Planning Authority.

B. No development or preliminary groundwork shall commence on those areas of the development site containing archaeological deposits, until the satisfactory completion of archaeological fieldwork, as detailed in the mitigation strategy as approved.

C. Following completion of the archaeological fieldwork, the applicant shall submit to the Local Planning Authority a post-excavation assessment (within six months of the completion date, unless otherwise agreed in advance with the Local 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.

Reason - The proposed development is located within an area with potential for below ground archaeological deposits. The development would result in harm to non-designated heritage assets with archaeological interest.

9 No phase of development shall commence until an Ecological Mitigation Scheme and Management/Enhancement Plan has been submitted to and approved, in writing, by the Local Planning Authority. The document shall include:

- i) the recommendations contained with the Ecological Assessment (Geosphere Environmental Ltd dated 26 March 2018)
- ii} details of how biodiversity within the site will be encouraged and maintained by the development.

Reason - In order to safeguard protected wildlife species and their habitats and in the interests of biodiversity.

10 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.

Reason - To prevent environmental and amenity problems arising from flooding.

11 No defined phase of the approved development shall take place until a detailed surface water drainage scheme for that phase, 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. Each phase of the surface water drainage scheme shall subsequently be

implemented prior to occupation of any dwelling of that phase and should include but not be limited to:

- 1) Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.
- 2) Limiting discharge rates to 2.1l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- 3) 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.
- 4) Demonstrate that all storage features can half empty within 24 hours for the 1:100 plus 40% climate change critical storm event.
- 5) Final modelling and calculations for all areas of the drainage system.
- 6) The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- 7) Detailed engineering drawings of each component of the drainage scheme.
- 8) A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- 9) A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA.

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 and to provide mitigation of any environmental harm which may be caused to the local water environment.

- 12 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 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

- 13 Prior to occupation 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.

- 14 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.

- 15 No development shall commence until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction."

Reason - In the interest of visual amenity and the character of the area.

- 16 All changes in ground levels in relation to the soft landscaping, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure that the development provides a satisfactory setting, in the interests of the character and appearance of the landscape and the visual amenity of the site.

- 17 No construction of any dwelling shall commence until precise details of lighting of communal areas, refuse storage/collection points and the manufacturer and types and colours of the external facing and roofing materials to be used in the construction have been submitted to and approved, in writing, by the Local Planning Authority. Such lighting, refuse points and materials so approved shall be those used in the development.

Reason - To ensure a satisfactory development in relation to external appearance.

- 18 Within the hereby permitted development, no dwelling shall be occupied until a high-speed broadband connection is installed utilising resistant tubing to that dwelling. All in accordance with details that shall be submitted to and approved, in writing, by the Local Planning Authority. If the applicant is unable to achieve this standard of connection, and can evidence through consultation that this would not be possible, practical or economically viable an alternative superfast (i.e. will provide speeds greater than 24mbps) wireless service will be considered acceptable.

Reason - To ensure the development is able to be equipped with high speed broadband to enable opportunities for web-based communication and homeworking.

- 19 Prior to commencement of development the applicants shall submit to the Local Planning Authority, in writing, a Local Recruitment Strategy to include details of how the applicant/ developer shall use their reasonable endeavours to promote and

encourage the recruitment of employees and other staff in the locality of the application site, for the construction of the development. The approved Local Recruitment Strategy shall be adhered to therein after .

Reason - To promote and encourage the recruitment of employees and other staff in the locality of the application site.

8.3 **Informatives**

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Legal Agreement Informative

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: contribution towards affordable housing, the provision, transference and maintenance of the public open space, the mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Highways Informatives

Informative 1: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Informative 2: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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

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

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

Building Regulations Informative

The designer should ensure that the means of escape meet BS5588-1:1990.

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
 - 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
 - 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a

proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

10. Background Papers

Committee report for application Ref: 15/01810/OUT.

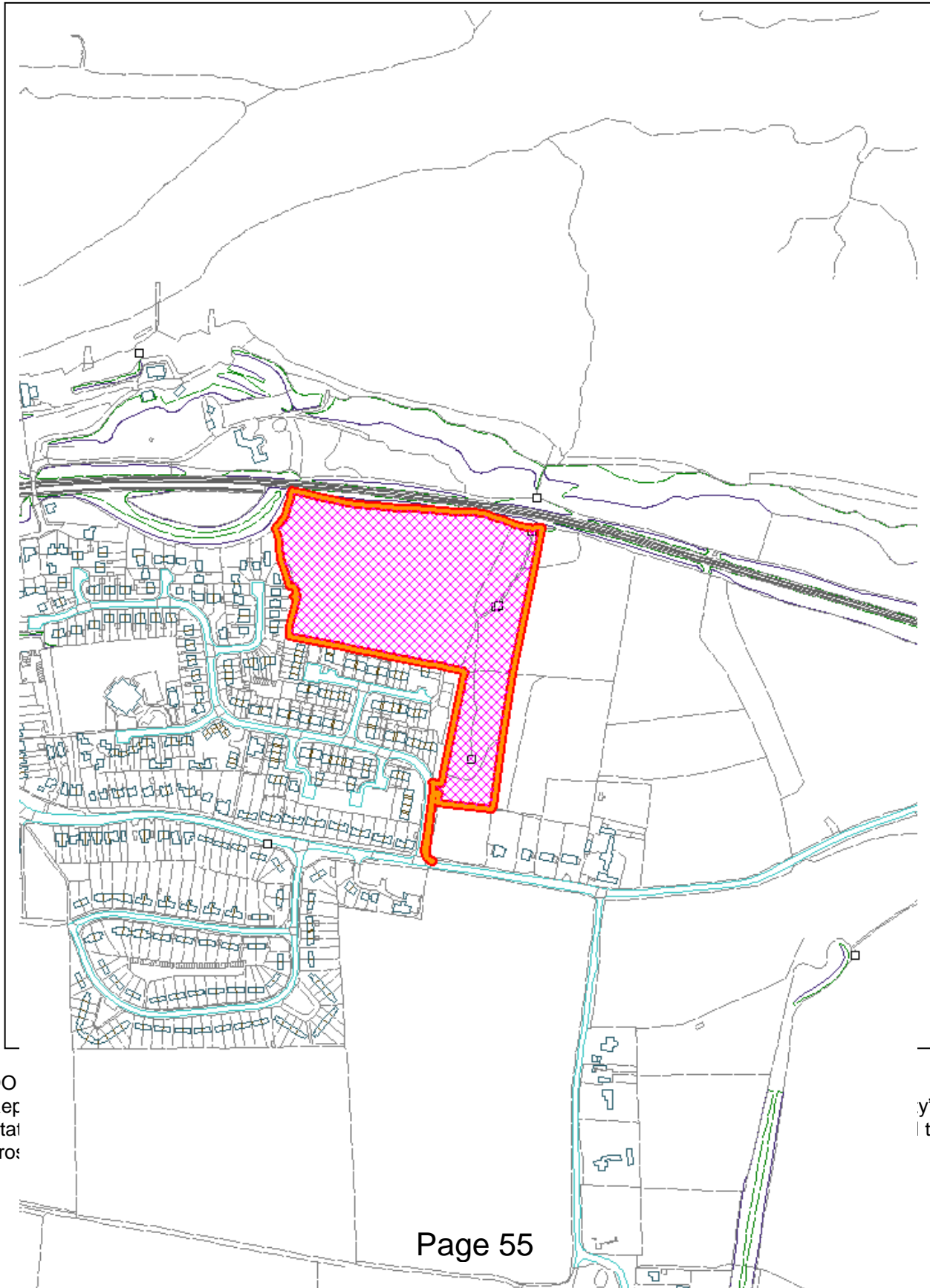
This page is intentionally left blank

PLANNING COMMITTEE

30TH NOVEMBER 2016

REPORT OF THE HEAD OF PLANNING

A.3 PLANNING APPLICATION – 15/01810/OUT – LAND NORTH OF STOURVIEW AVENUE MISTLEY CO11 1LT



DO
Rep
Stat
pros

y's
to

Application:	15/01810/OUT	Town / Parish: Mistley
Applicant:	Rose Builders (Properties Ltd)	
Address:	Land north of Stourview Avenue, Mistley, CO11 1LT	
Development:	Proposed new access road and the erection of up to 70 dwellings and associated works.	

1. Executive Summary

- 1.1 This is an outline planning application seeking approval for the principle of up to 70 new homes with a new access road on undeveloped land off Stourview Avenue, Mistley. The application was submitted in November 2015 but determination has been delayed whilst additional information has been prepared to address the requirements of European Habitat Regulations, assess the ecological value of the site and whilst the cumulative impacts of other large-scale development proposals in the Manningtree, Lawford and Mistley area have been properly assessed. Around 1,500 new homes are already expected to be built in the Manningtree, Lawford, Mistley and Brantham area following resolution to grant planning permission for a number of major schemes, subject to s106 legal agreements to provide appropriate mitigation for the individual and cumulative impacts on health, education and highways.
- 1.2 Historically, this site was Mistley Parish Council's preferred location for inclusion in the new Local Plan for housing. However, following the grant of outline planning permission for schemes of up to 300 dwellings off Long Road, 135 dwellings off Harwich Road and 25 dwellings off Pound Corner, and having considered concerns raised by residents, development on the application site is no longer supported by the Parish Council. There are also 9 local objections and 1 representation of support.
- 1.3 The site is located within an area proposed for inclusion within an extension to the Suffolk Coast and Heaths Area of Outstanding Natural Beauty. It also lies outside of the settlement development boundary and within the Coastal Protection Belt, as defined in the Council's adopted Local Plan. In the new merging Local Plan however, the settlement development boundary extends around the majority of the site and the Coastal Protection Belt has been adjusted to exclude the land in question – indicating an expectation that the site could be developed. The site's location close to the Stour Estuary and associated Area of Outstanding Natural Beauty does however mean that any development would have to be undertaken in a sensitive manner that respects landscape and visual considerations and the natural beauty of the area.
- 1.4 Because the Council is still currently unable to identify a five-year supply of deliverable housing sites as required by government planning policy (albeit the situation is improving rapidly), this application has been considered in line with the government's 'presumption in favour of sustainable development'. Although the development would be contrary to the adopted Local Plan, to comply with government requirements Officers have needed to approach the application with a view to positively addressing, as far as possible, technical issues and other matters raised by consultees and residents.
- 1.5 Because Mistley forms part of the wider Manningtree, Lawford and Mistley urban settlement as defined in the Local Plan, residential development in this location has the potential to be sustainable with reasonable access to a range of local job opportunities, shops, services, facilities and public transport compared with more remote rural villages.

- 1.6 With a number of major developments already approved in the area, Officers have carefully considered both the individual and cumulative impacts to assist the Committee in making an informed judgement. The most significant planning issue in this regard has been Highways and the potential impact of multiple developments on highway capacity and safety, in particular the A137 at the busy railway crossing at Manningtree Station. Following lengthy and careful consideration, Essex County Council as the Highways Authority has advised that this particular development will not add significantly to traffic at the railway crossing and that it is acceptable in highways terms, subject to conditions relating mainly to the access and footpath arrangements.
- 1.7 Essex County Council as the Education Authority and NHS England have requested financial contributions towards addressing the impact of the development on local education and health services and Anglian Water has indicated that the development could be accommodated by the local sewage system. Ecological, flood risk and heritage impacts have been addressed to the satisfaction Officers. Whilst no indicative drawings have been provided in support of the application at this stage, Officers are content that a scheme of 70 dwellings with suitable open space and landscaping could be accommodated on the site in an acceptable manner – with the details of layout and design being reserved for consideration at a later stage.
- 1.8 Officers consider that this development complies with the requirements of the National Planning Policy Framework and the recommendation is approval subject to a s106 agreement to secure affordable housing, open space and allotments, and financial contributions towards health and education.

Recommendation: Approval

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

- a) Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):
- On-site Council Housing/Affordable Housing;
 - Education contribution;
 - Health contribution;
 - Contribution towards ecological mitigation; and
 - Completion and transfer of public open space + maintenance 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 (or the equivalent authorised officer) in their discretion considers appropriate).
- (i) Conditions:**
1. Standard 3 year time limit for submission of reserved matters application.
 2. Standard 2 year limit for commencement of development following approval of reserved matters.
 3. Details of appearance, layout, scale and landscaping (the reserved matters).
 4. Layout and phasing plan/programme.
 5. Development to contain up to (but no more than) 70 dwellings.
 6. Highways conditions (as recommended by the Highway Authority).
 7. Archeologic trial trenching.

8. Ecological mitigation/enhancement plan.
9. Foul water strategy.
10. Surface water drainage scheme.
11. SuDS maintenance/monitoring plan.
12. Hard and soft landscaping plan/implementation.
13. Details of lighting, materials and refuse storage/collection points.
14. Broadband connection.
15. Local employment arrangements.

- c) That the Head of Planning (or the equivalent authorised officer) be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

2. **Planning Policy**

National Planning Policy Framework (NPPF)

- 2.1 The National Planning Policy Framework (March 2012) sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.2 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:
- an economic role;
 - a social role; and
 - an environmental role.
- 2.3 These dimensions have to be considered together and not in isolation. The NPPF requires Local Planning Authorities to positively seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. Where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits.
- 2.4 Section 6 of the NPPF relates to delivering a wide choice of quality new homes. It requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years worth of deliverable housing land against their projected housing requirements (plus a 5% or 20% buffer to ensure choice and competition in the market for land). If this is not possible, housing policies are to be considered out of date and the presumption in favour of sustainable development is engaged with applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.
- 2.5 Paragraph 187 of the NPPF states "*Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should*

work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area”.

Local Plan

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

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

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

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

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

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

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

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

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

HG1: Housing Provision

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

HG3: Residential Development Within Defined Settlements

Supports appropriate residential developments within the settlement development boundaries of the district’s towns and villages.

HG3a: Mixed Communities

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

HG4: Affordable Housing in New Developments

Seeks up to 40% of dwellings on large housing sites to be secured as affordable housing for people who are unable to afford to buy or rent market housing.

HG6: Dwellings Size and Type

Requires a mix of housing types, sizes and tenures on developments of 10 or more dwellings.

HG7: Residential Densities

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

HG9: Private Amenity Space

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

COM2: Community Safety

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

COM4: New Community Facilities (including Built Sports and Recreation Facilities)

Supports the creation of new community facilities where they are acceptable in terms of accessibility to local people, impact on local character, parking and traffic and other planning considerations.

COM6: Provision of Recreational Open Space for New Residential Developments

Requires residential developments on sites of 1.5 hectares or more to provide 10% of the site area as public open space.

COM21: Light Pollution

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

COM23: General Pollution

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

COM26: Contributions to Education Provision

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

COM29: Utilities

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

COM31a: Sewerage and Sewage Disposal

Seeks to ensure that new development is able to deal with waste water and effluent.

EN1: Landscape Character

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

EN3: Coastal Protection Belt

Resists development in the Coastal Protection Belt to safeguard the character of the undeveloped coast.

EN4: Protection of the Best and Most Versatile Agricultural Land

Seeks to ensure that where agricultural land is needed for development, poorer quality land is used as priority over higher quality land.

EN5a: Area proposed as an Extension to the Suffolk Coast and Heaths AONB

In this area, the Council will seek to protect the natural beauty of the landscape and views towards it, having regard to the Suffolk Coast and Heaths Strategy.

EN6: Biodiversity

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

EN6a: Protected Species

Ensures protected species including badgers are not adversely impacted by new development.

EN6b: Habitat Creation

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

EN11a: Protection of International Sites

Guards against development that would have an adverse impact on wildlife habitats of international importance which includes the Stour Estuary.

EN11b: Protection of National Sites

Guards against development that would have an adverse impact on wildlife habitats of national importance such as Sites of Scientific Interest (SSSI) and National Nature Reserves (NNR).

EN11c: Protection of Local Sites

Guards against development that would have an adverse impact on wildlife habitats of local importance including Local Wildlife Sites (LoWS).

EN12: Design and Access Statements

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

EN13: Sustainable Drainage Systems

Requires developments to incorporate sustainable drainage systems to manage surface water run-off.

EN29: Archaeology

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

TR1a: Development Affecting Highways

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

TR3a: Provision for Walking

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

TR4: Safeguarding and Improving Public Rights of Way

Encourages opportunities to expand the public right of way network. Requires that developments affecting an existing public right of way accommodate the definitive alignment of the path or, where necessary, seek a formal diversion.

TR5: Provision for Cycling

Requires all major developments to provide appropriate facilities for cyclists.

TR6: Provision for Public Transport Use

Requires developments to make provision for bus and/or rail where transport assessment identifies a need.

TR7: Vehicle Parking at New Development

Refers to the adopted Essex County Council parking standards which will be applied to all non-residential development.

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

Relevant policies include:

SP1: Presumption in Favour of Sustainable Development

Follows the Planning Inspectorate's standard wording to ensure compliance with the NPPF.

SP4: Infrastructure and Connectivity

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

SP5: Place Shaping Principles

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

SPL1: Managing Growth

Identifies Manningtree, Lawford and Mistley as a 'smaller urban settlement' within a hierarchy of settlements designed to direct future growth to the most sustainable locations.

SPL2: Settlement Development Boundaries

Seeks to direct new development to sites within settlement development boundaries.

SPL3: Sustainable Design

Sets out the criteria against which the design of new development will be judged.

HP1: Improving Health and Wellbeing

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

HP4: Open Space, Sports and Recreation Facilities

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

LP1: Housing Supply

Sets out the broad location of where new housing is proposed to be built to over the next 15-20 years to meet objectively assessed needs.

LP2: Housing Choice

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

LP3: Housing Density

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

LP4: Housing Layout

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

LP5: Affordable and Council Housing

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

PP12: Improving Education and Skills

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

PPL1: Development and Flood Risk

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

PPL3: The Rural Landscape

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

PPL4: Biodiversity and Geodiversity

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

PPL5: Water Conservation, Drainage and Sewerage

Requires developments to incorporate sustainable drainage systems to manage surface water run-off and ensure that new development is able to deal with waste water and effluent.

PPL7: Archaeology

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

CP1: Sustainable Transport and Accessibility

Requires the transport implications of development to be considered and appropriately addressed.

