



PLANNING COMMITTEE

DATE: Wednesday 12 February 2020
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 on 01255686585.

DATE OF PUBLICATION: TUESDAY 4 FEBRUARY 2020

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 - 20)

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Tuesday 14 January 2020.

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 38

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 - 18/01779/FUL - 700 St Johns Road & St Johns Nursery Site, Earls Hall Drive, Clacton-on-Sea, CO16 8BJ (Pages 21 - 76)

Demolition of nursery buildings and dwellinghouse. Erection 195 residential units (comprising 6 two bed houses, 87 three bed houses, 33 four bed houses, 25 five bed houses, 12 one bedroom apartments and 24 two bedroom apartments), and 8 live work units (mixed commercial units measuring 1064 square metres in total with flats above). Associated roads, open space, drainage, landscaping, and other infrastructure.

6 A.2 - Planning Application - 19/01116/FUL - Land site of former Martello Caravan Park, Kirby Road, Walton-on-the-Naze, CO14 8QP (Pages 77 - 106)

Proposed 53no. dwellings and associated landscaping, roads, parking and drainage works.

7 A.3 - Planning Application - 19/00981/FUL - Former Martello Caravan Park, Kirby Road, Walton-on-the-Naze, CO14 8QP (Pages 107 - 122)

Proposed re-grading earthworks and associated landscaping and fencing to the permitted open space consented under application 15/01714/FUL.

8 **A.4 - Planning Application - 19/01427/FUL - Former Public Conveniences, Frinton Road, Holland-on-Sea, CO15 5DE (Pages 123 - 132)**

Change of use of former public conveniences to cafe with internal/external seating areas.

9 **A.5 - Planning Application - 19/00610/FUL - Land at Oakmead Road, St Osyth, CO16 8NW (Pages 133 - 160)**

Construction of 4 No detached houses and access road off existing drive.

10 **A.6 - Planning Application - 19/01667/FUL - Land to the West of 45 Harwich Road, Lawford, Manningtree, CO11 2LS (Pages 161 - 180)**

Erection of two dwellings.

MEETING OVERRUN DATE

In the event that all business is not concluded, the meeting will reconvene on Thursday 13 February 2020 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, 10 March 2020.

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**

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**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON TUESDAY 14 JANUARY 2020 AT 6.00 PM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY**

Present:	Councillors White (Chairman), Bray (Vice-Chairman), Alexander, Cawthron, Codling, Fowler, Harris, McWilliams and Placey
Also Present:	Councillors Clifton, Scott and Wiggins
In Attendance:	Lisa Hastings (Head of Governance and Legal Services & Monitoring Officer), Graham Nourse (Planning Manager), Trevor Faulkner (Temporary Planning Team Leader), Alison Newland (Planning Team Leader) (except minutes 80-81) and Katie Sullivan (Committee Services Officer)

75. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were no apologies for absence or substitutions on this occasion.

76. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Committee, held on Tuesday 17 December 2019, were approved as a correct record and signed by the Chairman.

77. DECLARATIONS OF INTEREST

Councillor Bray declared for the public record in regards to Planning Applications 19/01269/DETAIL and 19/00283/FUL that he was also a Frinton and Walton Town Councillor, however, he stated that he had not been involved in discussions on the applications at the Town Council and was not pre-determined.

Councillor Scott, who was present in the public gallery, declared for the public record that he was one of the local Ward Councillors for Planning Application 18/01884/FUL.

Councillor Wiggins, who was present in the public gallery, declared for the public record that she was one of the local Ward Councillors for Planning Application 18/01884/FUL.

Councillor Clifton, who was present in the public gallery, declared for the public record in regards to Planning Applications 19/01269/DETAIL and 19/00283/FUL that he was the local Ward Councillor and that he was also a Frinton and Walton Town Councillor.

78. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were no questions on notice on this occasion.

79. A.1 - PLANNING APPLICATION - 19/01269/DETAIL - 171 THORPE ROAD AND LAND TO REAR OF 121-183 THORPE ROAD AND 4-20 CHAPEL LANE, KIRBY CROSS, CO13 0NH

Councillor Bray had earlier declared for the public record in regards to Planning Application 19/01269/DETAIL that he was also a Frinton and Walton Town Councillor,

however, he stated that he had not been involved in discussions on the application at the Town Council and was not pre-determined.

Councillor Clifton, who was present in the public gallery, had earlier declared for the public record in regards to Planning Application 19/01269/DETAIL that he was the local Ward Councillor and that he was also a Frinton and Walton Town Councillor.

It was reported that this reserved matters application had been referred to the Committee in accordance with the request made by the Committee at the time it had determined the related outline planning application.

Members recalled that planning application 15/01710/OUT (which had sought outline planning permission for the demolition of one dwelling and outline planning permission for the erection of up to 110 no. residential units, with all matters reserved except for access) had been refused by Members contrary to the Officer recommendation.

Members were informed that the applicant had appealed that decision and in September 2016 a Planning Inspector had granted the outline permission, subject to a Section 106 legal agreement and nineteen conditions.