CP3: Improving the Telecommunications Network

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

Other Guidance

Essex County Council Car Parking Standards – Design and Good Practice

Essex Design Guide for Residential and Mixed-Use Areas.

3. Relevant Planning History

3.1 None.

4. Consultations

TDC Building Control Unable to comment at this time due to a lack of design drawings.

TDC Principal Tree & Landscape Officer The application site is situated the Stour Valley System Landscape Character Area (LCA) directly adjacent to the northernmost part of the Bromley Heathland Plateau LCA as defined in the Tendring District Council Landscape Character Assessment . One of the key characteristics of the Stour valley System is; as defined in the document the southern slopes and scenic tributary valleys of the Stour, form a setting to one of the most important wildlife estuaries in Europe and a setting to the Suffolk Coast and Heaths AONB. It is therefore vitally important that planning permission is not granted unless it can be demonstrated that significant harm will not be caused to either the scenic beauty or wildlife value of the area.

The companion document for the above Landscape Character Assessment entitled Guidance for the Built Environment emphasises the importance of protecting the landscape for its value the rural backdrop and setting for the Suffolk Coast and Heaths AONB.

In order to show the condition of the trees on the land and to ascertain the extent of the constraint that they are development potential of the application site the applicant has submitted a detailed tree survey and report. The information provided is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction. Recommendations.

In the main the tree report accurately describes the health and condition of the trees although it does not identify those that may be at risk as a result of the development proposal as the application is in outline form and no indicative layout or zoning information has been provided.

In addition to this there appear to be trees in the north eastern corner (to the north of T4) that have not been included in the report.

To enable an assessment of the impact of the development proposal on the trees on the land to be made it will be necessary for the applicant to provide a zoning plan showing areas allocated for housing, open spaces and soft landscaping. This information should be provided prior to the determination of the application.

The application site comprises two fields divided by a scrubby hedgerow and watercourse running south to north towards the Stour Estuary. Both appear to be in agricultural use. There are no trees in the main body of the land to the west of the hedgerow adjacent to the watercourse although there are established trees, scrubby growth and hedgerows on the perimeter of this part of the site. On the part of the application site to the east of the watercourse and extending from Harwich Road to the railway track there are several trees with reasonable visual amenity value.

Without details of the proposed layout for the development proposals it is not possible to determine whether or not vegetation would be removed in order for the development to take place.

It would be reasonable, however, to assume that development could occur, on the treeless part of the land that would incorporate the retention of the perimeter trees and hedgerows as well as making provision for new planting. From the information made available by the applicant it is not possible to establish the degree to which development on this part of the land would cause harm to the appearance of the area.

In terms of the impact of the development proposal on the local landscape character it is important to recognise that the land in question is situated close to the Suffolk Coast and Heaths Area of Outstanding Natural Beauty (SC&H - AONB) and is included in the wider project area.

The land is in the proposed extension to the AONB which is currently being assessed by Natural England by way of a technical analysis of the natural beauty of the area. The formal designation of the land on the southern shore of the River Stour has been the long term aim of both Essex County Council and Tendring District Council and the commitment to this is set out in both the existing and draft Tendring District Council Local Plans.

It is possible that the development of this land would have a significantly detrimental impact on the character and appearance of the AONB when viewed from the northern bank of the Stour and also when viewed from within the proposed extension to the AONB on the southern bank of the Stour.

No information has been provided relating to the impact of the development proposal on the local landscape character or the AONB. In order to show the potential impact of the development on the local landscape character and the AONB the applicant should provide a Landscape and Visual Impact Assessment (LVIA) prior to the determination of this application. Without this information it will not be possible to ascertain the degree of harm to the character and appearance of the countryside that will be caused by the development of the land.

In terms of the Stour Estuary as habitat for wildlife as wildlife the applicant will also need to demonstrate that the development will not significantly affect species for which the river is designated as a Site of Special Scientific Interest.

In conclusion it is felt that it has not been demonstrated that the development of this land would not adversely affect the setting of the AONB, the local landscape character or the wildlife in the Stour Estuary.

Notwithstanding previous comments the additional information demonstrates that, in terms of its impact on trees, the development proposal could be implemented without causing harm to the majority of the trees on the land. Part of H1 and G1 would need to be removed to facilitate access and an internal road linked land either side of the watercourse that bisects the land.

In order to show the potential impact of the development on the local

landscape character and the AONB the applicant has provided a Landscape and Visual Impact Assessment (LVIA).

The document accurately describes the character and quality of the landscape and the impact that the development proposal would have on it. It recognises that harm would be caused by the change of use of the land. The LVIA addresses the impact of the development on the landscape in the immediate vicinity of the site itself and the wider landscape when viewed from the points identified in the LVIA.

Section 7.1.3 sets out the measures that can be taken to mitigate potential harm and ensure that the development sits relatively comfortably in its setting. These almost exclusively relate to soft landscaping to soften, screen and enhance the appearance of the development.

If this strategy is to be successful it will require a comprehensive soft landscaping scheme to be provided to achieve the objective set out in the LVIA.

In terms of density of dwellings and tree planting opportunities the LVIA states, in section 8.1.3, that lower density housing is proposed in the parts of the application site described as Character Area 1 to facilitate additional tree planting to enhance, screen and generally improve the appearance of the development.

This objective is desirable however it should be noted that those areas described as Character Area 1 area on the northern part of the application site which is lower than the southern part and already benefits from screening provided by tree situated on land forming part of the railway embankment. It may be prudent to re-consider this proposal as a decreased density in the central or southern part of the application site and the associated tree planting that would result may bring about the greatest benefit.

TDC Housing	There is a high demand for housing in Mistley on the housing register and there are currently 144 households seeking a 1 bedroom property, 65 seeking a 2 bedroom property, 28 seeking a 3 bedroom property and 9 seeking a 4 bedroom property or larger. The Council is not in a position to purchase up to 25% of the properties on the site for affordable housing (17 units) and would therefore prefer to be gifted 5 properties as an alternative (5 being 30% of 17 units).
TDC Open Space and Play	There is currently a deficit of 3.00 hectares of equipped play/formal open space in Mistley. No indicative layout has been provided as part of this application and it should be noted that due to the size of the development site, provision for open space and play should be provided for on site, and not by way of an off-site contribution.
ECC Highways	From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to conditions in respect of the following: <ul style="list-style-type: none">• A construction management plan including details of wheel cleaning facilities;• The creation of a priority junction off Stourview Avenue to provide access;• Upgrading two bus stops in Harwich Road to current Essex County

Council specification;

- A minimum 2 metre wide footway along the eastern side of Stourview Avenue carriageway between the proposed site access and Harwich Road with dropped kerbs/tactile paving crossing points in Stourview Avenue immediately north of its junction with Harwich Road; and
- Residential Travel Information Packs.

ECC Schools

A development of this size can be expected to generate the need for up to 6.3 Early Years and Childcare (EY&C) places and 21 primary school, and 14 secondary school places.

According to the latest information available to Essex County Council early years and childcare team, there is sufficient provision within the ward/surrounding wards to accommodate children from this development.

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

This proposed development is located within the priority admissions area for Manningtree High School. The school has a capacity of 870 places. The school is forecast to have a surplus of 70 places by the school year 2019-20. As the school could accommodate all of the pupils that would be generated by this development, no contribution under normal circumstances would be requested for additional school places. However, the County Council is aware of the proposals for Bromley Road, Lawford (15/00876/OUT) for 360 dwellings Long Road, Mistley (15/00761/OUT) for 300 dwellings and Harwich Road, Mistley (15/01520/OUT) for 135 dwellings.

The County Council is aware of the potential cumulative impact on primary and secondary school places if this development is granted planning permission and one, both or all of the other developments are also granted planning permission. Under these circumstances it is suggested that the Council should share the costs of providing the additional primary and secondary school places pro-rata between the two, three or four sites. The cost at April 2015 is £12,172 per primary place and £18,491 per secondary place, index linked to April 2015.

Feasibility work will need to be undertaken on the primary schools listed above to ascertain whether they have the capacity to accommodate the growth in pupil numbers that could be generated from this proposed housing development and others proposed in the area. If it is not possible to accommodate the growth on existing school sites in the area, then additional land or a new primary school site may be required.

Having reviewed the proximity of the site to the nearest primary and secondary schools, Essex County Council will not be seeking a school transport contribution. However, the developer should ensure that safe and direct walking/cycling routes are available to the nearest schools.

Anglian Water

Assets affected: There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development

boundary that may affect the layout of the site. Anglian Water would ask that an informative be included within your notice should permission be granted requiring this to be taken into account in any detailed scheme.

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

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

Surface Water Disposal: From the details submitted to support the planning application, the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management. The local planning authority should seek the advice of the lead local flood authority of the internal drainage board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be re-consulted to ensure that an effective surface water drainage strategy is prepared and implemented.

NHS England

This development is likely to have an impact on the services of the Riverside Health Centre in Manningtree. This GP practice does not have capacity for the additional growth as a result of this development. Therefore a Health Impact Assessment has been prepared by NHS England to provide the basis for a developer contribution toward capital funding to increase capacity within the GP Catchment Area.

There is a capacity deficit in the catchment practice and a developer contribution of £21,120 is required to mitigate the 'capital cost' to NHS England for the provision of additional healthcare services arising directly as a result of the development proposal. NHS England requests that this sum be secured through a planning obligation linked to any grant of planning permission, in the form of a Section 106 agreement.

Natural England

The application site is within or in close proximity to the Stour and Orwell Special Protection Area (SPA) which is also listed as a Ramsar site and a Site of Special Scientific Interest. The Council, as the competent authority under the Habitat Regulations, should have regard to any potential impacts that the development might have.

There are currently concerns for the impact of recreational pressure arising from housing development around the Stour Estuary, in particular the disturbance of birds for which the above sites are in part designated. In our previous letter, we advised that further consideration of recreational disturbance was required before impacts arising from the proposal, in combination with other plans and projects, could be ruled out. This was on the basis that there are areas of sensitive and accessible estuary within 8 km driving distance of the development site which residents would be likely to visit due to the unique draw of estuarine sites for recreation. We therefore advised that further consideration of off-site mitigation measures

(e.g. access and/or visitor management) at the identified locations was required in addition to the proposed on-site open space.

However, Ipswich Borough Council, Suffolk Coastal District Council and Babergh District Council are in the process of jointly producing a Recreational Avoidance and Mitigation Strategy which will be in place by March 2017. Once approved, this Strategy will specify requirements for developer contributions to an agreed and costed scheme of measures to help avoid and mitigate recreational disturbance impacts to designated sites, including the Stour and Orwell Estuary SPA, over the respective plan periods. We understand that your authority will also be involved in the formation of this Strategy and advise that it would therefore be appropriate, in this case, to collect proportionate financial contributions towards this emerging Strategy on the basis that these can then be used to fund strategic measures across the Stour and Orwell Estuary SPA. The amount collected, may, however, need to be revised once the specific detail of the Strategy has been finalised.

With regards the proposed on-site open space, we note that a substantial proportion of the site (approx. 30 %) has been set aside for this use. We welcome that the HRA report (pg. 18) acknowledges that, in order to help reduce the frequency of visits to sensitive parts of the estuary, such open space must be designed to be attractive for dog walking (i.e. to include dog waste bins etc.). As proposed, the inclusion of further on-site measures such as signage, information boards, guides and public rights of way (PRoW) maps will further help mitigate impacts. It should be ensured that the maintenance and management of these on-site measures are secured in perpetuity.

The maximum likely distance for a regular dog walk is a 2.6 km round trip² and so a circular walk of this length should ideally be provided within on-site open space, including a 'dogs-off-lead' area where possible. However, we appreciate that the limited size of the development site in this case means that this is not realistic. We therefore advise that, in order to fulfil this function, links with surrounding PRoW and open space should be explored further within the reserved matters.

In conclusion, we have no objection to this development subject to the above requirements in terms of a financial contribution to the emerging Recreational Avoidance and Mitigation Strategy and the design and management of on-site public open space being secured via suitably worded planning conditions.

RSPB

We object to this proposal as insufficient information has been provided to allow the Council, as the competent authority, to assess whether there will be any likely significant effect on the adjacent Stour and Orwell Estuaries Special Protection Area/Ramsar Site and Stour Estuary Site of Special Scientific Interest (SSSI).

Dedham Vale
and Stour
Estuary Project

The proposal site is within the setting of the Suffolk Coast and Heaths AONB, and visible from the northern side of the Stour Estuary. The land on the northern side of the river is nationally designated as AONB and the Council should ensure that the purpose of this designation is not compromised by the proposed development. The site is also within the 'candidate area' for potential expansion of the Suffolk Coast & Heaths AONB which is indicative only and is currently under investigation by

Natural England. To assess the impact on the setting of the AONB, a Landscape and Visual Impact Assessment is necessary along with an assessment of the potential adverse impacts on the Stour Estuary in ecological terms. [Both of which have since been provided].

Essex County
Council Flood
Authority

Having reviewed the Flood Risk Assessment, we do not object to the granting of planning permission subject to conditions relating to the following:

- a detailed surface water drainage scheme;
- a scheme for minimising offsite flooding during construction works;
- a maintenance plan for the surface water drainage scheme; and
- keeping an on-going log of maintenance.

Babergh District
Council

Babergh District Council wishes to formally object to this application due to the potential impact upon a strategic allocation site at Brantham within the Babergh Core Strategy (2014). The basis for this objection relates to the potential cumulative impact upon the local highway network and in particular the need to give due account to relevant adopted allocations or sites with planning permission within the 'baseline' scenario. There are known transport constraints around the area which are cross boundary in nature and include impacts upon the A137 railway crossing.

This application may cause material prejudice to the outcome of delivering the Brantham strategic allocation scheme, which has already been through a statutory framework (Core Strategy Examination in public) and resolved suitable for allocation in the adopted plan. Full weight and regard should be given to the Brantham scheme when determining the suitability of further growth in the Manningtree, Lawford and Mistleley area. The Council reserves the right to hold this objection until matters are clarified and satisfactory solutions can be found.

5. Representations

5.1 The Council has received 9 objections to the proposal from residents including some lengthy and very well articulated letters raising the following concerns:

- The proposal is particularly vague with very little detail;
- The application includes a larger area of land that was originally envisaged in the Council's Local Plan studies which encroaches greatly on the Coastal Protection Belt;
- The proposed number of dwellings is greater than indicated in both the Council's previous version of the draft Local Plan and its Strategic Housing Land Availability Assessment (SHLAA);
- The proposed access road would open up the possibility of further development to the east;
- The valley has been included in the site area but this is valuable in wildlife and landscape character terms – it is also a habitat for Turtle Doves;
- Access could be achieved via the existing housing estate without the need to create a new access via the valley;
- The valley is part of the Coastal Protection Belt;
- Increases in vehicles and further impact on the crossing at Manningtree Station;
- Air pollution;
- Road/pedestrian safety;

- Cumulative impacts of several developments on education, health and the character of the area;
- Impact on amenities and utilities;
- Limited shopping and employment opportunities locally, leading to reliance on cars;
- Concern about how New Homes Bonus, Community Infrastructure Levy or s106 contributions will be used;
- The Council has a financial interest in the land;
- The agricultural grading of the land should be tested by Natural England;
- Loss of set-aside agricultural land;
- Development is not in accordance with the development plan;
- Destruction of views and enjoyment of the area for existing residents;
- Increases in parked cars;
- The Manningtree, Lawford and Mistley area is being targeted by 'get rich quick' developers;
- Increased risk of flooding; and
- Impact on the proposed AONB.

5.2 Mistley Parish Council has also objected to the application following a public meeting held on 5th January 2016. The reasons for the objection are the size of the size of the development, its density and highway safety, with concerns that the proposed access will significantly increase volume of vehicles and subsequent traffic to Stourview Avenue, Harwich Road, High Street, New Road and The Walls.

5.3 There is also an objection from Welbeck Strategy Land II LLP who are the applicants for the development of up to 135 homes on land off Harwich Road, Mistley that has since obtained planning permission. Their objection raised several concerns about the suitability of the site in planning terms and was submitted before planning permission was granted for their development.

5.4 One letter of support has also been received, pointing out a number of reasons why the site was historically supported by the Parish Council for inclusion in the Local Plan, including that it is of poor agricultural value and could accommodate natural growth within the parish.

6. Assessment

The Site

6.1 The application site comprises just over 4.7 hectares of undeveloped greenfield land on the edge of Mistley. The site comprises two parcels of land which are very different in appearance and character. The main body of the site upon which new homes are expected to be built lies north of existing Council properties and the playground in Stourview Close, east of properties in Seafield Avenue and south of the Harwich to Manningtree railway line – beyond which is the Stour Estuary. The land comprises managed grassland with a small area of woodland to the north and north west and overgrowth to the south immediately abutting the existing housing estate. The topography of the site is unusual – generally sloping downwards towards the railway line and to the north east, but undulating significantly within the site with a distinct high point in the centre of site.

6.2 The eastern parcel of land, through which it is proposed to create the new access road appears very separate from the main body of the site and contains a significant number of trees both along its western boundary (adjoining the main body of the site) and in a cluster through the centre of a site on lower ground around a spring which runs through the land. The topography of this area of land is more dramatic, sloping either side of the valley around the spring. To the front part of the eastern parcel, the land immediately fronting Harwich Road has outline planning permission (Ref: 14/01462/OUT) for 4 dwellings. The red line site includes part of the highway along the edge of Stour view Avenue.

The Proposal

- 6.3 This outline planning application with all matters reserved seeks approval for the principle of up to 70 dwellings with a new access road off Stourview Avenue on the eastern part of the site. The proposal is not supported by any illustrative drawings, but it is intended (as set out in the Design and Access Statement) that the main body of the site will contain the houses and the land to the east will accommodate the new access road which, itself, will connect the development from Stourview Avenue.

Architectural Drawings

- 1126.L.001 Site Location Plan
- 1026.L.002(A) Existing Site Plan

Reports and Technical Information

- Design and Access Statement
- Landscape and Visual Assessment
- Habitat Regulation Assessment
- Ecology Report
- Geological Survey
- Highway Access Statement
- Heritage Statement
- Flood Risk Assessment
- Arboricultural Impact Assessment
- Tree Survey and Constraints Plan
- Utility Report
- Desk Based Risk Assessment

Main Planning Considerations

- 6.4 The main planning considerations are:
- Principle of development;
 - Highways, transport and accessibility;
 - Coastal Protection Belt;
 - Areas of Outstanding Natural Beauty;
 - Landscape, visual impact and trees;
 - Flood risk and drainage;
 - Ecology;
 - Education provision;
 - Healthcare provision;
 - Utilities;
 - Open space;
 - Council Housing/Affordable Housing;
 - Potential layout and density;
 - Council-owned land; and,
 - Overall planning balance.

Principle of development

- 6.5 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material

considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a material consideration in this regard.

- 6.6 The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 14th July 2016, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document. As this plan is currently at an early stage of preparation, some of its policies can only be given limited weight in the determination of planning applications, but the weight to be given to emerging policies will increase as the plan progresses through the later stages of the process. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in planning decisions. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.
- 6.7 The application site is located immediately adjoining residential development in Mistley. The site is adjacent to but outside the village's settlement development boundary as defined within the adopted Local Plan. The boundary aims to restrict new development to the most sustainable sites and outside of the boundary the Local Plan generally seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies. In the emerging Local Plan however, the majority of the site has been included within the revised settlement boundary as depicted in the new emerging Local Plan, indicating a general acceptance that development on the land could, in principle, be accepted in the future.
- 6.8 Because the site lies outside of the settlement development boundary and is not allocated for development in the adopted Local Plan, it is technically contrary to adopted policy and the proposed development would be a departure from that plan. However, paragraph 47 of the NPPF also requires local planning authorities to boost significantly the supply of housing by identifying and updating annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements. In areas where there has been persistent under delivery of housing, an additional 20% 'buffer' is also required to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.
- 6.9 For Tendring, the housing requirement is 550 dwellings per annum, as based on the evidence contained within the 'Objectively Assessed Housing Needs Study' (July 2015) and supplementary evidence that was presented to the Local Plan Committee on 21st January 2015. At the time of writing, and despite the publication of the new draft Local Plan, the Council was still only able to identify an approximate 4.5 year supply and thus there still remains considerable (albeit quickly reducing) shortfall. Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered 'up to date' if it is not possible to demonstrate a five year supply of deliverable housing sites and, in such cases, the 'presumption in favour of sustainable development' set out in paragraph 14 of the NPPF is engaged.
- 6.10 'Sustainable Development', as far as the NPPF is concerned, is development that contributes positively to the economy, society and the environment and under the 'presumption in favour of sustainable development', authorities are expected to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted.

- 6.11 Due to the lack of a five-year supply of housing sites and the subsequent engagement of the presumption in favour of sustainable development, the Council would not be justified in refusing planning permission purely on the basis of the application site being outside of the settlement development boundaries in the adopted Local Plan. The application must therefore be judged on its merits against the NPPF.
- 6.12 One of the NPPF's core planning principles is to "actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable".
- 6.13 With this in mind, the emerging Local Plan includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations. In the adopted Local Plan, Manningtree, Lawford and Mistley are together categorised as a 'town' and in the emerging Local Plan, they are categorised as a 'smaller urban settlement' in recognition of their collective size and range of services and facilities and as a location where sustainable development on a larger scale can be achieved. In comparison, 'villages', 'rural service centres' and 'smaller rural settlements' are considered to offer lesser sustainable locations for major development.
- 6.14 Because the Council has a housing land shortfall, the site adjoins an urban settlement where sustainable development on a larger scale can be achieved and most of the land is provisionally included within the settlement development boundary of the emerging Local Plan, Officers consider that the principle of residential development on the application site is acceptable.

Highways, transport and accessibility

- 6.15 Paragraph 32 of the NPPF relates to transport and requires Councils, when making decisions, to take account of whether:
- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
 - safe and suitable access to the site can be achieved for all people; and
 - improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.16 Policy QL2 in the adopted Local Plan and Policy CP1 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport. The application site is within 400 metres walking distance of Mistley Norman Primary School, within 900 metres of Mistley Village Hall, within 500 metres of a local convenience shop, within 1.2 kilometres of Mistley railway station and Mistley High Street. The site is also within 500 metres of a bus stop on a bus route with services between Colchester and Harwich and to and from Clacton. The site offers a reasonable level of accessibility which is reflected in Manningtree, Lawford and Mistley's categorisation as a smaller urban settlement in the emerging Local Plan.
- 6.17 Policy TRA1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. Policy SD8 in the emerging Local Plan states

that developments will only be acceptable if the additional vehicular movements likely to result from the development can be accommodated within the capacity of the existing or improved highway network or would not lead to an unacceptable increase in congestion.

- 6.18 Highway capacity is a significant matter in the Manningtree, Lawford and Mistley (and Brantham) area and the A137 in particular is known to be the subject of regular queuing and congestion during peak periods, as highlighted by some residents that had objected to this planning application along with Babergh District Council. Queuing at the railway crossing is a known problem in the area. Because this is one of a number of major development proposals in the pipeline for the area, the cumulative impacts have required collaborative assessment under the direction of Essex and Suffolk County Council as the relevant local Highway Authorities. This additional assessment has led, in part, to a delay in determining this application.
- 6.19 Having considered the application and the potential cumulative impacts on traffic, the Highway Authority has concluded that this particular development will not have a severe impact on highway capacity and safety and that no mitigation towards improvements at the A137 railway crossing will be requested from this development. Mitigation measures, in the form of contributions towards a £150,000 fund towards traffic calming measures at the railway crossing are however being secured, through s106 legal agreements for some of the larger developments proposed on land further west, closer to the railway crossing, including the major developments in Brantham and Lawford and off Long Road, Mistley. These measures address the concern raised by Babergh District Council in its representation and there are consequently no outstanding concerns about complying with the legal duty to cooperate.
- 6.20 The Highway Authority is satisfied that this development in Mistley can be supported, subject to some specific conditions relating mainly to the vehicular access arrangements, construction traffic and footpath/cycleways.
- 6.21 In conclusion, the site is reasonably accessible, by foot and cycle, to local services and facilities and public transport and the vehicular access and highways matters have been considered and deemed acceptable by the Highway Authority. The transport impacts of the development are not considered to be severe and, from this perspective, Officers consider the proposal to be acceptable.

Coastal Protection Belt

- 6.22 The whole application site falls within the Coastal Protection Belt as shown in the adopted Local Plan. The purpose of the Coastal Protection Belt, as set out in paragraph 6.14 in support of Policy EN3 in the adopted Local Plan, is to protect the unique and irreplaceable character of the Essex coastline from inappropriate forms of development. It goes on to say that open coastal areas are particularly vulnerable to visual intrusion due to the high visibility of any development on the foreshore, on the skyline and affecting vistas along the stretches of undeveloped coast.
- 6.23 The Coastal Protection Belt was originally drawn in 1984 and was a key strategic policy in Essex County Council's 2001 Replacement Structure Plan which was superseded by the East of England Plan in 2008 and subsequently abolished in 2012 with the introduction of the NPPF. The NPPF does however state, in paragraph 114 that local planning authorities should maintain the character of the undeveloped coast, protecting and enhancing its distinctive landscapes, particularly in areas defined as Heritage Coast, and improve public access to and enjoyment of the coast.
- 6.24 Policy EN3 states that new development which does not have a compelling functional need to be located in the Coastal Protection Belt will not be permitted. It requires applicants to

demonstrate such a need by showing that by reason of its critical operational requirements of the development cannot be located outside of the designated area. Then, even if the compelling need is demonstrated, the policy requires that significant harm to the landscape character and quality of the undeveloped coastline should be avoided.

- 6.25 However, in the emerging Local Plan, following the abolition of the Coastal Protection Belt Policy at county and regional level, the Council decided that the designation should be kept but that the boundary be rationalised to ensure it relates only to areas that are genuinely coastal and where development is likely to have a genuine impact on the character and appearance of the coastline. Included in the numerous amendments to the designation was the removal of the application site.
- 6.26 The status to be given to local 'countryside protection' policies such as Coastal Protection Belt and Local Green Gaps has been clarified recently by a decision of the Court of Appeal (Cheshire East Borough Council v Secretary of State for Communities and Local Government & Anr. Case Number: C1/2015/0894) in which three judges overturned an earlier High Court decision which had determined that such countryside protection policies are not housing policies and should not be considered out of date if a Council cannot identify a sufficient supply of housing land. In overturning the High Court's decision, the Court of Appeal judges concluded that the concept of 'policies for the supply of housing' should not be confined to policies in the development plan that provide positively for the delivery of new housing in terms of numbers and distribution or the allocation of sites. They concluded that this concept extends to policies whose effect it is to influence the supply of housing land by restricting the locations where new housing may be developed – including, for example, policies for the green belt, policies for the general protection of the countryside, policies for conserving the landscape of Areas of Outstanding Natural Beauty and National Parks, policies for the conservation of wildlife or cultural heritage, and various policies whose purpose is to protect the local environment in one way or another by preventing or limiting development.
- 6.27 Whilst the emerging Local Plan only carries limited weight, the abolition of the Coastal Protection Belt policy at county, regional or national level also limits the amount of weight that can be applied to the adopted policy. From the ground, the site is relatively well contained by landscaping and physical features and views over the Estuary are limited. On the basis that development in this location and on this site is unlikely to have a severe detrimental impact on the character of the undeveloped coastline, Officers have applied limited weight to the Coastal Protection Belt policy and consider that refusing planning permission against this policy would be difficult to defend on appeal.

Areas of Outstanding Natural Beauty

- 6.28 The proposed area of extension to the Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB) includes application site. Policy EN5a in the adopted Local Plan seeks to ensure that, in determining planning applications, the natural beauty of the landscape within the area, and views towards it are protected – having regard to the Suffolk Coast and Heaths Strategy.
- 6.29 Representatives of the Dedham Vale and Stour Estuary Project have written to highlight that the site is visible from the northern side of the Stour Estuary – the area that is part of the established AONB. They urge that the purpose of this designation is not compromised by the proposed development and that the findings of a Landscape and Visual Impact Assessment are key to determining this.
- 6.30 The Council's Principal Trees and Landscapes Officer has also commented on the application to highlight the importance of the Suffolk Coast and Heaths Area of Outstanding Natural Beauty and the need to ensure that its setting is appropriately safeguarded. Initially,

he suggested that development of this land would have a significantly detrimental impact on the character and appearance of the AONB when viewed from the northern bank of the Stour and also when viewed from within the proposed extension to the AONB on the southern bank of the Stour. However, following the submission of a Landscape and Visual Impact Assessment, it is accepted that adverse impacts could be mitigated through the appropriate use of landscaping.

- 6.31 Because the Local Plan is out of date and the Council cannot identify sufficient land to meet projected housing needs, Officers must refer back to the NPPF. Paragraph 115 states that great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. Paragraph 116 goes to state that planning permission should be refused for major development in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Because the application site is not within a formally designated AONB at the moment, refusal purely on a point of principle would not be justified and landscape and visual impacts need to be weighed up alongside the benefits of development.

Landscape, visual impact and trees

- 6.32 Whilst Officers have concluded that the site's location within the Coastal Protection Belt and the proposed extension to the Suffolk Coast and Heaths AONB cannot justify the refusal of planning permission on a matter of principle, Policy QL9 in the adopted Local Plan and Policy SPL3 in the emerging Local Plan still require developments to respect and enhance views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Policy EN1 of the adopted Local Plan and Policy PPL3 in the emerging Local Plan seek to protect and, wherever possible, enhance the quality of the district's landscape; requiring developments to conserve natural and man-made features that contribute toward local distinctiveness and, where necessary, requiring suitable measures for landscape conservation and enhancement. Policies QL9 and SPL3 also require developments to incorporate important existing site features of landscape, ecological or amenity value such as trees, hedges, water features, buffer zones, walls and buildings.
- 6.33 The Council's Principal Trees and Landscapes Officer identifies that the site is situated on the Stour Valley System Landscape Character area, directly adjacent to the northernmost part of the Bromley Heathland Plateau, as identified in the Council's own Landscape Character Assessment. In this area, particular regard has to be given to the setting of the Stour Estuary. Although the site is on the coastal slopes and is currently an undeveloped part of the open countryside, views from the site out towards the Stour Estuary and the wider countryside are very limited as a result of the existing trees and landscaping around the perimeter of the site with the best filtered views from the central high point of the site looking in a north easterly direction.
- 6.34 The applicant's Landscape and Visual Impact Assessment considers important elements of the landscape and the potential visual impact of the proposed development from different viewpoints around the site, including from the north of the Stour Estuary. The assessment then takes the value of the particular view, its sensitivity to change and the likely impact of development to measure the severity of any landscape and visual impacts. The assessment concludes that harm would be caused by the change of use in the land but sets out measures that could be taken to mitigate the harm and ensure the development sits relatively comfortably in its setting. These measures relative to soft landscaping to soften, screen and enhance the appearance of the development. The Tree and Landscape Officer has made observations on the proposed measures and has suggested ways in which they could be improved to minimise adverse impacts given the topography of the site. Subject to the approval of a suitable layout at reserved matters stage along with a

comprehensive soft landscaping scheme, development could be achieved in a sympathetic manner.

- 6.35 Turning to trees, there are none in the main body of the land to the west of the hedgerow adjacent to the watercourse although there are established trees, scrubby growth and hedgerows on the perimeter of this part of the site. On the part of the application site to the east of the watercourse and extending from Harwich Road to the railway track there are several trees with reasonable visual amenity value as advised by the Council's Principal Tree and Landscape Officer which are clearly visible on the site. Initially, the Tree Officer raised concern that, in the absence of details of the proposed layout, it was not possible to determine whether or not vegetation would be removed in order for the development to take place. However, following the submission of more information, he is satisfied that the development proposal could be implemented without causing harm to the majority of the trees on the land – accepting that some trees would need to be removed to facilitate access and an internal road linked land either side of the watercourse that bisects the land.
- 6.36 The key test for the Council is whether or not adverse impacts would significantly and demonstrably outweigh the benefits of the development and whether the impact could be reduced or mitigated through landscaping and careful design. On the basis that adverse landscape impacts on the immediate area are generally unavoidable when it comes to greenfield settlement expansion, important views from the wider area including the AONB can be minimised and landscaping and good design has the potential to reduce and mitigate most impacts, Officers consider that the adverse impacts would not outweigh the benefits of development and a recommendation of refusal in this instance would not be justified.
- 6.37 Because this is a matter that has required balanced judgement, if the Committee chooses to take a contrary view, landscape and visual impact is at least a material planning consideration that could be argued as a reason for refusal, if necessary, at appeal – but your Officers' advice is that the harm is not significant and demonstrably enough to justify the refusal of this application given the remaining housing land shortfall.

Flood risk and drainage

- 6.38 Paragraph 103 of the NPPF requires Councils, when determining planning applications, to ensure flood risk is not increased elsewhere. Although the site is in Flood Zone 1 (low risk), the NPPF, Policy QL3 in the adopted Local Plan and Policy PLA1 in the emerging Local Plan still require any development proposal on site larger than 1 hectare to be accompanied by a site-specific Flood Risk Assessment (FRA). This is to assess the potential risk of all potential sources of flooding, including surface water flooding, that might arise as a result of development.
- 6.39 The applicant has submitted a Flood Risk Assessment which has been considered by Essex County Council as the authority for sustainable drainage. Initially, ECC issued a 'holding objection' and required further work to be undertaken to ensure compliance with the guidelines set out in the relevant National Planning Practice Guidance. The applicant responded to the objection with further information requested and the objection has now been addressed. ECC now supports the grant of outline planning permission subject to conditions relating to the submission and subsequent approval of a detailed Surface Water Drainage Scheme before development can take place.
- 6.40 In conclusion, the applicant has demonstrated through their Flood Risk Assessment and supplementary information that development can, in principle, be achieved without increasing flood risk elsewhere. With the planning condition suggested by ECC, the scheme should comply with the NPPF and Policies QL3 and PLA1 of the adopted and emerging

Local Plans (respectively) and therefore addresses the flood risk element of the environmental dimension of sustainable development.

Ecology

- 6.41 Paragraph 118 of the NPPF requires Councils, when determining planning applications, to aim to conserve and enhance biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission. Policy EN6 of the adopted Local Plan and Policy PPL4 of the emerging Local Plan give special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for.
- 6.42 Under Regulations 61 and 62 of the Habitats Regulations, local planning authorities as the 'competent authority' must have regard for any potential impact that a plan or project might have on European designated sites. The application site is not, itself, designated as site of international, national or local importance to nature conservation but the urban area of Manningtree, Lawford and Mistley does abut the Stour Estuary which is designated as a Special Protection Area (SPA), a Ramsar Site and a Site of Special Scientific Interest (SSSI). Whilst the application site is located more than 400 metres from the Stour Estuary and separated by the railway line which prevents any direct disturbance, consideration still needs to be given to potential indirect effects on the designated area that might result from the proposed development.
- 6.43 Natural England has written to remind the Council of its statutory duty and to highlight specific concerns about the potential for 'recreational disturbance' to the protected habitat that might arise from the development and the associated increase in population and activity. Recreational disturbance is a significant problem for such habitats and can have a disastrous effect, in particular, on rare populations of breeding and nesting birds. Notable concerns include increased marine activity (boating, jet skiing etc) and people walking their dogs either within or close to the protected areas. Both activities can easily frighten birds that are breeding and nesting and can have an extremely detrimental impact on their numbers.
- 6.44 Importantly, paragraph 119 of the NPPF states very clearly that the presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined. The applicant has undertaken a Habitat Regulation Assessment and Natural England has advised that the assessments provided with the application and the fact that a considerable amount of recreational and informal open space would be secured as part of the development means that there would be no significant detrimental impact on the designated areas. A financial contribution towards implementation of a Recreational Avoidance and Mitigation Strategy being undertaken jointly by Ipswich Borough Council, Suffolk Coastal District Council and Babergh District Council has also been requested as part of the mitigation. The RSPB (Royal Society for the Protection of Birds) made an objection on the basis that insufficient information had been provided to the Council to demonstrate that there would not be a significant effect, particularly when considered 'in combination' with other plans and projects in the area. This has now been addressed.
- 6.45 It is Officers' view that appropriate assessment in this instance is not required given the position of the site, the limited opportunities to access the Estuary due to the barrier provided by the railway line and the level of open space that would be secured, and the fact that the in-combination effects resulting from other developments in the area have already been carefully considered by Natural England and Officers.