Members were further informed that the application now before it sought the approval of reserved matters for appearance, landscaping, layout, and scale, pursuant to condition 1 imposed upon the grant of outline planning permission. Approval was also now sought for the erection of 110 dwellings, comprising a mix of 2, 3 and 4-bedroom two-storey houses, including 8 dwellings that were to be gifted to the Council for use as Affordable Housing, in accordance with the Section 106 Agreement secured under the outline permission.

It was reported that this application represented an alternative reserved matters proposal to that approved under 18/01728/DETAIL for 105 dwellings in November 2019, following completion of the RAMS legal agreement, which in its turn followed an approval by the Planning Committee on 12 August 2019.

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

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

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

- (1) Objections raised by Network Rail which had been previously set sent to another Council in error;
- (2) One additional letter of objection; and
- (3) One additional email of objection.

Samuel Caslin on behalf of the applicant, spoke in support of the application.

Following discussion by the Committee and advice provided by Officers, it was moved by Councillor Harris, seconded by Councillor Bray and unanimously **RESOLVED** that

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

- a) The applicant submitting a revised plan showing pedestrian access to south east corner of the site being permanently blocked up and a revised dog walking route plan;
- b) removal of condition 16 as set out in the Report;
- c) within 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 of £122.30 per dwelling towards RAMS;
- d) the following Conditions:

Conditions and Reasons

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

Site Location Plan – TW019-PL-01
Concept Development Layout – TW019-PL-02 Rev L
Detailed Layout – TW019-PL03 Rev I
Landscape Plan – TW019-PL04 Rev H
HA Location Plan – TW019-PL06 Rev G
Storey Height Plan – TW109-PL08 Rev G
Garden Areas – TW109-PL09 Rev E
Housetype Ashenford NA20a – TW019-HA-NA20a-01 Rev 00
Housetype Ashenford NA20b – TW019-HA-NA20b-02 Rev A
Housetype Coltford NA34 – TW019-HA-NA34-01 Rev 00
Housetype Byford NA32a – TW019-HT-NA32a-01 Rev A
Housetype Byford NA32b (Boarding) – TW019-HT-NA32b-02 Rev A
Housetype Manford NA44 – TW019-HT-NA44-01 Rev B
Housetype Possdale NA40a – TW019-HT-NT40a-01 Rev C
Housetype Possdale NA40c – TW019-HT-NT40c-02 Rev B
Housetype Waysdale NT42 – TW019-HT-NT42-01 Rev B
Housetype Waysdale NT42a – TW019-HT-NT42a-02 Rev C
Housetype Waysdale(Boarding) - NT42b –TW019-HT-NT42b-03 Rev B
Housetype Waysdale NT42c – TW019-HT-NT42c-04 Rev A
Housetype Canford PA25 – TW019-HT-PA25-01 Rev C
Housetype Gosford PA34a – TW019-HT-PA34a-01 Rev C
Housetype Gosford PA34b – TW019-HT-PA34b02 Rev C
Housetype Gosford PA34c – TW019-HT-PA34c-03 Rev A
Housetype Easedale PT36a – TW019-HT-PT36a-01 Rev A
Housetype Easedale PT36c – TW019-HT-PT36c-02 Rev B
Housetype Yewdale PT37a – TW019-HT-PT37a-01 Rev E
Housetype Yewdale PT37b – TW019-HT-PT37b-02 Rev B
Housetype Yewdale PT37c – TW019-HT-PT37c-03 Rev A

Garage Types – TW019-GR-01
Garage Types - TW109-GR-02
Sub-Station - Tw019-sub-01 rev a
Street Scenes – TW019-ST01 Rev.B
Soft Landscape Proposals 1 of 10 - 19.4068.01.F
Soft Landscape Proposals 2 of 10 - 19.4068.02.D
Soft Landscape Proposals 3 of 10 - 19.4068.03.E
Soft Landscape Proposals 4 of 10 - 19.4068.04.D
Soft Landscape Proposals 5 of 10 - 19.4068.05.E
Soft Landscape Proposals 6 of 10 - 19.4068.06.D
Soft Landscape Proposals 7 of 10 - 19.4068.07.D
Soft Landscape Proposals 8 of 10 - 19.4068.08.D
Soft Landscape Proposals 9 of 10 - 19.4068.09.E
Soft Landscape Proposals 10 of 10 - 19.4068.10.F
Updated Barn Owl Ecological Advice Note (SES, November 2019)
Reptile Mitigation Strategy (SES, November 2019)
Attenuation Basin Plan
Circular Dog Walking Route 19.4668.11
Pump Station Details 5793:101 Rev B
AIA 7658.D.AIA Rev A
Root Investigation 7816-D-R1
Root Investigation 2 7816-D-R1 2
Preliminary Arboricultural Method Statement Proj, 7658 Rev A
Arboricultural Monitoring Report Proj. 7816

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

2. All mitigation measures and/or works shall be carried out in accordance with the details contained in the Updated Barn Owl Ecological Advice Note (SES, November 2019) and Reptile Mitigation Strategy (SES, Nov 2019). This may include the appointment of an appropriately competent person e.g. a suitably qualified ecologist holding a Natural England Barn Owl Licence, to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

Reason: To conserve Protected species and allow the Local Planning Authority to discharge its duties under the Wildlife & Countryside Act 1981 as amended and s17 Crime & Disorder Act 1998 (wildlife crime).

3. No development shall take place, including demolition, ground works and vegetation clearance, until a biodiversity monitoring strategy for Barn Owls has been submitted to, and approved in writing by, the Local Planning Authority. The purpose of the strategy shall be to monitor the success of the replacement nest box for Barn Owls. The content of the Strategy shall include the following.

- a) Aims and objectives of monitoring to match the stated purpose.
- b) Identification of adequate baseline conditions prior to the start of development.

- c) Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged.
- d) Methods for data gathering and analysis.
- e) Location of monitoring.
- f) Timing and duration of monitoring.
- g) Responsible persons and lines of communication.
- h) Review, and where appropriate, publication of results and outcomes.

A report describing the results of monitoring shall be submitted to the Local Planning Authority at intervals identified in the strategy. The report shall also set out (where the results from monitoring show that conservation aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed with the Local Planning Authority, and then implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The monitoring strategy will be implemented in accordance with the approved details.

Reason: To allow the Local Planning Authority to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended.

4. Prior to the occupation of each dwelling the internal road and footway serving that dwelling shall be provided in principal and accord with drawing number TW019-PL-02 Rev L Concept Layout Drawing.

Reason: To ensure acceptable vehicle and pedestrian access to each dwelling.

5. Prior to the commencement of any above ground works, details of the estate roads and footways, including the three footway links proposed to Thorpe Road and Chapel Lane (including layout, levels, gradients, surfacing, means of enclosure, lighting, soft landscaping, bollards and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety.

6. 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.

7. Prior to the commencement of any above ground works, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority.

Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been completed in full accordance with the approved scheme.

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

8. Each tandem vehicular parking space shall have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles and each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres. All single garages should have a minimum internal measurement of 7m x 3m and all double garages should have a minimum internal measurement of 7m x 5.5m

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

9. Prior to the development above ground level the details of the number, location and design of a covered parking facility for bicycles shall be submitted to and approved in writing by the local planning authority. The approved cycle parking facility shall be provided prior to occupation of each dwelling that it will serve.

Reason: To ensure appropriate bicycle parking is provided in accordance with the Council's adopted Parking Standards.

10. No dwelling shall be occupied until such time as its car parking/garaging and turning area as shown on the approved plans has been provided. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

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

11. The garage hereby permitted on Plots 1, 16, 17, 20, 23, 27, 28, 31, 32, 33, 86, 87, 92, 93, 101, 102 and 110 shall only be used for the parking of vehicles or for domestic storage associated with the dwelling and not used for living accommodation.

Reason: To ensure adequate parking and garage space is provided within the site in accordance with the standards adopted by the local planning authority.

12. The bathroom window on the west facing elevation on Plot 2 shall be glazed with obscure glass and shall be so maintained at all times.

Reason: In order to safeguard the privacy of adjoining occupiers.

13. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no additional windows, doors, rooflights, or dormer windows, as permitted by Classes A, B and C of Part 1 of Schedule 2, other

than those indicated on the approved plans shall be constructed on the western elevation/roof slope of the dwelling hereby permitted on Plot 2 without first obtaining planning permission from the local planning authority.

Reason: In order to safeguard the privacy of adjoining occupiers.

14. Prior to occupation of Plots 36, 37, 38, 39, 40 or 41 the pedestrian link between the estate road and Thorpe Road, and running between no. 155 Thorpe Road and no. 159 Thorpe Road, shall have been constructed in accordance with the approved details and shall be available for public access and thereafter retained and maintained in the approved form.

Reason: To ensure footways are constructed to an acceptable standard and available for the public to use, to encourage more sustainable modes of transport and to reduce reliance on the private car.

15. Prior to occupation of Plots 54, 55, 56 or 57 the pedestrian link between the estate road and Thorpe Road, and running between no. 129 Thorpe Road and no. 127 Thorpe Road, shall have been constructed in accordance with the approved details and shall be available for public access and thereafter retained and maintained in the approved form.

Reason: To ensure footways are constructed to an acceptable standard and available for the public to use, to encourage more sustainable modes of transport and to reduce reliance on the private car.

16. The Residential Travel Packs that are to be provided pursuant to Condition no.12 of planning permission 15/01710/OUT, shall include the following;
 - a) Information regarding the safe use of level crossings over the railway lines and the dangers of failing to use them properly.
 - b) Details of the approved circular walking routes to and from the site, which can be used by residents along with specific encouragement for dog walkers to use these routes.

As required by condition no.12 of planning permission (15/01710/OUT) the Residential Travel Information Packs shall have been previously submitted to and approved in writing by the local planning authority, and shall be provided to the first occupant of each new dwelling.