- 6.46 The ecological value of the site itself is of considerable concern to a number of local objectors. The applicant had prepared and submitted a Phase 1 Ecological Assessment to assess the ecological value of the site and immediate area itself and the potential impact of the development. For the main body of the site where the residential development will take place, the assessment notes that the land is open grassland managed, probably by an annual hay cut or simple topping regime. For the eastern part of the site through which the access road is proposed, the phase 1 assessment suggested that further phase 2 surveys would be required. On Officers advice, these have been undertaken for the whole site by professional ecologists on behalf of the applicants and the findings are summarised below:
- 6.47 Woodland: There is a very small section of Biological Action Plan Priority Habitat designated deciduous woodland adjacent to the very northern boundary of the proposed development site. This will not be reduced in size or conservation value by the proposed development, its conservation and biodiversity value could be enhanced through suitable management as part of the wider site development.
- 6.48 Badgers: Field signs were noted as part of the survey, but setts were found within the site boundary.
- 6.49 Bats: The pocket of woodland in the north eastern corner of the site has moderate potential to support bat roosts, with a single mature tree identified as having high potential. All other trees present have negligible potential to support bat roosts. The trees with roost potential will remain in place and will be unaffected by the proposed development. The majority of the foraging activity was noted along the central hedgerow and in the small area of woodland to the north east of the site and these features were confirmed to be in use by common species of bat including Common Pipistrelle and Soprano Pipistrelle.
- 6.50 Reptiles: The grassland on the site was confirmed suitable for reptiles during the survey with Common Lizard, Slow-worm and Grass Snake using the site.
- 6.51 Invertebrates: Main species found are widespread in grassland habitats. Few species were recorded within the woodland, but a number of scrub edge specialists were recorded and also species associated with bark and sapwood decay, as specialist dead wood habitats. With three species of conservation concern, the site is considered to be of District level value for invertebrates.
- 6.52 Breeding Birds: The site was found to support a relatively high diversity and number of breeding bird species. Most of the species are common and widespread, but seven bird species of conservation concern were recorded. Key habitats used by breeding birds included the scrub and trees present along the boundary of the site, which are considered important on a site scale. The impact assessment concludes that the site will have a negligible impact upon all designated and non-designated sites for nature conservation present in the local area.
- 6.53 Mitigation and Enhancement: To mitigate any harm and bring about an overall enhancement for ecology, the assessment recommends measures that could be secured through planning conditions:
- Five bat bricks should be included within the scheme. Alternatively, bat boxes could be placed, however these tend to be less robust than bat bricks;
 - Inclusion of mini log piles or log pyramids for invertebrates;
 - Shrub and tree species to be included should be considered beneficial to wildlife. Species to be avoided include Birches, (other than Silver Birch (*Betula pendula*)) and non-native evergreen shrubs;
 - Inclusion of bug hotels. Inclusion of hibernacula and log piles for reptiles;
 - Inclusion of a Hedgehog house; and
 - Inclusion of five bird boxes suitable for Starling and House Sparrow.

- 6.54 Officers note the findings of the report and welcome the potential to deliver an enhanced wildlife habitat in the location off the back of the development. The recommended mitigation measures/enhancement measures can be secured through a planning condition requiring an ecological plan to be agreed by the Council prior to the commencement of the development.

Education provision

- 6.55 Policy QL12 in the adopted Local Plan and Policy PP12 in the emerging Local Plan require that new development is supported by the necessary infrastructure which includes education provision. A large number of local residents have expressed concern that local schools will not be able to cope with the expected increase in population arising from the 70 new homes, particularly when considered alongside other proposals for major residential development either approved or under consideration in the wider area.
- 6.56 Essex County Council as the Local Education Authority has been consulted on the planning application and has made representations. ECC's advice was submitted in response to this application in isolation however the cumulative effect of other potential developments has also been taken into account. ECC advised that, based on its standard formula, a development of this size can be expected to generate the need for up to 6.3 Early Years and Childcare (EY&C) places, 21 primary school places, and 14 secondary school places.
- 6.57 ECC is satisfied that there would be sufficient provision of Early Years and Childcare facilities and primary school places in the area to address the needs of the development. However, this advice pre-dated the approval of the development for up to 135 dwellings on land south of Harwich Road (15/01520/OUT). If additional places are required, a sum of £12,172 per place would be needed – a maximum of £255,612. Updated advice has been sought from ECC as to the financial contributions now required, but at the time of writing this had yet to be received and Officers suggest that the Council reserves the right to secure any necessary funds through a s106 legal agreement..
- 6.58 For secondary school provision, ECC advised that the additional pupils expected from the scheme on its own could be accommodated within existing capacity at Manningtree High School, however ECC was mindful the potential impacts of other developments under consideration in the area – namely the 360 homes off Bromley Road, Lawford (15/00876/OUT) which has a Committee resolution to approve subject to a s106 legal agreement; the 300 homes off Long Road, Mistley (15/00761/OUT) which now has outline planning permission; and the 135 homes off Harwich Road (15/01520/OUT) which also has planning permission. At the time of ECC's advice, it was suggested that the cost of providing additional secondary school places be shared by the four development sites if the Stourview Avenue scheme were to be approved. The cost would be £18,491 per place – a maximum of £258,874. Updated advice has been sought from ECC as to the precise financial contributions are required, but at the time of writing this had yet to be received and Officers suggest that the Council reserves the right to secure any necessary funds through a s106 legal agreement.

Health provision

- 6.59 The requirement of the NPPF to promote the creation of high quality environments with accessible local services that reflect the community's needs also extends to health provision, another matter of considerable concern amongst local residents. Again through Policy QL12 in adopted Local Plan and Policy HP1 in the emerging Local Plan, new development needs to be supported by the necessary infrastructure, including health provision.

- 6.60 As this the case across most parts of the district, local health services are operating either at, close to or above capacity in catering for the needs of the current population. One of the roles of the Local Plan is to ensure that major residential developments are planned alongside agreed investment in an area's infrastructure to accommodate anticipated increases in population. For health provision, this could mean the expansion of existing facilities or through the provision of new ones.
- 6.61 However, because the Council's Local Plan is out of date and it cannot identify sufficient land to meet projected housing needs, applications must be considered on their merits against the government's presumption in favour of sustainable development and Officers have needed to liaise with NHS England (with a strategic overview of health provision in our area) to calculate what investment will be required to mitigate the impact of this development and others proposed in the Manningtree, Lawford and Mistley area. Through adopted Policy QL12 and emerging Policy HP1, the Council can require developers to address infrastructure requirements likely to arise from their developments by either building new facilities or making financial contributions towards the creation of additional capacity. It is noted that there is local scepticism about how this will work in practice, but in the absence of an up to date Local Plan, this is an approach that has been accepted by Planning Inspectors.
- 6.62 As with highways and education, Officers have considered both the individual impact of this development on health provision as well as the cumulative impact that might arise if the other major developments are to be allowed. The Council working with NHS England can, through the planning system, put measures in place to mitigate the impact of population growth arising from major residential developments on local infrastructure. Whilst it is the NHS' responsibility to ensure that health centres and local surgeries are adequately resourced and staffed, the Council can secure either new buildings or financial contributions towards expanding existing buildings to ensure there is at least sufficient space for additional doctors, nurses and other medical professions to provide their services.
- 6.63 NHS England has undertaken a Health Impact Assessment of the development proposal and has identified that the local surgeries will not have the capacity to serve the additional residents that would result from the development. A developer contribution of £21,120 is requested to mitigate the capital cost to the NHS for the provision of additional healthcare services. NHS England has confirmed that there are already plans in the pipeline to expand the Riverside Health Centre and that such moneys could be used to help fund this investment.

Utilities

- 6.64 With regard to sewage capacity, Anglian Water has advised that there is sufficient capacity in the foul sewerage network to deal with the levels of effluent expected from this scheme of and has made no objections to the proposal subject to conditions to require a surface water management strategy and a foul water strategy being submitted and agreed.

Open space

- 6.65 Policy COM6 in the adopted Local Plan and Policy HP3 of the emerging Local Plan require large residential developments to provide at least 10% of land as public open space or otherwise make financial contributions toward off-site provision. To comply with these policies, a minimum of approximately 0.5ha of the land needs to be provided as green infrastructure – much of which is expected to be provided along the northern part of the site to assist in minimising visual impacts on the Stour Estuary. A larger area than this will, in reality be secured because much of the eastern parcel of land is unsuitable for development and more space is needed to mitigate any concerns about recreational

disturbance at the Stour Estuary. The detailed dimensions of the open space would be confirmed at reserved matters stage.

- 6.66 The Council's Open Space and Bereavement Service Manager has commented on the application and has identified a deficiency of open space in the Mistley area and has advised that if the on-site open space is to be transferred to Tendring District Council for future maintenance, an additional financial contribution towards maintenance will also need to be secured through a s106 legal agreement. If the Committee is minded to approve this application, Officers will engage in negotiations with the applicant to agree the necessary contribution in line with the guidance contained within the Council's Supplementary Planning Document on Open Space.

Council Housing/Affordable Housing

- 6.67 Policy HG4 in the adopted Local Plan requires large residential developments to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy LP5 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 30% of new dwellings on large sites to be made available for affordable or Council Housing. The policy does allow flexibility to accept as low as 10% of dwellings on site, with a financial contribution toward the construction or acquisition of property for use as Council Housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement.
- 6.68 The Council's Housing Needs team has commented on the application and advised that there is a significant need for affordable housing in the Mistley area based on evidence from the local housing register. It has been suggested that, as an alternative to transferring 30% of properties to the Council (up to 21 dwellings) at a discounted value, the Council would be prepared to accept 5 properties 'gifted' (i.e. transferred to the Council or a nominated partner or trust at zero cost).
- 6.69 If the Committee is minded to approve this application, Officers will negotiate and agree an appropriate level of Council Housing to be secured through a s106 legal agreement.

Potential layout and density

- 6.70 As an outline planning application, detailed design and layout is a reserved matter for future consideration but the Council needs to be satisfied that an appropriate scheme of up to 70 dwellings, access road and open space can be accommodated on the site in an appropriate manner. The applicant has not provided an indicative layout, so Officers have needed to consider the land available, the constraints affecting the site and the potential density.
- 6.71 Whilst the eastern parcel of land is expected to accommodate the proposed access road (carefully located to minimise the loss of trees), it is the main body of the site to the west that is expected to accommodate up to 70 dwellings. This parcel of land measures approximately 3 hectares and therefore the gross density of development could be as high as 23 dwellings per hectare. Assuming that, as an absolute minimum, 0.3 hectares is used for open space, the net density would be around 26 dwellings per hectare. The more open space secured, the higher the density could be. The residential density of the adjoining housing estate, for context, is approximately 35 dwellings per hectare.

Council-owned land

- 6.72 Some objectors to the application have queried why the name of the Council's Chief Executive appears on the planning application forms – concerned that he has a personal and prejudicial interest in the land. Our Chief Executive does not have any personal interest in the land, but his name is on the form because Tendring District Council owns some of the

land at Stourview Avenue that would be required to create the proposed access road. Through a separate process, the disposal of this land has been provisionally agreed – but this should not be seen as a green-light for the development to obtain planning permission. The Planning Committee should make that decision on planning grounds, irrespective of any interest that the Council, as landowner, has in the site.

Overall planning balance

- 6.73 Because the Council's Local Plan is out of date and a five-year supply of deliverable housing sites cannot currently be identified, the National Planning Policy Framework (NPPF) requires that development be approved unless the adverse impacts would significantly and demonstrably outweigh the benefits, or if specific policies within the NPPF suggest development should be refused. The NPPF in this regard applies a 'presumption in favour of sustainable development' for which sustainable development addresses economic, social and environmental considerations.
- 6.74 Economic: Whilst the scheme is totally residential with no commercial premises provided, up to 70 dwellings would generate additional expenditure in the local economy which has to be classed as an economic benefit. There will also be temporary jobs in construction whilst the homes are being built.
- 6.75 Social: The provision of up to 70 dwellings toward meeting projected housing need, at a time when the Council is unable to identify a five-year supply, is a significant social benefit which carries a high level of weight in the overall planning balance – particularly as government policy is to boost housing supply. Additional social benefits include the proposed open spaces that will be secured. The impacts of health and schools provision will be mitigated through appropriate financial contributions to be secured through a s106 agreement, if the application is approved.
- 6.76 Environmental: The environmental impacts of the proposal have required very careful consideration. The site is within the Coastal Protection Belt and forms part of the area under consideration for inclusion in an expanded Area of Outstanding Natural Beauty. Officers consider that these factors should not preclude the potential for development in principle but the visual impacts need to be weighed up against the benefits. In this instance, the visual impacts are not expected to be severe and through landscaping can be softened or mitigated. Ecological impacts, both indirect in terms of recreational disturbance at the Stour Estuary and direct in terms of protected species on the site have been carefully assessed and mitigation measures that could lead to an overall enhancement are suggested.
- 6.77 In the overall planning balance, Officers consider that the adverse impacts do not significantly and demonstrably outweigh the benefits and the application is therefore recommended for approval subject to a s106 legal agreement and a range of planning conditions.

Background Papers

None.

PLANNING COMMITTEE

22 October 2019

REPORT OF THE HEAD OF PLANNING

A.3 PLANNING APPLICATION – 19/00610/FUL – LAND AT OAKMEAD ROAD ST OSYTH CO16 8NW



DO NOT SCALE

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

Application: 19/00610/FUL

Town / Parish: St Osyth Parish Council

Applicant: Mr Parsons

Address: Land at Oakmead Road St Osyth CO16 8NW

Development: Construction of 4 No detached houses with associated accesses.

1. **Executive Summary**

- 1.1 This full application follows outline application 16/01611/OUT approved by the Planning Committee at their meeting on the 29th March 2017 at which time Members requested that any detail application be brought back to the Committee for determination. The application was originally submitted as a reserved matters application but due to the reduction in the number of dwellings from the 5 approved at outline to the 4 now being proposed, the application must be dealt with as a full planning application. Although the application type is different, the application is therefore before Members to satisfy their request at the meeting on the 29th March 2017 to deal with the detailed design of the development.
- 1.2 The principle of residential development for 5 dwellings has been established through the approval of outline application 16/01611/OUT. This application is now considering the development for the erection of 4 detached dwellings.
- 1.3 Outline application 16/01611/OUT was approved by members subject to 15 conditions, including the requirement for the submission of some particulars concurrently with the reserved matters application. These being; an ecological management scheme and mitigation plan (condition 12), a surface water drainage strategy (condition 14) and a foul water drainage strategy (condition 15). Conditions 14 and 15 were added by Members in addition to those recommended by officers. As the application was originally submitted as a reserved matters application, all the information to accord with the conditions imposed on the outline permission accompanies this application.
- 1.4 The application site is situated on the eastern side of Oakmead Road forming part of an open area of lawned land enclosed along the northern and western boundaries by an established hedgerow (removed in part) appearing as part of 262 Point Clear Road. The site is surrounded by existing residential development; to the north-west on Alpha Road, to the west of the site and to the south and east fronting Point Clear Road. To the north and in line with the application site are mobile homes sited at The Orchards Caravan Park.
- 1.5 The scheme has been revised following discussions with Planning Officers and is now considered to be acceptable. The application proposes 4 no. detached, 1.5 storey, 3 bed dwellings all of a similar design with a central gable feature to the front and rear (including a balcony to the rear). The dwellings are to have a rendered finish with slate roof tiles. Plots 2 and 4 include some cladding to the front elevations to add variation to the development within the street scene. The dwellings are to be served by two new accesses and turning areas off Oakmead Road (each serving two plots). The introduction of the new accesses is permissible as part of this application.
- 1.6 The dwellings front Oakmead Road in a linear arrangement, are sited centrally within their individual plots, each served by two parking spaces to their frontage and each served by a rear private garden area of 165 square metres. Landscaping for the development includes the retention of the majority of the existing front boundary hedgerow (two sections removed to allow for accesses), additional planting behind the existing hedgerow and new planting to the site perimeters and individual plot boundaries.

- 1.7 The layout responds appropriately to the character of the area and provides sufficient parking, turning and private amenity space for the dwellings. The scale, appearance and finish of the properties are considered acceptable in this mixed residential character area. The landscaping assimilates the development into the site and its setting, screening and softening the visual impact within Oakmead Road and any wider landscape impact. The provision of two accesses to serve 4 dwellings will not result in any material harm to highway safety.
- 1.8 Sufficient distance is achieved between the development and neighbouring dwellings on the opposite side of the road to safeguard their residential amenities. Spacing between the proposed dwellings, and private gardens are in excess of policy standards and secure a good level of amenity for future occupants. The inward facing windows within the side elevations have been amended following concerns with privacy. The proposed balconies will allow some overlooking between the new dwellings but are somewhat screened by the gable overhang. Nevertheless, prospective buyers will be aware of the detailed design of the properties.
- 1.9 An Ecological Management Scheme has been submitted which includes a time table for implementation detailing the installation of hedgehog friendly fencing, bird boxes and the planting of trees, shrubs and hedgerows prior to the completion of construction and details of how the ecological features are to be managed. Officers are satisfied that the scheme is acceptable and also meets the aims of the condition imposed on the outline permission.
- 1.10 Surface Water will be directed to the north of the site and connection made into the existing ditch within the applicant's land. The water discharging into the ditch will be attenuated with a swale of an appropriate size for this minor scale development. The topography of the site means that the water falls naturally towards the ditch reducing any risk of flooding either on the application site or nearby. A foul water connection to the main sewer is available in Oakmead Road and the proposed houses will connect to this via a gravity connection. Officers are satisfied that the scheme is acceptable and also meets the aims of the conditions imposed on the outline permission.
- 1.11 A legal agreement has been completed to account for a financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) and toward enhancements to the existing Point Clear play area at Dumont Avenue.
- 1.12 The principle of residential development is established by the approval of outline application 16/01611/OUT. The application provides a development that is acceptable in terms of design, highways, trees and landscaping, biodiversity, drainage and residential amenity considerations and is recommended for approval.