Reason: To promote the safe use of railway level crossings and to encourage the future residents to remain on-site for day to day recreation/dog walking, so as to minimise pressures upon Hamford Water SPA and Ramsar, Colne Estuary SPA and Ramsar, Blackwater Estuary SPA and Ramsar, Dengie SPA and Ramsar, and Essex Estuaries SAC pursuant to the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy.

17. The scheme of landscaping as shown on the approved Soft Landscape Proposals Plans, or such other scheme as may be agreed in writing by the local planning authority, shall be carried out during the first available planting season after the commencement of the development. Any trees or plants which die, are removed or become seriously damaged, or diseased within a

period of five years from the completion of the development shall be replaced in the next planting season with others of a similar size and species unless the local planning authority gives written consent to any variation.

Reason: To ensure a satisfactory scheme of hard and soft landscaping to enhance the appearance of the development.

18. Prior to the commencement of any above ground works, full details of the route of the underground power line shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: As insufficient information has been provided with the application, in the interests of visual and residential amenity, and the Grade II listed building Mill House at 127 Thorpe Road.

19. Prior to the first occupation of the development hereby approved, a strategy to ensure that there is a boundary fence between the proposed development and the railway line which conforms to Network Rail design standards, shall be submitted to and approved in writing by the Local Planning Authority. The strategy will include full details of the location, construction and condition of the current boundary fence on the railway boundary and in the event that the part or all the existing fence does not conform to current Network Rail standards, details of how an appropriate boundary fence will be provided. Any works specified in the approved strategy shall be carried out in accordance with the approved strategy prior to the first occupation of the development.

Reason: To ensure that the increase in public activity resulting from the development does not result in an increase in trespass or anti-social behaviour on the railway line that would be detrimental to the safety of member of the public and railway users.

Informatives

- 1) 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.

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

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.

4) Any tree planting proposed within the highway must be agreed with the Highway Authority. Trees must be sited clear of all underground services and visibility splays and must be sympathetic to the street lighting scheme. All proposed tree planting must be supported by a commuted sum to cover the cost of future maintenance, to be agreed with the Highway Authority.

5) Desktop analysis has suggested that the proposed development will lead to an unacceptable risk of flooding downstream. We therefore highly recommend that you engage with Anglian Water at your earliest convenience to develop in consultation with us a feasible drainage strategy. If you have not done so already, we recommend that you submit a Pre-planning enquiry with our Pre-Development team.

Foul water drainage strategy will need to include a feasible drainage strategy agreed with Anglian Water detailing the discharge solution including:

Development size; Proposed discharge rate (Should you require a pumped connection, please note that our minimum pumped discharge rate is 3.8l/s); Connecting manhole discharge location (No connections can be made into a public rising main); Notification of intention to connect to the public sewer under S106 of the Water Industry Act.

Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

6) Anglian Water advise that they have assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore, the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991. or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

7) Given the close proximity to the operational railway line, if and before any works are undertaken the developer would need to engage with the ASPRO team (AssetProtectionAnglia@networkrail.co.uk) to ensure the protection of the railway line.

8) 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.

- e) 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 six months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a Section 106 planning obligation.

80. A.2 - PLANNING APPLICATION - 18/01884/FUL - LAND TO THE WEST OF CHURCH ROAD, ELMSTEAD, CO7 7AR

Councillor Scott, who was present in the public gallery, had earlier declared for the public record that he was one of the local Ward Councillors for Planning Application 18/01884/FUL.

Councillor Wiggins, who was present in the public gallery, had earlier also declared for the public record that she was one of the local Ward Councillors for Planning Application 18/01884/FUL.

It was reported that, following the approval of planning application 14/01292/OUT on this site for 20 units, a community hall, playing field and allotments, a further housing development at Charity Field, Elmstead Market, had been allowed on appeal which had also made provision for a new community hall, allotments and public open space. Therefore, following the Charity Field approval the applicant had approached the local Parish Council to ascertain which location would be preferable for the new community hall and playing field. Consequently, the Parish Council had formed a sub-committee which advised the applicant that the Charity Field site would be the preferred option and as a result the Charity Field applicant had advised this Council that it would be their intention to develop a new community hall as part of their development alongside an area of open space.

It was further reported that it was the applicant's intention to include a financial contribution of £400,000 to assist in the delivery of a fully functioning community hall on the Charity Field site, whilst utilising the remaining land for the provision of additional housing.

Members were informed that Officers were content that subject to the imposition of reasonable planning conditions and Section 106 planning obligations that the general principle of this level of development on the site was acceptable. It was in keeping with both the site's location on the edge of the village along 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.

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 Temporary Planning Team Leader (TF) in respect of the application.

An update sheet had been circulated to the Committee prior to the meeting with details of amendments to Conditions 12 and 22.

Mr Fairweather, on behalf of the Community Centre Committee, spoke in support of the application.

Councillor Paul Beard, the Chairman of Elmstead Market Parish Council, spoke on the application.

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

Robert Pomery, the agent on behalf of the applicant, spoke in support of the application.