Recommendation: Approval

Subject to the conditions stated in section 8.2.

A legal agreement has been completed to account for contributions towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) and toward enhancements to the existing Point Clear play area at Dumont Avenue.

2. Planning Policy

- 2.1 The following Local and National Planning Policies are relevant to this planning application:

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

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

HG1 Housing Provision

HG6 Dwelling Size and Type

HG9 Private Amenity Space

HG14 Side Isolation

EN1 Landscape Character

EN3 Coastal Protection Belt

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

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

LP1 Housing Supply

LP4 Housing Layout

PPL2 Coastal Protection Belt

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

- 2.2 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) 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.
- 2.3 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.
- 2.4 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.
- 2.5 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

03/00750/FUL	Variation of Condition 02 imposed upon planning permission	Refused	06.06.2003
	02/00105/FUL to allow recreational		

	use of horses owned by the applicant to be ridden by the public.		
10/00233/FUL	Retrospective application for conversion of swimming pool building to 2 bed bungalow.	Refused	05.05.2010
10/00933/FUL	Change of use of swimming pool conversion for residential use.	Refused	26.01.2011
13/00163/FUL	To use annexe as separate holiday accommodation for holidays and to support Charter Fishing business which operates out of Brightlingsea.	Approved	15.04.2013
16/00946/FUL	Extension and change of use to self-contained permanent dwelling.	Approved	22.09.2016
16/01611/OUT	Proposed 5 No. detached dwellings with associated garages and parking.	Approved	30.03.2017

4. Consultations

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

Reason: To provide adequate inter-visibility between vehicles using the accesses and those in the existing public highway in the interest of highway safety in accordance with policy DM1.

2. Prior to first occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority 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 in accordance with policy DM1.

3. Prior to first occupation of the development the vehicular accesses shall be constructed at right angles to the proposed carriageway. The width of the access at its junction with the highway shall not be less than 4.1

metres shall be retained at that width for 6 metres within the site.

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.

4. No unbound materials shall be used in the surface treatment of any proposed vehicular access within 6 metres of the carriageway.

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

5. All double garages should have a minimum internal measurement of length 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 and in accordance with Policy DM8.

6. Prior to first occupation of the development vehicle parking shall be provided in accordance with the EPOA Parking Standards as shown in principle in the Proposed Site Plan, drawing no.835/10 constructed ready for use. The vehicle parking area and associated turning area shall be retained in the agreed form at all times.

Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8.

7. 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.

8. 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 free of charge.

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.

9. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

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 and in accordance with Policy DM1

10. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway/carriageway (delete as appropriate).

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway/carriageway (delete as appropriate) is not obstructed during the construction period in the interest of highway safety in 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 1: Steps should be taken to ensure that the Developer provides sufficient turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

Informative 2: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Informative 3: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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

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

5. Representations

- 5.1 St. Osyth Parish Council strongly object to this application. The objections raised can be summarised and addressed as follows;

- Differs significantly from the original proposal 16/01611/OUT.
16/01611/OUT was approved with all matters reserved and any plans previously considered were indicative only. The principle of residential development was approved. This application now seeks full planning permission.
- Creation of 2 accesses on narrow lane with no footpath harmful to pedestrian and highway safety.
This is addressed in the highways considerations section of the main report below.
- Removal of hedgerow.
The clearance of any vegetation is controlled by condition.
- Insufficient visibility from new accesses.
The block plan shows that the access arrangements and visibility meet highway safety requirements.
- No right of access onto private lane.
- Future occupants will be responsible for private lane maintenance.
Rights of access, land ownership and maintenance of the highway are not material planning considerations and are legal matters between relevant parties.
- The current application now includes the provision of a surface water surge pond, which was absent from the original application. Whilst this may be seen as an attempt by the applicant to address drainage and surface water flooding.
This is a requirement of the outline application under condition 14 and was submitted with the application accordingly. This is addressed in further detail within the main assessment below.
- Essex County Council's SUDs Team should be consulted regarding the proposed surge pond and drainage from the development, which appears insufficient due to the change in levels.
The Lead Flood Authority are not required to comment on small scale developments such as this. Drainage is dealt with by Building Regulations.
- Who will be responsible for the maintenance of the ditch?
The ditch is within the applicant's ownership.

5.2 31 letters of objection have been received in response to the original and amended proposal including a petition of 34 signatories and objections from Alpha Road Residents Association. The objections raised can be summarised as follows (officer response in bold text);

- Accesses not as approved.
- Will cause congestion and upset on this narrow, one car width lane.
- Harmful to highway safety and pedestrian safety.
- Poor visibility / blind points.
Access and highway safety is covered in the main assessment below.
- Private road maintained by residents.
- Applicant has no right of access to Oakmead Road and Alpha Road.
Land ownership and rights of access are not a material planning consideration.
- Overlooking and loss of privacy
This is addressed in the main assessment below.
- No surface water drainage.

Drainage information has been provided in accordance with condition 14 of the outline consent and is considered acceptable as addressed in the main assessment below.

- Loss of hedgerow and harm to wildlife.
Timing of clearance is controlled by condition 10 of the outline consent. The development results in a net gain in biodiversity features as covered by the Ecological Management Scheme.
- Noise, disturbance and congestion from construction traffic and works.
The submission of a Construction Method Statement will be secured by condition.
- No details of refuse collection.
This is a requirement of condition 8 of the outline consent and will be subject of a discharge of condition application.
- Design of dwellings out of keeping.
Design and impact is addressed in the main assessment below.

6. Assessment

6.1 The main planning considerations are:

- Site Context;
- Proposal;
- Principle of Development;
- Layout, Scale and Appearance;
- Coastal Protection Belt;
- Access and Parking;
- Residential Amenities;
- Surface Water Drainage and Foul Water Drainage;
- Landscaping and Biodiversity;
- Legal Obligations - Recreational Impact Mitigation; and,
- Legal Obligations - Open Space/Play Space Contribution.

Site Context

- 6.2 The application site is situated on the eastern side of Oakmead Road forming part of an open area of lawned land enclosed along the northern and western boundaries by an established hedgerow (removed in part) appearing as part of 262 Point Clear Road. The site is surrounded by existing residential development; to the north-west on Alpha Road, to the west of the site and to the south and east fronting Point Clear Road. To the north and in line with the application site are mobile homes sited at The Orchards Caravan Park.
- 6.3 The site lies to the north of the existing access and driveway leading to 262 Point Clear Road, this and the remainder of the adjoining lawned area fall within the ownership of the applicant and are therefore shown outlined in blue on the submitted plans.
- 6.4 The site is outside the Flood Zone but is within the Coastal Protection Belt.

Proposal

- 6.5 This application seeks full planning permission for the erection of 4 no. detached, 1.5 storey, 3 bed dwellings all of a similar design with a central gable feature to the front and rear

(including a balcony to the rear). The dwellings are to have a rendered finish with slate roof tiles. Plots 2 and 4 include some cladding to the front elevation.

- 6.6 The principle of residential development for 5 dwellings has been established through the approval of outline application 16/01611/OUT. The application was originally submitted as a reserved matters application but due to the reduction in the number of dwellings from the 5 approved at outline to the 4 now being proposed, the application must be dealt with as a full planning application.
- 6.7 Outline application 16/01611/OUT was approved by members subject to 15 conditions, including the requirement for the submission of some particulars concurrently with the reserved matters application. These being; an ecological management scheme and mitigation plan (condition 12), a surface water drainage strategy (condition 14) and a foul water drainage strategy (condition 15). Conditions 14 and 15 were added by Members in addition to those recommended by officers. As the application was originally submitted as a reserved matters application, all the information to accord with the conditions imposed on the outline permission accompanies this application.
- 6.8 Following concerns with the design, forward sited double garages and residential amenities, the application has been amended removing the garages, incorporating a gable feature and variation to the finish of the dwellings and an amendment to the side facing windows.
- 6.9 The dwellings are to be served by two new accesses and turning areas off Oakmead Road (each serving two plots). Each property will be served by 2 parking spaces.

Principle of Development

- 6.10 The principle of residential development on this site for 5 no. dwellings is established through the granting of outline planning permission reference 16/01611/OUT. This permission remains extant and a reserved matters application could be submitted for 5 units.
- 6.11 The applicant has chosen to reduce the number of units to 4 to accommodate the desired house type meaning that a full planning application is now required.

Layout, Scale and Appearance

- 6.12 Paragraph 127 of the NPPF states that planning decisions should ensure that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and are sympathetic to local character including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change. Saved Policy QL9 and EN1 of the Tendring District Local Plan (2007) and Policy SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape.
- 6.13 The layout responds appropriately to the character of the area with the dwellings fronting Oakmead Road in a linear arrangement. The scheme has been revised following discussions with Officers removing the forward sited garages which are uncharacteristic of the area and gave the development a cramped appearance. The dwellings are sited centrally within their individual plots allowing for well-spaced properties with large rear gardens and spacious frontages. The staggered siting of the dwellings adds interest to the street scene view of the development.
- 6.14 The application proposes 4 no. detached, 1.5 storey, 3 bed dwellings. Additional information has been provided showing the mixed scale and residential character of the area

demonstrating that the 1.5 storey scale and overall height of the dwellings are not out of character or harmful in their context.

- 6.15 The set back from the highway, spacing around the properties, retention of the majority of the front boundary hedgerow and proposed perimeter landscaping assimilates the development into the site and its setting, screening and softening the visual impact within Oakmead Road and any wider landscape impact. Condition 13 of the outline permission removes permitted development rights for the erection of fences, walls or enclosures to the perimeter of the site whilst condition 5 requires details of any proposed enclosures to be submitted to and approved by the Local Planning Authority prior to the commencement of development. These conditions will be re-imposed onto this this full planning permission.
- 6.16 Following discussion with officers, amendments were made to the detailed design and finish of the development. The development consists of one house type with a central gable feature to the front and rear (including a balcony to the rear). The dwellings are to have a rendered finish with slate roof tiles. Plots 2 and 4 include some cladding to the front elevations to add variation to the development itself and enhance the appearance within the street scene. The design of dwellings combine a modern and traditional elements and finishes resulting in an overall acceptable design. Precise materials details are required by condition 4 of the outline consent. This condition will be re-imposed onto this this full planning permission.
- 6.17 The scale, appearance and finish of the properties are considered acceptable in this mixed residential character area. The reduction in the number of dwellings from 5 to 4 units reduces the overall impact of the development.

Coastal Protection Belt

- 6.18 The impact of residential development on the Coastal Protection Belt designation was addressed at the outline stages. It was concluded that the impact will be minimal having regard to the existing settlements also being entirely within this designated area and site abutting existing development.
- 6.19 The development is outside of the flood zone and will not significantly harm the landscape character or quality of the undeveloped coastline.

Access and Parking

- 6.20 Saved Policy QL10 of the Saved Plan states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate.
- 6.21 The dwellings are to be served by two new accesses and turning areas off Oakmead Road (each serving two plots). New accesses are permissible as part of this full application. The development was not tied to the single access point shown on the outline plans as this was indicative only as access was a reserved matter. Therefore, the new accesses would also be permissible through a reserved matters application.
- 6.22 The number of dwellings has been reduced from the outline stage from 5 to 4 units. Access to a development for 5 dwellings has been accepted through the granting of the outline application. The reduction in dwellings reduces the traffic movements originally envisaged and approved on the site.
- 6.23 Essex County Council Highway Authority has been consulted on the application (see above for full details). They raise no objection to the proposal and vehicular access arrangements subject to conditions. The conditions recommended by the highway authority will be imposed

where necessary as this is a full permission and therefore not tied to the conditions imposed in the outline consent.

- 6.24 It is noted that a number of objections have been received with regards to highway safety concerns, however as stated the Highway Authority have not raised any concerns from a highway safety aspect, and Oakmead Road is classified as a 'Private Street' therefore Officers consider a refusal on this issue could not be substantiated.
- 6.25 The Council's Adopted Parking Standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres. 2 spaces are provided for each dwelling in accordance with the above standards.
- 6.26 The development provides sufficient parking and turning for the dwellings. The provision of two accesses to serve 4 dwellings is not excessive. Traffic movements associated with 4 dwellings will not result in any material harm to highway safety and is a reduction in the approved scheme.

Residential Amenities

- 6.27 The NPPF, in paragraph 127 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) supports these objectives.
- 6.28 The layout plan submitted demonstrates sufficient separation distances are retained between existing nearby dwellings and the proposed dwellings to ensure that existing and future resident's amenity would not be harmed by the development. Plots 3 and 4 are sited opposite the side of number 45 Oakmead Road but are sited over 30 metres from the property and its garden. Furthermore, the front facing first floor windows and roof lights serve bathrooms and bedrooms and not main living areas. The bathroom window will be obscure glazed and the angled position of the roof lights minimise any overlooking. For these reasons, the development cannot be considered to result in any harmful overlooking or material loss of privacy to number 45 Oakmead Road or other nearby properties.
- 6.29 Spacing between the new dwellings and private gardens are in excess of policy standards secure a good level of amenity for future occupants of the development.
- 6.30 The dwellings propose large windows within their side elevations, some of which serve bedrooms. Following concerns with potential privacy issues from views between the dwellings, amended plans have been submitted. The amendments include a reduction in the size of the windows and obscure glazing. This satisfactorily addresses the issue.
- 6.31 The proposed dwellings include first floor balconies set into the rear gable projection. This will allow some overlooking between the new dwellings but these will be minimal due to the screening from the gable overhang. Nevertheless, prospective buyers will be aware of the detailed design of the properties.

Surface Water Drainage and Foul Water Drainage

- 6.32 Essex County Council as the Lead Local Flood Authority (LLFA) require the submission of a surface water drainage strategy for major scale residential developments comprising 10 or more dwellings or a site in excess of 1 hectare. A drainage strategy is not a statutory

requirement for this scale of development and the LLFA are not required to assess or comment on the application.

- 6.33 The drainage details have been provided to accord with conditions 14 and 15 of the outline consent as requested by Members as the application was originally made as a reserved matters application.
- 6.34 Surface Water will be directed to the north of the site and connection made into the existing ditch within the applicant's land. The water discharging into the ditch will be attenuated with a swale of an appropriate size for this minor scale development. The discharge is controlled to 1 litre/ sec which is the equivalent to the green field run off rate that would typically discharge into the ditch. The topography of the site means that the water falls naturally towards the ditch reducing any risk of flooding either on the application site or nearby. Officers recommended conditions include the use of permeable surfacing to all new hard surfaced areas.
- 6.35 A foul water connection to the main sewer is available in Oakmead Road and the proposed houses will connect to this via a gravity connection.
- 6.36 Building regulations will deal with the particulars of the drainage.

Landscaping and Biodiversity

- 6.37 A Phase 1 Habitat Survey was submitted with the outline application. This found no habitats within the survey area considered to be of high ecological importance on an international, national, regional, county, district or local scale. The habitats on site are of site significance only. The site was not considered suitable for roosting Bats, Reptiles, Water Voles, Otters, Great Crested Newts, Badgers, Hazel Dormice, and plants or invertebrates of significance. A second walkover has been carried out and the report submitted with this application concluding that there is not material change since the original survey.
- 6.38 The original survey concluded the field boundary hedgerow has the potential to be of value to several protected species as well as being of general biodiversity value themselves.
- 6.39 The development proposes a significant amount of additional soft planting to the perimeters of the site that are currently open and includes enhancements to the front boundary hedgerow. The species and siting of the planting is acceptable and takes into account the recommendations within the ecology management report. Implementation of the landscaping can be secured by condition.
- 6.40 The loss of 2 sections of the front boundary hedgerow are compensated by the new planting amounting to an overall biodiversity gain on the site and contributing to the assimilation of the development into its surroundings.
- 6.41 An Ecological Management Scheme has been submitted to satisfy condition 12 of the outline permission. This includes a time table for implementation detailing the installation of hedgehog friendly fencing, bird boxes and the planting of trees, shrubs and hedgerows prior to the completion of construction and details of how the ecological features are to be managed. Officers are satisfied that the scheme is acceptable and meets the aims of the condition originally imposed on the outline consent.
- 6.42 A condition relating to external lighting will be added to ensure the aims of condition 11 of the outline consent are carried forward.

Legal Obligations - Recreational Impact Mitigation

- 6.43 Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation). Within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings.
- 6.44 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site 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.
- 6.45 The application scheme proposes new dwellings on a site that lies within the Zone of Influence (Zoi) being approximately 520 metres from the Essex Estuaries SAC, Colne Estuary SPA and Colne Estuary RAMSAR. New housing development within the Zoi would be likely to increase the number of recreational visitors to the Essex Estuary and Colne Estuary and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.
- 6.46 A completed unilateral undertaking has been provided to secure the financial contribution required to mitigate against any recreational impact from the new dwellings and to ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Legal Obligations – Open Space/Play Space Contribution

- 6.47 Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built". These sentiments are carried forward within emerging Policy HP5.
- 6.48 There is currently a deficit of 6.44 hectares of equipped play and formal open space in St Osyth and Point Clear. There are three play areas in St. Osyth and Point Clear. The nearest play area to the proposed development is located at Dumont Avenue and is 0.4 miles away. Due to the limited provision in the village it is felt a contribution towards play and formal open space is justified and relevant to this planning application. This contribution would be spent to enhance the existing Point Clear play area at Dumont Avenue.
- 6.49 A completed unilateral undertaking has been provided to secure the financial contribution required. This was not a requirement at the time of the outline application and would not be relevant to a reserved matters application.

7. Conclusion

- 7.1 The principle of residential development on this site has been established and, subject to the inclusion of the conditions contained within the recommendation there is not considered to be any adverse impacts in respect of visual amenity, residential amenities, ecology, drainage or any highway safety. Therefore the application is recommended for approval.

8. Recommendation

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions, informatives and subject to the completed unilateral undertaking with the agreed Heads of Terms, as set out in the table below;

CATEGORY	TERMS
Financial contribution towards RAMS.	£122.30 per dwelling.
Financial contribution towards open space and play space.	To fund enhancements to the existing Point Clear play area at Dumont Avenue.

8.2 Conditions

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2 The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No. 835/10 B, Drawing 835/11 B, Drawing No. 835/12 A, Drawing No. 835/13, Drawing No. 01-19.19.001 - B, Drawing No. 01-19.19.002 - B, Drawing No. 01-19.19.003 - B

Reason - For the avoidance of doubt and in the interests of proper planning.

3 All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping drawing no 835/13 shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure the adequate maintenance of the approved landscaping scheme for a period of five years in the interests of the character of the surrounding area.

4 No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason - The site is publicly visible and therefore quality materials are an essential requirement and insufficient information has been submitted within the application for full consideration of these details.

5 No development shall take place until precise details of the provision, siting, design and materials of screen walls, fences and railings, have been submitted to and approved in writing by the Local Planning Authority. The approved screen walls and fences shall be

erected prior to the dwellings to which they relate being first occupied and thereafter be retained in the approved form.

Reason - To ensure a satisfactory development of the site in the interests of visual and residential amenity.

- 6 No development shall take place until details of the communal bin/refuse collection points within the site have been submitted to and agreed in writing by the Local Planning Authority. The approved details shall be completed prior to the dwellings to which they relate being first occupied and thereafter be retained in the approved form.

Reason - To minimise the time spent by refuse collection vehicles parked within the highway so as to avoid congestion and inconvenience to users of the highway.

- 7 The removal of all vegetation shall only be carried out outside of the bird nesting season (March to August inclusive).

Reason - To ensure the protection of birds potentially nesting on site.

- 8 All new hardstanding and parking areas shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the site.

Reason - In the interests of sustainable development and to ensure that run-off water is avoided to minimise the risk of surface water flooding.

- 9 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. dust suppression techniques

Reason - To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

- 10 The development shall be carried out in strict accordance with Recommendation and Conclusions of Geosphere Environmental Ltd (2016) Preliminary Ecological Appraisal report ref. 2198,EC/PEA/LS,KL/11-01-16/V1 Dated 11th January 2017, Ecological Management Scheme 651,EC/LTR001/LT,RF,KL/13-08-19/V2 Dated 13th August 2019 and Ecological Management Scheme Drawing ref. 3651,EC/001/Rev 1 Dated 7th February 2019.

Reason - To preserve and enhance the biodiversity of the site.

- 11 No means of external lighting shall be installed until details of an illumination scheme have been submitted to and approved in writing by the Local Planning Authority. Development shall only be carried out in accordance with the approved details.

Reason - In the interests of biodiversity and prevent the undesirable, disruptive and disturbing effects of light pollution.

- 12 Notwithstanding the provisions of Article 3, Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no provision of fences, walls or other enclosures, shall be erected on the perimeter of the site except in accordance with drawings showing the design and siting of such enclosures which shall previously have been submitted to and approved, in writing, by the Local Planning Authority by way of a planning application.

Reason - In the interests of visual amenity and to preserve the semi-rural character of the surrounding area.

- 13 Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Classes A, B, C and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), there shall be no additions or alterations to any of the dwellings or their roofs, nor shall any buildings, enclosures, swimming or other pool be erected except in accordance with drawings showing the design and siting of such additions and/or building(s) which shall previously have been submitted to and approved, in writing, by the local planning authority.

Reason - It is necessary for the local planning authority to be able to consider and control further development in order to ensure that landscape harm does not result in this edge of settlement location and to ensure that no harm to neighbouring amenities will occur.

- 14 Prior to the first occupation of the dwellings hereby approved the accesses at their centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 17 metres in both directions as measured from and along the nearside edge of the carriageway in accordance with approved Drawing No. 835/10 B. Such vehicular visibility splays shall be provided before the accesses are first used by vehicular traffic and retained free of any obstruction at all times.

Reason - To provide adequate inter-visibility between vehicles using the accesses and those in the existing public highway in the interest of highway safety.

- 15 Prior to first occupation of the development the vehicular turning facility shown on the approved Drawing No. 835/10 B 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.

- 16 Prior to first occupation of the development the vehicular accesses shall be constructed at right angles to the proposed carriageway. The width of the access at its junction with the highway shall not be less than 4.1 metres shall be retained at that width for 6 metres within the site in accordance with approved Drawing no. 835/10 B.

Reason - To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety.

- 17 Prior to first occupation of the development, the vehicle parking shown on approved Drawing no. 835/10 B shall be constructed, surfaced and made available in accordance with the EPOA Parking Standards and maintained free from obstruction within the site at all times for that sole purpose.

Reason - To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided for each dwelling.

- 18 Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

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.

8.3 Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Agent, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Legal Agreement Informative - Open Space/Play Space Contribution

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: Public Open Space financial contribution in accordance with Policy COM6 of the adopted Tendring District Local Plan (2007) and Policy HP5 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Highways Informatives

Informative 1: Steps should be taken to ensure that the Developer provides sufficient turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

Informative 2: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Informative 3: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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

SMO1 ' Essex Highways
Colchester Highways Depot
653 The Crescent

Colchester
CO4 9YQ

Informative 4: Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway to ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety.

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
 - 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
 - 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation

to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

10. Background Papers

None.

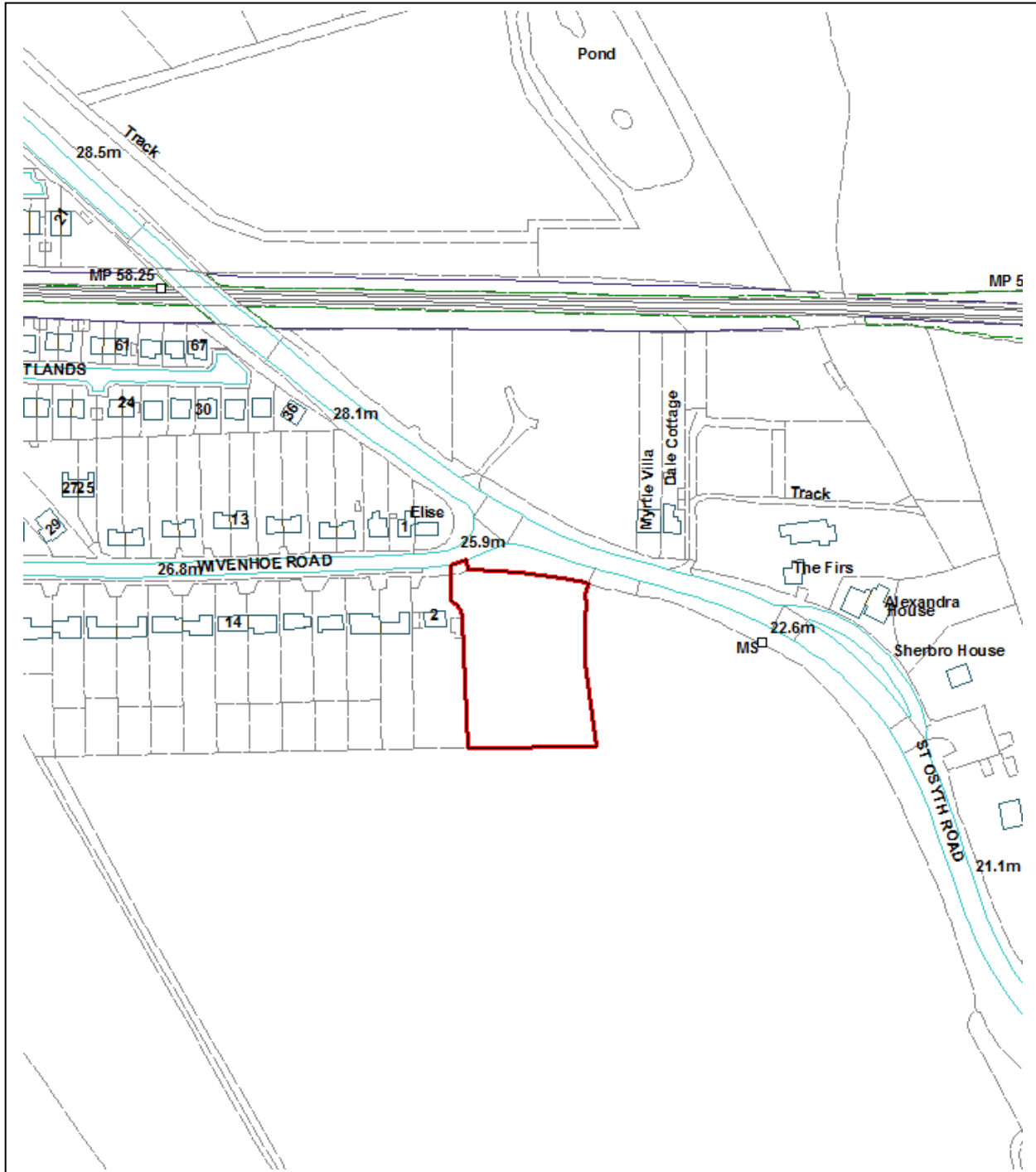
This page is intentionally left blank

PLANNING COMMITTEE

22 OCTOBER 2019

REPORT OF THE HEAD OF PLANNING

A.4 PLANNING APPLICATION – 19/01261/FUL – LAND ADJACENT 2 WIVENHOE ROAD ALRESFORD CO7 8AD



DO NOT SCALE

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

Application: 19/01261/FUL

Town / Parish: Alresford Parish Council

Applicant: Mr & Mrs K Pope

Address: Land adjacent 2 Wivenhoe Road Alresford CO7 8AD

Development: Residential development of 3no. dwelling houses.

1. **Executive Summary**

- 1.1 This application is to be determined by the Planning Committee as one of the applicants is employed by Tendring District Council within the Planning Department.
- 1.2 The application site is located within the defined Settlement Development Boundary for Alresford, as defined by the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). The principle for residential development is therefore acceptable.
- 1.3 A proposal for three dwellings on this site was previously refused and dismissed at appeal, with the focus solely on the effect of the development on the character and appearance of the area.
- 1.4 The submitted plans have reduced the size of the dwellings and their plots, amended their design, and have sited them further forward to be more in-keeping and in close proximity with the existing building line to the west.
- 1.5 The proposal does not represent significant harm to existing trees or neighbouring amenities, while Essex Highways Authority support the application subject to conditions. A legal agreement to cover financial contributions towards Open Space and RAMS has also been completed. Therefore, subject to a number of conditions, the application is recommended for approval.

Recommendation:

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

- a) Subject to the conditions stated in section 8.2

2. **Planning Policy**

- 2.1 The following Local and National Planning Policies are relevant to this planning application:

NPPF National Planning Policy Framework

National Planning Practice Guidance

Tendring District Local Plan 2007:

COM6 Provision of Recreational Open Space for New Residential Development

EN1 Landscape Character

- EN6a Protected Species
 - EN11A Protection of International Sites: European Sites and RAMSAR Sites
 - EN29 Archaeology
 - HG1 Housing Provision
 - HG3 Residential Development within Defined Settlements
 - HG6 Dwelling Size and Type
 - HG9 Private Amenity Space
 - HG14 Side Isolation
 - QL1 Spatial Strategy
 - 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)
- LP1 Housing Supply
 - LP2 Housing Choice
 - LP4 Housing Layout
 - PPL3 The Rural Landscape
 - PPL4 Biodiversity and Geodiversity
 - PPL7 Archaeology
 - SPL1 Managing Growth
 - SPL2 Settlement Development Boundaries
 - SPL3 Sustainable Design

Status of the Local Plan

- 2.2 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) 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.

- 2.3 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.
- 2.4 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.
- 2.5 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**

13/00833/OUT	Outline application for 5 new dwellings.	Refused	14.11.2013
14/01144/OUT	Outline application for 5 dwellings (revised application following refusal 13/00833/OUT).	Withdrawn	01.04.2015
15/01686/FUL	Construction of a new single storey low impact sustainable dwelling. The proposal will incorporate the	Approved	11.02.2016

	provision of a driveway and double garage.		
18/01381/FUL	Residential development of 3 dwelling houses.	Refused	24.10.2018
18/01775/FUL	Proposed residential dwelling house and garage.	Approved	16.01.2019

4. Consultations

ECC Highways Dept

The information that was submitted in association with the application has been fully considered by the Highway Authority. A previous application under application no. 18/01381/FUL was submitted last year for an identical proposal for the same site therefore:

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

1. Prior to the first occupation of the proposed dwellings, the proposed vehicular access and off-street parking and turning facilities shall be provided in accordance with Drawing Number 41 Rev A with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety and in accordance with Policy DM 1 and 8.

2. Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority 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 in accordance with policy DM1.

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

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

4. 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.

5. 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

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.

6. 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.

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 1: The Highway Authority observes that there are no Personal Injury Accidents recorded in the vicinity of the proposed vehicular access.

Informative 2: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Informative 3: 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.

later activity, however the area of the proposed houses lie beyond this and are of a scale that they are unlikely to impact on any significant archaeological remains. There is no recommendation for this application.

5. Representations

5.1 Alresford Parish Council have objected to the application on the following grounds:

- Site lies outside of a settlement boundary;
- Harm to the nearby SPA;
- Highway risk as access near to junction of B1027; and
- Would result in harm to character and appearance of the area.

5.2 There has been four letters of objection received, with their comments summarised below:

- The access point is not suitable for multiple dwellings;
- Area already has high traffic levels;
- The design of dwellings is not what the area needs;
- Design could change if approval was granted;
- Visual harm as a result of a loss of Leylandii; and
- Approval will lead to a future application for further dwellings.

6. Assessment

Site Context

- 6.1 The site is situated to the south of the junction of Wivenhoe Road and St Osyth Road in Alresford, and is currently laid to grass. Along the north boundary of the site there is mature trees and hedgerow which provide screening.
- 6.2 The site is currently accessed via an entrance to the western side of the site adjacent to No. 2 Wivenhoe Road. Wivenhoe Road is a residential street, with a mix of dwellings of different styles and designs, each with large rear gardens and generally arranged in a linear manner. On the opposite side of the St Osyth Road there is a cluster of residential properties.
- 6.3 The site falls adjacent to, but outside of, the Alresford Settlement Development Boundary within the Adopted Tendring Local Plan 2007 but falls inside the Settlement Development Boundary for Alresford within the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Description of Proposal

- 6.4 This application seeks planning permission for the erection of three detached residential dwellings. Each dwelling is to be 1.5 storey, served by four bedrooms, and will each have a single garage.

History

- 6.5 Under planning reference 13/00833/OUT, an application for five dwellings was refused on the grounds that it would represent a significant extension of ribbon development located outside of any defined settlement limit, and would not constitute a minor infill but instead a harmful intrusion into the rural street scene. This decision was upheld at appeal (reference APP/P1560/A/14/2212508).

- 6.6 Since these decisions, the application site has been included within the Settlement Development Boundary for Alresford within the Emerging Plan. Under planning reference 15/01686/FUL, planning permission was therefore granted for a single detached dwelling.
- 6.7 More recently, under planning reference 18/01381/FUL, the Planning Committee determined to refuse an application on this site for three dwellings. The reasons for this refusal was the proposed dwellings, by respect of their large size and siting behind the existing building line within spacious open plots, would appear as a prominent and incongruous feature, and would therefore represent a form of ribbon development that would not appear in-keeping with the surrounding semi-rural street scene.
- 6.8 This decision was dismissed at appeal (appeal reference APP/P1560/W/19/3222077, dated 13 June 2019), with the Inspector concluding "*I have found that the proposed development would be contrary to the development plan in that it would result in material harm to the character and appearance of the area, to which I afford significant weight. Moreover, even if the Council is unable to demonstrate a five year housing land supply and whether or not the policies which are the most important for determining the appeal are out-of-date, the harm I have found to the character and appearance of the area is serious and in my view, that significantly and demonstrably outweighs the benefits of the scheme when assessed against the policies in the Framework taken as a whole. As such the presumption in favour of sustainable development as envisaged by the Framework does not apply in this case.*"
- 6.9 The Planning Committee, dated 15 January 2019, granted planning permission for one detached residential dwelling on this site under planning reference 18/01775/FUL.

Amendments following appeal decision

- 6.10 Planning appeal decision APP/P1560/W/19/3222077 dismissed the appeal for three dwellings at this site. The application submitted has sought to overcome the concerns raised by the Inspector, as shown below:
- The design of the dwellings has been reduced from two storey to 1.5 storey, which incorporates a reduction in width and height of each dwelling, and lower eaves height and dormers;
 - Plot 1 now does not resemble the previous Essex barn design;
 - Change of materials to show a mixture of cream render and brick;
 - Single storey garages in comparison to the larger garages previously; and
 - The three plots are less spacious and sited further forward.

Principle of Development

- 6.11 The application site is located within the defined Settlement Development Boundary for Alresford, as defined by the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.12 Policy HG3 of the Adopted Tendring Local Plan 2007 and Policy SPL2 of the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft states that there is a general presumption in favour of new development within defined development boundaries of towns and villages, subject to detailed consideration against other relevant Local Plan policies. The principle for residential development is therefore acceptable subject to the detailed consideration below.

Layout, Design and Appearance

- 6.13 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).

- 6.14 In refusing planning application 18/01381/FUL, the Planning Committee considered the proposed dwellings, by respect of their large size and siting behind the existing building line within spacious open plots, would appear as a prominent and incongruous feature, and would therefore represent a form of ribbon development that would not appear in-keeping with the surrounding semi-rural street scene. While this decision was upheld at appeal, the applicant has sought to overcome the concerns raised by the Inspector, which will be explained in detail below.
- 6.15 Within the earlier appeal decision the Inspector highlighted that “*The development of the site with three substantial dwellings would fail to respect the close knit urban grain to the west and would interrupt the established rhythm of development in the area.*” and “*notwithstanding that plot one attempts to reflect the conversion of a traditional Essex barn, it nonetheless would be a substantial building occupying a prominent position that would dominate the site.*” The plans submitted have sought to overcome the concern of the substantial size of the dwellings, and show that there are to be three detached dwellings, each of which will now be 1.5 storey (previously two storeys) and serving four bedrooms. The design includes front and rear facing dormers, and a low eaves height, while the predominant use of materials is cream render and brick. It is also noted that the design of Plot 1 now does not mimic its previous Essex barn approach, and is instead more in-keeping with the sub-urban character of the area. All of these amendments are in-keeping with the existing development to the west, and help the dwellings to assimilate well within their surroundings.
- 6.16 The Inspector also identified that the site has a greater physical relationship with the developed area to the west than the more open and rural character on the opposite side of the road, and stated “*The existing properties along Wivenhoe Road, and in the area generally, have been developed in close proximity to each other. While there isn’t an absolute uniform spacing about the buildings, there is nonetheless a pleasing sense of rhythm to the area.*” Following this, the applicant has revised the proposed layout to ensure the dwellings are set in less spacious plots, relocated Plot 1 to be less detached and more related to Plots 2 and 3, and sited all dwellings further forward so that they are more in line with the existing building line running west to east. Therefore, despite it being acknowledged that Plots 2 and 3 are set back from the existing building line by 3m and 4m respectively, the proposed layout has overcome the concerns raised by the Inspector and is now considered acceptable.
- 6.17 Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of three bedrooms or more should be a minimum of 100 square metres. The information that has been supplied demonstrates that this is comfortably achieved for all three proposed dwellings.