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

- a) Within 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
 - Affordable Housing Provision 20% (8 units)
 - Education contribution - £172,307
 - Community Hall at Charity Field - £400,000
 - Open Space/Allotments – Transfer to management company or Elmstead Parish Council

- b) the following Conditions:

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. No above ground works shall be commenced until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.

Reason - The development is publicly visible and therefore sympathetic materials are a visually essential requirement.

3. No above ground works shall take place 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.

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

5. No above ground works shall take place until precise details of the provision, siting, design and materials of screen walls and fences have been submitted to and agreed in writing by the Local Planning Authority. The approved screen walls and fences shall be erected prior to the first occupation of the approved dwelling and shall be retained thereafter in the approved form.

Reason - In the interests of visual and residential amenity.

6. Prior to the first occupation of the development, the proposed road junction at its bell mouth junction with Church Road shall be constructed at right angles to the highway boundary and to the existing carriageway as previously approved and shown on, drawing no. J62 1/ 09 to a carriageway width of 5.5 metres with 2 metre width footways on both sides on both sides of the junction.

Reason - To ensure that all vehicular traffic using the junction may do so in a controlled manner and to provide adequate segregated pedestrian access, in the interests of highway safety.

7. Prior to the occupation of any of the proposed development the internal road and footway layout shall be provided in accord with Drawing numbers:

- X571-PL-SK-002 Rev P02 - Internal Road Layout Swept Path Analysis.
- 17/28/03 Rev F - Proposed Site Plan

Reason - To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety.

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

Reason - To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety.

9. Prior to first occupation of the site the provision of the following is required:

A footway as per CCE Drawing X571-PL-SK-003 Rev P04 (Proposed Site Access) associated drop kerbs and tactile paving to the specifications of the Highway Authority.

Reason - To make adequate provision within the highway for the additional pedestrian traffic generated within the highway as a result of the proposed development and to provide a link with the existing footway within Church Road.

10. 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.

11. No phase of development shall commence until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority for that particular phase. The statement shall include:

i) the parking of vehicles of site operatives and visitors;
ii) the loading and unloading of plant and materials;
iii) storage of plant and materials used in constructing the development;
iv) details of noise, dust, emission and lighting control measures;
v) wheel and under-body washing facilities; and
vi) hours of construction.

The development shall be carried out in accordance with the statement so approved.

Reason - To ensure that the development takes place in a satisfactory manner with regard to its impact on amenity and highways in the local area.

12. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Survey Report (as prepared by MHE Consulting LTD), as submitted with the planning application and agreed in principle with the local planning authority. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

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

13. Prior to any works above slab level being commenced a Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority.

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

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

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.”

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

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

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance

with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

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

15. No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:
- 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. This testing should be located at all locations of proposed infiltration.
 - 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.
 - Demonstrate that features are able to accommodate a 1 in 10 year storm events within 24 hours of a 1 in 100 year event plus climate change.
 - Final modelling and calculations for all areas of the drainage system.
 - The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753.
 - Detailed engineering drawings of each component of the drainage scheme.
 - A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
 - A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

Reason - To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site. To ensure the effective operation of SuDS features over the lifetime of the development. To provide mitigation of any environmental harm which may be caused to the local water environment. Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

16. 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 should clearly show how surface water will be managed and discharged during construction. 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.

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

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided. If features are to be maintained by homeowners, they should be given clear instructions on what needs doing, how it is to be done, and they can have maintenance done on their behalf by a maintenance company.

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.

18. 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.

19. Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority.

Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme.

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

20. Prior to the commencement of the development details of the safety netting to be providing along the southern boundary of the site shall be submitted to and approved, in writing, by the Local Planning Authority. The approved safety netting shall be erected prior to the first occupation of the development and retained as approved thereafter.

Reason – In the interests of health and safety due to the presence of a cricket pitch to the south of the site.

21. Each dwelling with on-plot garage parking shall be provided with a vehicle charging point. The charging point shall be provided prior to occupation of each such dwelling.

Reason - To enhance the sustainability of the proposed development.

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

- 17/28/13/B
- 17/28/03/F
- X571-PL-SK-002 P01
- X571-PL-SK-002 P02
- X571-PL-SK-003 P4
- 1809-211-ST003
- 1809-211-ST004 REV A
- 1809-211-ST001 REV B
- 17/28/06 Rev A
- 17/28/07
- 17/28/08
- 17/28/09
- 17/28/10
- 17/28/11 Rev A
- 17/28/04

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

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.

Highway Informative

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

Prior to the commencement of any work on the site a joint inspection of the route to be used by construction vehicles should be carried out by the applicant and the Highway Authority, to include photographic evidence. The route should then be inspected again, after completion of the development, and any damage to the highway resulting from traffic movements generated by the application site should be repaired to an acceptable standard and at no cost to the Highway Authority. The Highway Authority may also wish to secure a commuted sum for special maintenance to cover the damage caused to the existing roads used as access by vehicles servicing the application site.

The construction vehicle route to the site should be clearly signed and a strict regime of wheel washing and street cleaning should be in place.

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.

S106 Informative

The applicant is reminded that this permission is linked to a planning obligation under Section 106 of the Town and Country Planning Act 1990.

- 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 six months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a Section 106 planning obligation.

81. A.3 - PLANNING APPLICATION - 19/00283/FUL - LAND EAST OF HALSTEAD ROAD, KIRBY CROSS, CO13 0LR

Councillor Bray had earlier declared for the public record in regards to Planning Application 19/00283/FUL that he was also a Frinton and Walton Town Councillor, however, he stated that he had not been involved in discussions on the application at the Town Council and was not pre-determined.

Councillor Clifton, who was present in the public gallery, had earlier declared for the public record in regards to Planning Application 19/00283/FUL that he was the local Ward Councillor and that he was also a Frinton and Walton Town Councillor.

It was reported that this application had been referred to the Planning Committee at the request of Councillor Clifton, due to his concerns relating to affordable housing provision, the design and street scene impact, poor layout and density, highway safety and parking.

Members were informed that outline consent for the erection of up to 240 dwellings with a community hub including either a 40 bed space care home (Class C2) or a healthcare facility (Class D1) together with access from Halstead Road, Woburn Avenue and Buckfast Avenue; a parking area for up to 30 vehicles; green infrastructure provision including children's play area, kick-about area, footpaths, structural landscaping and biodiversity enhancement; a sustainable drainage system including detention basin and swales and other related infrastructure and services provision had been granted at appeal on 6 September 2016. Phases 1 and 2 of the development had already been approved and were currently under construction. Phase 3 situated towards the south-west of the site, to the east of Phase 1 of the development had been recently granted permission.

Members were further informed that the land subject of this application was shown as a community hub with either a 40 bedroom care home or a medical facility under the original outline permission 15/01234/OUT. The applicant had provided evidence that there was no interest in the provision of a care home and it had similarly been confirmed by NHS England that they were not in a position to agree to the land option for a healthcare facility on the site and would prefer to receive the alternative financial contribution (£389.67 per dwelling) secured through the Section 106 Agreement attached to the site-wide outline planning permission in order to support improvements to existing local medical facilities.

It was reported that this application had been amended and now sought full planning permission for 13 dwellings with associated landscaping and infrastructure.

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 Temporary Planning Team Leader (TF) in respect of the application.

Steve Brown, a local resident, spoke against the application.

Councillor Paul Clifton, the local Ward Member, spoke against the application.

Following discussion by the Committee and advice provided by Officers, it was moved by Councillor Bray, seconded by Councillor Alexander and unanimously **RESOLVED** that consideration of this application be deferred in order to allow negotiations to take place with the applicant with a view to securing amendments to the scheme with respect to plots 1-4 inclusive, with these plots being pushed southwards and plots 1 and 2 being reduced to bungalows. It was also requested that a landscaping scheme be provided to the northern boundary of the site.