Impact on Neighbouring Amenities

- 6.18 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).
- 6.19 The only adjacent neighbour potentially impacted by the proposal is Number 2 Wivenhoe Road, located to the west of the site. However, given that the nearest plot, Number 3,

maintains 2.5m to the boundary and an overall 10m separation distance, the impact of the dwellings in terms of loss of light or appearing imposing will be significantly reduced.

- 6.20 In respect of potential overlooking, plot 3 has no first floor side elevation windows that could directly overlook, whilst the two first floor rear elevation windows will only have views to further rear of the neighbouring garden, an area less likely to be regularly occupied.

Tree and Landscaping Impacts

- 6.21 The application site is set to grass and is well screened by a number of trees of a mixed species to the northern boundary. The development can be implemented without harm being caused to these trees, but they should be retained for the contribution they make to the amenity of the locality and for their screening value.
- 6.22 There is a line of Cupressocyparis Leylandii situated to the left hand side of the existing access that would be removed if the proposal was implemented; however whilst these have some visual amenity value they do not merit protection by means of a Tree Preservation Order.
- 6.23 A large Oak tree is situated in the highway in front of 2 Wivenhoe Road that is covered by Tree Preservation Order 10/46; however the tree is unlikely to be affected by the development proposed given that the access being used is as existing.
- 6.24 A condition is recommended to be attached to secure details of the steps that will be taken to physically protect retained trees, whilst a further condition is recommended to secure details of boundary treatments abutting the open countryside. Post and rail fencing with native hedging directly adjacent would be in-keeping with the areas character.

Archaeological

- 6.25 The Archaeological team at Essex Place Services have stated the proposed development lies adjacent to recorded cropmark evidence which may indicate prehistoric or later activity, however the area of the proposed houses lie beyond this and are of a scale that they are unlikely to impact on any significant archaeological remains.

Highway Safety

- 6.26 Essex County Council Highways have been consulted. They raise no objections subject to conditions relating to the off street parking and turning facilities, a vehicular turning facility, the submission of a Construction Method Statement and the use of no unbound materials. All of these conditions are recommended on this decision bar the submission of a vehicular turning facility as this has already been provided within the submitted plans.
- 6.27 A further condition relating to the storage of bicycles has been requested; however given that there is significant room within the proposed garages and private garden areas, this condition is not recommended to be included.
- 6.28 Furthermore, the Council's Adopted Parking Standards require that for dwellings with two or more bedrooms that a minimum of two parking spaces are required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally.
- 6.29 The submitted plans show that each plot will have a garage that meets the above requirements, while there is room to the front of each garage to accommodate the remaining necessary parking.

Legal Obligations

- 6.30 Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".
- 6.31 There is currently a deficit of 1.91 hectares of equipped play and formal open space in Alresford. The closest play area and recreation ground is located off St Andrews Close, approximately 0.5 miles away, and is designated as a Local Equipped Area for Play. To cope with the additional usage it would be necessary to increase the size of this play area, and therefore a contribution is both justified and relevant to this application.
- 6.32 A unilateral undertaking has been completed to secure this legal obligation and to ensure compliance with saved policy COM6.

Habitat Regulations Assessment

- 6.33 Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation). Within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings.
- 6.34 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). A Habitat Regulations Assessment has therefore been undertaken 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 contribution is secured by unilateral undertaking. There is therefore certainty that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

7. Conclusion

- 7.1 In summary, the application site falls within the Settlement Development Boundary of Alresford within the Emerging Local Plan, thereby ensuring the principle of development is acceptable. While a previous scheme for three dwellings on this site was previously refused and dismissed at appeal, it is considered that the submitted plans have overcome the concerns raised by the Inspector; namely by reducing the size of the dwellings, amending their design, and siting them further forward to be more in-keeping with the existing building line to the west. There are no harmful impacts to either existing trees on site or neighbouring amenities, while subject to conditions Essex Highways Authority do not object. A legal agreement has been completed for contributions towards Open Space and RAMS, and therefore subject to the conditions shown below the application is recommended for approval.

8. Recommendation

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives.

8.2 Conditions and Reasons

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans, drawing numbers 40A, 41A, 42A, 43A, 44A, 45A, 46A, 47A, 48A, 49A, and the document titled 'Planning Statement'.

Reason - For the avoidance of doubt and in the interests of proper planning.

- 3 Prior to occupation of the proposed development, details of the steps that will be taken to physically protect retained trees shall be submitted to and approved by the Local Planning Authority.

Reason - To ensure the protection of the retained trees on site.

- 4 Prior to the commencement of any above ground works, a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved by the Local Planning Authority. The approved boundary treatments shall be implemented before the dwelling hereby permitted is occupied and retained in this approved form in perpetuity.

Reason - In the interests of protecting the semi-rural landscape and in the interests of visual amenity.

- 5 Prior to the commencement of any above ground works, a scheme of hard and soft landscaping works for the site shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction.

Reason - To enhance the visual impact of the proposed works.

- 6 All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason -To enhance the visual impact of the proposed works.

- 7 Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Classes A, B and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), there shall be no additions to the dwelling or the roof, nor shall any buildings, enclosures, swimming or other pool be erected except in accordance with drawings showing the design and siting of

such additions or building(s) which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - To protect the semi-rural landscape and in the interests of visual amenity.

- 8 Prior to the first occupation of the proposed dwellings, the proposed vehicular access and off-street parking and turning facilities shall be provided in accordance with Drawing Number 41 Rev A with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety.

- 9 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

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

- 10 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.

8.3 Informatives

Positive and Proactive Statement

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

Highways Informatives

On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

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.

Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Legal Agreement Informative - Open Space/Play Space Contribution

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: Public Open Space financial contribution in accordance with Policy COM6 of the adopted Tendring District Local Plan (2007) and Policy HP5 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
 - 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
 - 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.

- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

10. Background Papers

None.

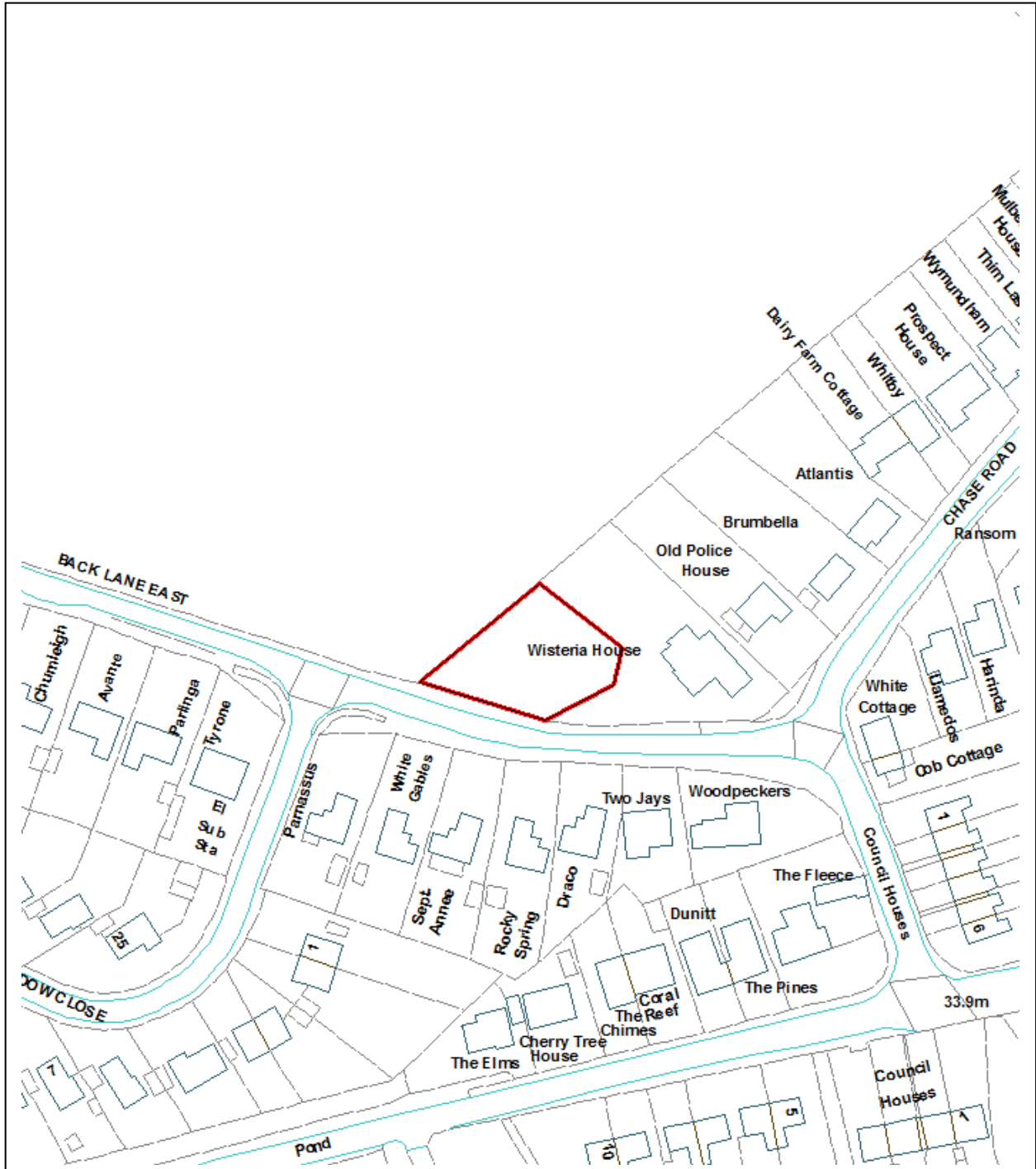
This page is intentionally left blank

PLANNING COMMITTEE

22 October 2019

REPORT OF THE HEAD OF PLANNING

A.5 PLANNING APPLICATION – 19/01353/OUT – WISTERIA HOUSE BACK LANE EAST GREAT BROMLEY CO7 7UE



DO NOT SCALE

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

Application: 19/01353/OUT

Town / Parish: Great Bromley Parish Council

Applicant: Mr and Mrs Owens

Address: Wisteria House Back Lane East Great Bromley CO7 7UE

Development: Construction of a self-build/custom build bungalow with associated single garage, driveway and garden area.

1. Executive Summary

- 1.1 The application is referred to Planning Committee at the request of Councillor Scott due to the perceived positive impact of the development on the locality.
- 1.2 The site lies outside of any Settlement Development Boundary as defined within both the adopted Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). Great Bromley is identified as one of the least sustainable locations for growth within both the adopted and emerging Local Plans.
- 1.3 The application seeks outline permission with all matters reserved for the erection of 1 no. self-build/custom build bungalow with associated double garage, driveway and garden area. This application follows a previous refusal for a very similar scheme under planning application reference 19/00674/OUT (currently subject of an Appeal to the Planning Inspectorate). The application was refused as the development was considered contrary to the environmental and social strands of sustainability.
- 1.4 The current application differs from the previous refusal as it now seeks permission for a self-build/custom built dwelling. Some amendments have also been made to the appearance of the development but these are immaterial as the application is made in outline form. Furthermore, additional information has been provided in support of the perceived sustainable attributes of the locality and the suitability of the site for residential development.
- 1.5 The application site currently comprises the side garden area associated with the property known as Wisteria House, located on the northern side of Back Lane East within the Parish of Great Bromley. Back Lane East forms the southern boundary of the site, with the donor dwelling to the north-east and open countryside to the north and west. The site currently contains a number of outbuildings and glass houses ancillary to the donor property.
- 1.6 In this instance, the application site is located approximately 2km from the edge of the Great Bromley Settlement Boundary to the north-west with its already limited range of services and amenities. In this regard, there is no access to day to day needs within a practical walking distance. It is highly likely that the occupants of the proposed dwelling would be car dependant failing to promote sustainable modes of transport therefore failing to meet the social strand of sustainable development.
- 1.7 The site is bound by open fields to its north and north-west. With no other dwellings on this side of Back Lane East, it takes on a very different character. The semi-rural character of the locality is not compromised by the existing domestic structures within the garden of Wisteria House. The development is considered to represent an unplanned advance of urbanisation. Whilst it is recognised that the existing vegetation around the site and single storey scale of the dwelling would minimise the wider landscape harm, the introduction of an additional dwelling in this location fronting this part of the lane would be out of character within the street scene of both Chase Road West and Back Lane East. Furthermore, if approved, this development would set a harmful precedent for the continuation of ribbon development along

this side of Back Lane East further eroding the semi-rural character of the area to the severe detriment of the landscape and character of the area.

- 1.8 In respect of the self-build/custom built home aspect of the proposal that can be attributed to the consideration of this application, Regardless of the need identified through our Self-build and Custom Housebuilding Register or the merits of the application in relation to Draft Policy LP7, the self-build aspect of the proposal is not considered to constitute a material consideration that warrants a departure from the Local Plan and there are no exceptional circumstances that outweigh the social and environmental harm identified.
- 1.9 Officers are satisfied that the erection of 1 detached bungalow could be achieved on the site without resulting in any demonstrable harm to residential amenities or highway safety and the development would contribute economically to the area during construction and occupation.
- 1.10 However, the provision of a single dwelling would make an immaterial contribution to the delivery of housing in the district. The poor social sustainability credentials of the site and adverse impact on the character of the area outweigh any economic benefits of the scheme. There are no exceptional circumstances that warrant approval of the development of the site for a self-build/custom build dwelling. The application is therefore recommended for refusal.
- 1.11 The development of the site for a single dwelling would be subject of a legal obligation to secure a financial contribution toward recreational impact mitigation (RAMS) and open space/play space projects through the completion of a Unilateral Undertaking (UU). A completed UU has been received and the application is not being refused on these grounds.

Recommendation: Refusal

That the Head of Planning be authorised to refuse planning permission for the reasons set out within paragraph 8.2.

2. Planning Policy

- 2.1 The following Local and National Planning Policies are relevant to this planning application:

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

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

HG16 Garden Extensions into the Countryside

HG7 Residential Densities

HG9 Private Amenity Space

TR1A Development Affecting Highways

EN6 Biodiversity

EN1 Landscape Character

EN11A Protection of International Sites European Sites and RAMSAR Sites

COM6 Provision of Recreational Open Space for New Residential Development

TR7 Vehicle Parking at New Development

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

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

SPL3 Sustainable Design

LP1 Housing Supply

LP3 Housing Density and Standards

LP4 Housing Layout

LP7 Self-Build and Custom Built Homes

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

HP5 Open Space, Sports & Recreation Facilities

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

- 2.2 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) 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.
- 2.3 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.

2.4 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.

2.5 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

02/00409/FUL	Change of use from agricultural use to garden curtilage	Approved	15.05.2002
04/00084/FUL	New dwelling and garage.	Approved	10.03.2004
19/00674/OUT	Proposed erection of a bungalow with associated double garage, driveway and garden area.	Refused	12.07.2019

4. Consultations

ECC Highways Dept

The information that was submitted in association with the application has been fully considered by the Highway Authority. The proposal is located off a quiet rural lane and will be located opposite several existing bungalows. The application is very similar to the

previous application (19/00674/OUT) The proposal provides adequate parking and turning therefore:

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

1. Prior to the first occupation of the dwelling, 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 less 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 all vehicular traffic using the junction may do so in a controlled manner and to provide adequate segregated pedestrian access, in the interests of highway safety and in accordance with Policy DM1 and DM6.

2. Prior to occupation of the dwelling a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority 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 in accordance with policy DM1.

3. 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.

4. 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.

5. 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 and in accordance with Policy DM8.

6. Prior to the first occupation of the dwelling the provision of the following:

A 1.5-metre-wide footway on the west side of the existing vehicle access to Wisteria House westwards for approximately 34 metres or to the first access to the

new dwelling; including the relocation/ replacement electricity poles/ lighting, removal of redundant kerbing and replacement with upstand kerb and footway, relocation/ replacement of any associated drainage works.

Reason: to facilitate access to the local footway network, and public rights of way network in the interests of accessibility and highway safety.

7. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in 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 1:

Any 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 or by post to:

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

5. **Representations**

5.1 No comments have been received from Great Bromley Parish Council.

5.2 No individual letters of representation have been received.

6. **Assessment**

6.1 The main planning considerations are:

- Site Context;
- Proposal;
- Planning History;
- Principle of Development;

- Self-Build and Custom Built Homes;
- Access and Parking;
- Residential Amenities;
- Legal Obligations - Recreational Impact Mitigation; and,
- Legal Obligations - Open Space/Play Space Contribution.

Site Context

- 6.2 The application site currently comprises the side garden area associated with the property known as Wisteria House, located on the northern side of Back Lane East within the Parish of Great Bromley. Wisteria House is a modern two storey house with a double garage attached to the main building (granted planning permission in 2004 under reference 04/00084/FUL).
- 6.3 The application site measures approximately 960 square metres in size being the south-western corner of the roughly triangular plot of Wisteria House. Back Lane East forms the southern boundary of the site, with the donor dwelling to the north-east and open countryside to the north and west of the site. The site currently contains a number of outbuildings and glass houses ancillary to the donor property.