The meeting was declared closed at 8.17 pm

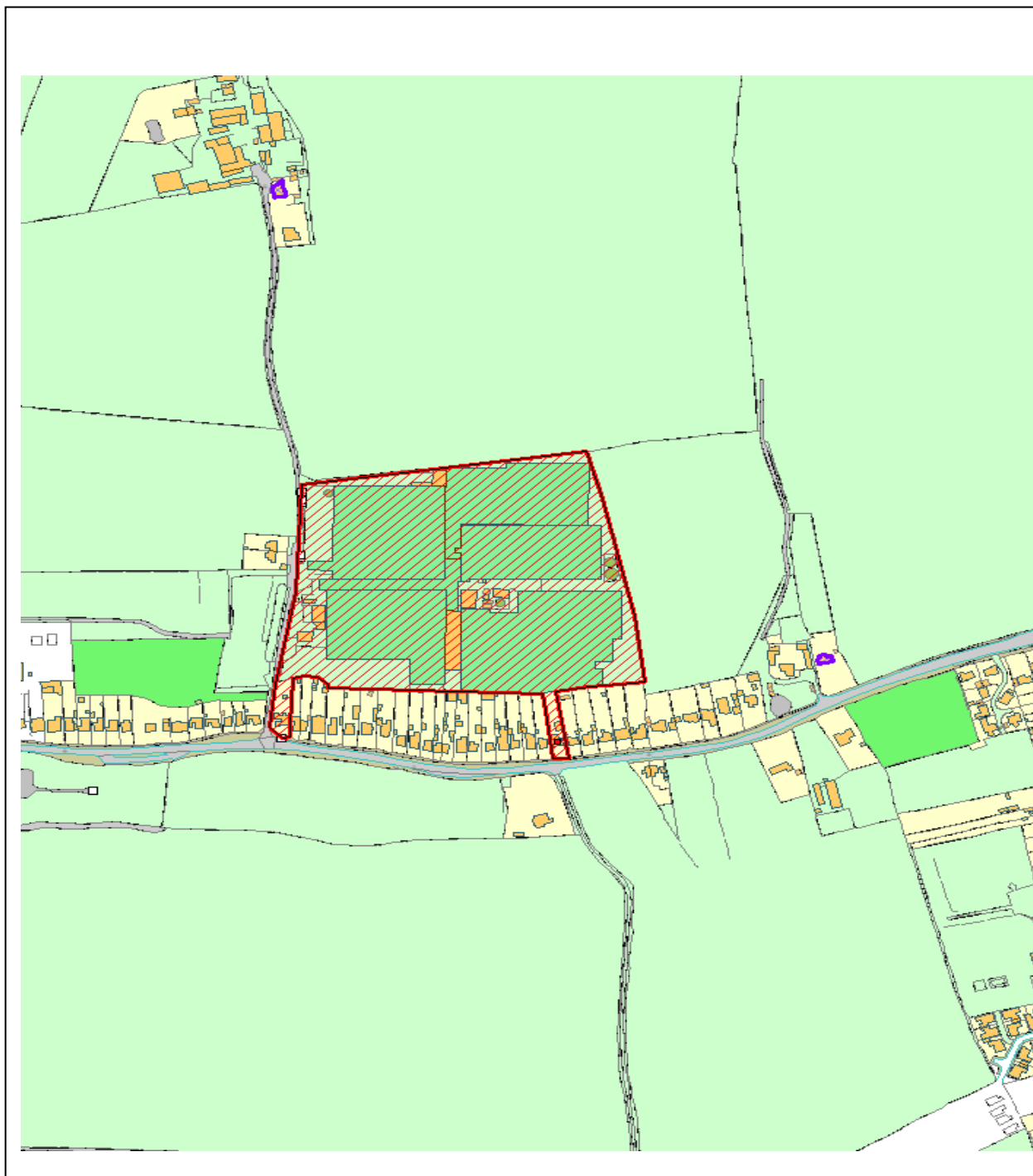
Chairman

PLANNING COMMITTEE

12TH FEBRUARY 2020

REPORT OF THE HEAD OF PLANNING

A.1 PLANNING APPLICATION – 18/01779/FUL – 700 ST JOHNS ROAD ST JOHNS NURSERY SITE EARLS HALL DRIVE CLACTON ON SEA CO16 8BJ



DO NOT SCALE

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Application: 18/01779/FUL

Town / Parish: St Osyth Parish Council

Applicant: Mr Alder-Barber, Kelsworth Ltd

Address: 700 St Johns Road & St Johns Nursery Site Earls Hall Drive Clacton On Sea CO16 8BJ.

Development: Demolition of nursery buildings and dwellinghouse. Erection 195 residential units (comprising 6 two bed houses, 87 three bed houses, 33 four bed houses, 25 five bed houses, 12 one bedroom apartments and 24 two bedroom apartments), and 8 live work units (mixed commercial units measuring 1064 square metres in total with flats above). Associated roads, open space, drainage, landscaping, and other infrastructure.

1. Executive Summary

- 1.1 The application site comprises 7.6 hectares of horticultural land and which is located approximately 300m to the western edge of Clacton on Sea, but now within the Parish of St Osyth. It is to the north of St. Johns Road (B1027), with the majority of the site being to the rear of a ribbon of residential development that fronts onto the road (even nos 690 – 762).
- 1.2 Currently the vehicular access to the site is off Earls Hall Drive, a private road which passes along its western boundary. It is proposed to provide a footpath/cycleway within the current curtilage of 762 St Johns Road adjacent to the existing lane. In addition, the application site also includes a chalet bungalow and its garden at 700 St Johns Road which it is proposed to demolish, in order to provide a new, replacement vehicular access to the site, in lieu of the Earls Hall Drive one.
- 1.3 The site lies outside of the settlement development boundary for Clacton within the adopted Local Plan, but in the emerging Local Plan it is specifically included within the defined settlement boundary of the town. The emerging plan has now reached a relatively advanced stage of the plan-making process, and the Council relies on this to boost the supply of housing in line with government planning policy. It is therefore considered that the inclusion of this land within the settlement development boundary in the emerging Local Plan should carry considerable weight in the decision making process.
- 1.4 This application seeks full planning permission for demolition of the nursery glasshouses, buildings and structures and the dwellinghouse at 700 St Johns Road and the redevelopment of the site with a predominantly residential scheme comprising the erection of 195 units (comprising 6 two bed houses, 87 three bed houses, 33 four bed houses, 25 five bed houses, 12 one bedroom apartments and 24 two bedroom apartments), and 8 live work units (mixed commercial units measuring 1064 square metres in total with flats above), with associated roads, open space, drainage, landscaping, and other infrastructure.
- 1.5 The application is accompanied by a suite of technical drawings and documents supporting the proposal and all in all it is considered that no significant adverse or cumulative effects on the local environment or population would be caused, with it being deemed to be compliant with legislation and planning policy. Officers have carried out a Screening Opinion, pursuant to The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, this concludes that as significant effects on the environment are not likely, an Environmental Impact Assessment is not required for this development.
- 1.6 Officers are content that subject to the imposition of reasonable planning conditions and S106 planning obligations, that the general principle of this level of development on the site is

acceptable. It is in keeping with both the site's location on the edge of Clacton, and along 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.