Proposal

- 6.4 The application seeks outline permission with all matters reserved for the erection of 1 no. self-build/custom build bungalow with associated double garage, driveway and garden area.
- 6.5 Scale, appearance, landscaping, access and layout are all reserved for subsequent consideration.
- 6.6 Although this application is made in outline application with all matters reserved the application includes indicative plans to illustrate how the development proposal will be accommodated within the site.
- 6.7 The indicative plan shows a 2 bedroom detached bungalow (with separate study and garden room) orientated in a south-easterly direction with a detached double bay garage/cart lodge building sited to the front adjacent to Wisteria House. The private garden would wrap around the side and rear of the bungalow with vehicular access taken from Back Lane East.

Planning History

- 6.8 This application follows a previous refusal for a very similar scheme under planning application reference 19/00674/OUT (currently subject of an Appeal to the Planning Inspectorate). The application was refused as the development was considered contrary to the environmental and social strands of sustainability due to the lack of services to meet day to day needs and the harm to the character of the area.
- 6.9 The current application differs from the previous refusal as it now seeks permission for a self-build/custom built dwelling. Some amendments have also been made to the appearance of the development but these are immaterial as the application is made in outline form.
- 6.10 Furthermore, additional information has been provided in support of the perceived sustainable attributes of the locality and the suitability of the site for residential development. These include Site Photo Analysis and Urban Landscape Analysis.

Principle of Development

- 6.11 The site lies outside of any Settlement Development Boundary as defined within both the adopted Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). 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.
- 6.12 The National Planning Policy Framework 2019 (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.
- 6.13 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.
- 6.14 Whilst it is recognised that there would be conflict with Saved Policy QL1 and Emerging Policy SPL1 in terms of the site being 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 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.
- 6.15 While the NPPF 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 and it is accepted that the site is not in a preferred location for growth.
- 6.16 In line with Paragraph 8 of the National Planning Policy Framework (2019), achieving sustainable development means meeting an economic objective, a social objective and an environmental objective. These are assessed below.
- economic;
 - social, and;
 - environmental roles.
- 6.17 The sustainability of the application site is therefore of particular importance. In assessing sustainability, it is not necessary for the applicant to show why the proposed development could not be located within the development boundary.

Economic

- 6.18 It is considered that the proposal would contribute economically to the area, for example by providing employment during the construction of the property and from the occupants utilising local services (in addition to the future occupants of the donor dwelling), and so meets the economic strand of sustainable development.

Social

- 6.19 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 therefore being in line with the aims of the aforementioned paragraph 17 of the NPPF. 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 and to within development boundaries as defined within the Local Plan. In rural areas, the NPPF states at Paragraphs 77 and 78 that planning policies and decisions should promote sustainable development in rural areas and that housing should be located where it will enhance or maintain the vitality of rural communities.
- 6.20 Great Bromley is identified as a village within saved Policy QL1 of the adopted Tendring District Local Plan 2007 and is defined as a Smaller Rural Settlement within Policy SPL1 of the emerging Tendring District Local Plan Publication Draft (2017). These smaller villages are considered to be the least sustainable locations for growth and there is a concern that encouraging too much development in these areas will only serve to increase the number of people having to rely on cars to go about their everyday lives. Within the emerging Local Plan, Settlement Development Boundaries have been drawn flexibly, where practical, to accommodate sites both within and on the edge of villages and thus enabling them to be considered for small-scale residential 'infill' developments.
- 6.21 In this instance, the application site is located approximately 2km from the edge of the Great Bromley Settlement Boundary to the north-west with its already limited range of services and amenities. The site is located within 'Hare Green' which has no defined settlement boundary due to its small size and lack of services and amenities.
- 6.22 In this regard, there is no access to day to day needs within a practical walking distance. It is highly likely that the occupants of the proposed dwelling would be car dependant failing to promote sustainable modes of transport therefore failing to meet the social strand of sustainable development.
- 6.23 It is noted that there is a bus service to Colchester a short walk from the application site, but this in isolation is not considered sufficient to support new dwellings in this locality.
- 6.24 Regardless of the Council's housing land supply position, the application fails to meet the social strand of sustainable development nor will the delivery of a single dwelling enhance or maintain the vitality of the rural community. The development is contrary to the aforementioned local plan policies and the aims of the NPPF as a whole. The development is unnecessary and there are no public benefits that might warrant the proposal being considered in an exceptional light.

Environmental

- 6.25 The environmental role is about contributing to protecting and enhancing the natural and built environment. Paragraph 8 of the National Planning Policy Framework 2019 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and

enhancing our natural, built and historic environment. Furthermore, Paragraph 127 of the NPPF requires that development should respond to local character and history, and reflect the identity of local surroundings. It goes on to say that local distinctiveness should be promoted and reinforced. Saved Policy QL9 and EN1 of the Tendring District Local Plan (2007) and Policy SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape. Outside development boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.

- 6.26 Although the site could not be described as isolated, due to the presence of dwellings to the east and south, the site itself is bound by open fields to its north and north-west. Although the vehicular access is via Back Lane East, Wisteria House is positioned within its plot with a south-easterly orientation appearing to address Chase Road West. With no other dwellings on this side of Back Lane East, it takes on a very different character. The application site currently comprises the side garden area serving Wisteria House and contains a number of small, domestic outbuildings and greenhouse structures only. The semi-rural character is not compromised by these structures.
- 6.27 The southern side of Back Lane East is characterised by detached bungalows. Therefore, the erection of a bungalow would not be considered wholly out of character in terms of the residential built form in the locality.
- 6.28 Nonetheless, the development itself represents an unplanned advance of urbanisation. Whilst it is recognised that the existing vegetation around the site and single storey scale of the dwelling would minimise the wider landscape harm, the introduction of an additional dwelling in this location fronting this part of the lane would be out of character within the street scene of both Chase Road West and Back Lane East.
- 6.29 Furthermore, if approved, this development would set a harmful precedent for the continuation of ribbon development along this side of Back Lane East further eroding the semi-rural character of the area to the severe detriment of the landscape and character of the area.
- 6.30 The provision of a single dwelling would make an immaterial contribution to the delivery of housing in the district. The adverse visual impact would significantly and demonstrably harm the character of the area therefore failing the environmental strand of sustainability outweighing any economic benefits of the scheme.

Self-Build and Custom Built Homes

- 6.31 The National Planning Policy Guidance (NPPG) tells us that The Self-build and Custom Housebuilding Act 2015 requires each relevant authority to keep a register of individuals and associations of individuals who are seeking to acquire serviced plots of land in the authority's area in order to build houses for those individuals to occupy as homes (referred to in the guidance as self-build and custom housebuilding registers). The guidance accompanies the Self-build and Custom Housebuilding (Register) Regulations 2016 made under the Act.
- 6.32 The Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) provides a legal definition of self-build and custom housebuilding. The Act does not distinguish between self-build and custom housebuilding and provides that both are where an individual, an association of individuals, or persons working with or for individuals or associations of individuals, build or complete houses to be occupied as homes by those individuals.

- 6.33 Section 2 (1) of the Self-build and Custom Housebuilding Act 2015 (as amended) places a duty on relevant bodies to have regard to each self-build and custom housebuilding register that relates to their area when carrying out their plan-making and decision-taking functions. The registers that relate to their area may be a material consideration in decision-taking. Plan-making functions should use their evidence on demand for this form of housing from the registers that relate to their area in developing their Local Plan and associated documents.
- 6.34 Section 2A (2) of the Self-build and Custom Housebuilding Act 2015 (as amended) states that the Authority must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The level of demand is established by reference to the number of entries added to an authority's register.
- 6.35 The supporting information provided with the application states that the applicants have registered their interest on our self-build and custom housebuilding register and are willing to submit a Unilateral Undertaking to secure this dwelling as a self-build.
- 6.36 Policy LP7 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) is a new policy which aims to satisfy the requirements set out within legislation and national policy and guidance. There is no equivalent saved policy within the adopted Local Plan (2007) as this pre-dates the Self-build and Custom Housebuilding Act 2015 (as amended).
- 6.37 The NPPF is silent on policies relating directly to the delivery mechanism for self-build or custom-built dwellings.
- 6.38 Emerging Policy LP7 states that the Council will consider, on their merits, proposals for Self-Build and Custom-Built Homes on land outside of settlement development boundaries, where they will still support a sustainable pattern of growth in the District. Such developments must either:
- a. be located on a site safely accessible on foot within 600 metres of the edge of the settlement development boundary of one of the District's 'strategic urban settlements' or 'smaller urban settlements'; or,
 - b. be located on a site safely accessible on foot within 400 metres of the edge of the settlement development boundary of one of the District's 'rural service centres'; or,
 - c. involve the redevelopment of vacant or redundant previously developed land that can be shown, with evidence, to be unviable for employment use.
- 6.39 Whilst the emerging Local Plan is progressing well, Draft Policy LP7 has not yet been scrutinised by the Planning Inspectorate by an appeal or through the Local Plan process. It can therefore only be given very limited weight. Other policies such as Draft Policy SPL1 have been endorsed by the Planning Inspector as being in line with the NPPF.
- 6.40 For completeness, an assessment of the development against emerging Policy LP7 has been carried out. In this instance, the application site is located approximately 2km away from the edge of the Great Bromley Settlement Boundary which is defined as a 'Smaller Rural Settlement' within draft Policy SPL1 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). The edge of the settlement is not safely accessible on foot.
- 6.41 Draft Policy LP7 does not recognise the edge of Smaller Rural Settlements as suitable areas for the delivery of self-build and custom-built homes which echoes the sentiments of

emerging Policy SPL1 which identifies these settlements as the least sustainable locations for growth.

- 6.42 The proposal therefore fails to meet the requirements of draft Policy LP7 due to the settlement category, distance from the edge of the settlement and lack of footpaths. Draft Policy LP7 c is not relevant to this proposal.
- 6.43 Regardless of the need identified through our Self-build and Custom Housebuilding Register or the merits of the application in relation to Draft Policy LP7, the self-build aspect of the proposal is not considered to constitute a material consideration that warrants a departure from the Local Plan and there are no exceptional circumstances that outweigh the social and environmental harm identified above.
- 6.44 The status of Draft Policy LP7 means that a refusal based on this policy is not required at this time.

Trees and Landscaping

- 6.45 The main body of the application site forms part of the residential curtilage of the host property and is well stocked with trees and two hedges.
- 6.46 In order to show the extent of the constraint that the existing vegetation is on the development potential of the land, to identify the most important and visually prominent trees the applicant has provided an Arboricultural Impact Assessment (AIA) - a tree survey and report.
- 6.47 The information contained in the report provides an accurate description of the health, condition and amenity value of the trees on the land. It has been carried out in accordance with BS5837: 2012 Trees in relation to design, demolition and construction' Recommendations.
- 6.48 The report identifies the trees that will need to be removed in order to facilitate the development and shows how retained trees will be physically protected for the duration of the construction phase of any development for which planning permission may be granted.
- 6.49 The AIA makes provision for the retention and protection of two Oaks T19 and T20 which are the trees with the greatest amenity value. It is not considered expedient to make a new TPO on any of the trees on the site at the present time.
- 6.50 If Members are mindful to approve outline planning permission, then soft landscaping would be secured through the submission and approval of the reserved matters application. However, a condition should be attached to secure details of the protection of the retained tree.

Highway Safety and Parking

- 6.51 Saved Policy QL10 of the Saved Plan states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate.
- 6.52 Access for the proposed development will be via a new private drive parallel with Heath Road with an entrance slightly to the south east of the existing access to achieve better visibility splays. The indicative site layout plan shows each dwelling with its own parking and garage with adequate turning areas.

- 6.53 Officers consider that sufficient space is available on site to provide a development that could achieve access, turning and parking in line with the requirements the Council's current adopted Parking Standards.
- 6.54 Essex County Council Highway Authority raise no objection subject to conditions.

Residential Amenities

- 6.55 The NPPF, in paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) supports these objectives.
- 6.56 Officers consider that sufficient space is available on site to provide a development that could achieve an internal layout and separation distances that would not detract from the amenities of any nearby dwellings or the future occupiers of the proposed dwellings and would provide private amenity areas in excess of the standards set out within Saved Policy HG9 of the adopted Local Plan for both the new and donor dwelling.

Legal Obligations - Recreational Impact Mitigation

- 6.57 Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation). Within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings.
- 6.58 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site 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.
- 6.59 The application scheme proposes new dwellings on a site that lies within the Zone of Influence (Zoi) being approximately 5600 metres from the Essex Estuaries SAC and Colne Estuary SPA and RAMSAR sites.
- 6.60 New housing development within the Zoi would be likely to increase the number of recreational visitors to the Essex Estuary and Colne Estuary and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.
- 6.61 A completed unilateral undertaking has been received to secure the financial contribution required to mitigate against any recreational impact from the new dwelling and to ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017. Although Officers are recommending refusal this does not therefore form a reason for refusal. Should Members be mindful to approve the application, this would be subject to the UU and terms set out in paragraph 8.1.

Legal Obligations – Open Space/Play Space Contribution

- 6.62 There is currently a deficit of -1.15 hectares of equipped play and formal open space in Great Bromley. The nearest play space in Great Bromley is located along Harwich Road, approximately 0.2 miles from the application site. Due to the close proximity to the play area at Hare Green, a contribution towards the improvement of this play area is both relevant and justified to this application.
- 6.63 A completed unilateral undertaking has been received to secure the financial contribution towards the project identified above. Although Officers are recommending refusal this does not therefore form a reason for refusal. Should Members be mindful to approve the application, this would be subject to the UU and terms set out in paragraph 8.1.

7. Conclusion

- 7.1 For the reasons set out above, the development is considered to represent an unsustainable form of development due to the social and environmental harm identified. The provision of a single dwelling would make an immaterial contribution to the delivery of housing in the district. The poor social sustainability credentials of the site and adverse impact on the character of the area outweigh any economic benefits of the scheme. Furthermore, there are no exceptional circumstances that warrant approval of the development of the site for a self-build or custom built dwelling.

8. Recommendation

- 8.1 The Planning Committee is recommended to refuse outline planning permission subject to the below reasons for refusal and informatives. Should Members be mindful to approve the application contrary to officer recommendation, this would be subject to the completed unilateral undertaking with the agreed Heads of Terms as set out in the table below together with the associated informatives in relation to the UU;

CATEGORY	TERMS
Financial contribution towards RAMS.	£122.30 per dwelling.
Financial contribution towards open space and play space.	To fund improvements to the Hare Green play area.

8.2 Reasons for refusal

- 1 The site lies outside of any Settlement Development Boundary as defined within both the adopted Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). 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.

The National Planning Policy Framework 2019 (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.

Whilst it is recognised that there would be conflict with Saved Policy QL1 and Emerging Policy SPL1 in terms of the site being 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 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. While the NPPF 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 and it is accepted that the site is not in a preferred location for growth.

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 therefore being in line with the aims of the aforementioned paragraph 17 of the NPPF. 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 and to within development boundaries as defined within the Local Plan. In rural areas, the NPPF states at Paragraphs 77 and 78 that planning policies and decisions should promote sustainable development in rural areas and that housing should be located where it will enhance or maintain the vitality of rural communities.

Great Bromley is identified as a village within saved Policy QL1 of the adopted Tendring District Local Plan 2007 and is defined as a Smaller Rural Settlement within Policy SPL1 of the emerging Tendring District Local Plan Publication Draft (2017). These smaller villages are considered to be the least sustainable locations for growth and there is a concern that encouraging too much development in these areas will only serve to increase the number of people having to rely on cars to go about their everyday lives. Within the emerging Local Plan, Settlement Development Boundaries have been drawn flexibly, where practical, to accommodate sites both within and on the edge of villages and thus enabling them to be considered for small-scale residential 'infill' developments.

In this instance, the application site is located approximately 2km from the edge of the Great Bromley Settlement Boundary to the north-west with its already limited range of services and amenities. The site is located within 'Hare Green' which has no defined settlement boundary due to its small size and lack of services and amenities.

In this regard, there is no access to day to day needs within a practical walking distance. It is highly likely that the occupants of the proposed dwelling would be car dependant failing

to promote sustainable modes of transport therefore failing to meet the social strand of sustainable development.

It is noted that there is a bus service to Colchester a short walk from the application site, but this in isolation is not considered sufficient to support new dwellings in this locality.

Regardless of the Council's housing land supply position, the application fails to meet the social strand of sustainable development nor will the delivery of a single dwelling enhance or maintain the vitality of the rural community. The development is contrary to the aforementioned local plan policies and the aims of the NPPF as a whole. The development is unnecessary and there are no public benefits that might warrant the proposal being considered in an exceptional light.

- 2 Paragraph 8 of the National Planning Policy Framework 2019 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment. Furthermore, Paragraph 127 of the NPPF requires that development should respond to local character and history, and reflect the identity of local surroundings. It goes on to say that local distinctiveness should be promoted and reinforced. Saved Policy QL9 and EN1 of the Tendring District Local Plan (2007) and Policy SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape. Outside development boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.

Although the site could not be described as isolated, due to the presence of dwellings to the east and south, the site itself is bound by open fields to its north and north-west. Although the vehicular access is via Back Lane East, Wisteria House is positioned within its plot with a south-easterly orientation appearing to address Chase Road West. With no other dwellings on this side of Back Lane East, it takes on a very different character. The application site currently comprises the side garden area serving Wisteria House and contains a number of small, domestic outbuildings and greenhouse structures only. The semi-rural character is not compromised by these structures.

Nonetheless, the development itself represents an unplanned advance of urbanisation. Whilst it is recognised that the existing vegetation around the site and single storey scale of the dwelling would minimise the wider landscape harm, the introduction of an additional dwelling in this location fronting this part of the lane would be out of character within the street scene of both Chase Road West and Back Lane East. Furthermore, if approved, this development would set a harmful precedent for the continuation of ribbon development along this side of Back Lane East further eroding the semi-rural character of the area to the severe detriment of the landscape and character of the area.

The provision of a single dwelling would make an immaterial contribution to the delivery of housing in the district. The adverse visual impact would significantly and demonstrably harm the character of the area therefore failing the environmental strand of sustainability outweighing any minor economic benefits of the scheme.

8.3 Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Agent. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and

freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

10. Background Papers

None.

This page is intentionally left blank