- 1.7 The recommendation is therefore to approve 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 a number of controlling conditions.

Recommendation:

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:

- Affordable Housing – 10% ;
- Ecology - Financial Contribution towards RAMS - £23,848.50;
- Education - Financial Contributions towards EY&C, Primary and Secondary school provision - £1,770,393;
- Healthcare - Financial contribution for additional floorspace at Nayland Drive Surgery - £67,666;
- Highways & Transportation –
 - Provision of 3no bus stops on St Johns Road;
 - Pro-rata financial contribution to bus services on St John's Road - £104,000;
 - Provision/upgrade of a 3-metre wide shared footway/cycleway on the north side of St Johns Road from its junction with Earls Hall Drive eastwards to the main vehicular access to the site and beyond to tie in with the proposed footway/cycleway for the Rouses Farm development south of St Johns Road (17/01229/OUT);
- Live/Work units to be constructed and marketed prior to 75% dwelling occupation;
- Public Open Space – To be laid out and transferred to a Management Company.

b) Subject to the conditions stated in section 8.2.

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 s106 planning obligation.

2. **Planning Policy**

National Policy

National Planning Policy Framework 2019 (NPPF)

- 2.1 The NPPF sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.2 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision

taking. Where proposed development accords with an up to date Local Plan, it should be approved and where it does not, it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. 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 Paragraph 38 of the NPPF states "Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible."

National Planning Practice Guidance (PPG)

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

Status of the Local Plan

- 2.6 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.
- 2.7 Section 1 of the emerging 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 raised 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.
- 2.8 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.

- 2.9 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.
- 2.10 At the time of writing 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 emerging 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.
- 2.11 The following Local Planning Policies are relevant to this planning application:

Tending District Local Plan (2007) as 'saved' through a direction from the Secretary of State.

Relevant policies include:

QL1: Spatial Strategy: Directs most new development towards 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.

QL6: Urban Regeneration Areas: Defines West Clacton as an urban regeneration area and the focus for investment in social, economic and transportation infrastructure along with initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety and accessibility.

QL8: Mixed-Uses: Encourages a mix of complementary and compatible uses within town, district and local centres and urban regeneration areas.

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.

ER3: Protection of Employment Land: States that the Council will ensure that land in employment use will normally be retained for that purpose.

ER7: Business, Industrial and Warehouse Proposals: The Council will need to be satisfied that the scale and nature of new business proposal are appropriate to the locality; have suitable vehicular access and car parking, utility connections and storage facilities.

HG1: Housing Provision: Sets out the strategy for delivering new homes to meet the need up to 2011.

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 has 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.

HG13: Backland Residential Development: Residential development of "backland" sites will be permitted where all the criteria listed within the policy are met.

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

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

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.

COM19: Contaminated Land: Planning permission will only be granted on sites affected by contaminated land if following site investigation appropriate remedial measures are undertaken to remediate the site.

COM20: Air Pollution/Air Quality: Development will need to consider existing and proposed air quality and where required provide mitigation against the adverse impacts of development.

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

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

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

COM24: Health Care Provision: Supports developments for new and improved health care facilities that are in close proximity to the communities they intend to serve, acceptable in highways terms, accessible by a variety of transport modes and provide sufficient car parking.

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

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

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

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

EN2: Local Green Gaps: Seeks to keep areas designated as Local Green Gaps open and essentially free of development in order to prevent the coalescence of settlements and to protect their rural setting.

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: European Sites and Ramsar Sites: Sets out the circumstances under which development which is likely to have a significant effect on a European Site, or a Ramsar site will be allowed (either individually or in combination with other plans or projects).

EN11b – Protection of National Sites: Sites of Special Scientific Interest, National Nature Reserves, Nature Conservation Review sites, Geological Conservation Review sites: Development likely to have an adverse effect on SSSI sites will not be permitted unless the reasons for the development clearly outweigh the reasons for the designation, or where planning conditions or obligations can be used to ensure the protection and enhancement of the site.

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.

EN23: Development within the Proximity of a Listed Building: Guards against developments that would have an adverse impact on the setting of Listed Buildings

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

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

TR1: Transport Assessment: Requires major developments to be supported by a 'Transport Assessment' and states that developments that would have materially adverse impacts on the transport system will be refused unless adequate mitigation measures are put in place.

TR2: Travel Plans: Requires 'Travel Plans' for developments likely to have significant transport implications.

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 developments affecting an existing public right of way to 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 Publication Draft (June 2017)

Relevant policies include:

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

SP2: Spatial Strategy for North Essex: Existing settlements will be the principal focus for additional growth across North Essex within the Local Plan period. Development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area. Future growth will be planned to ensure settlements maintain their distinctive character and role. Re-use of previously-developed land within settlements is an important objective, although this will be assessed within the broader context of sustainable development principles, particularly to ensure that development locations are accessible by a choice of means of travel.

SP3: Meeting Housing Needs: The local planning authorities will identify sufficient deliverable sites or broad locations for their respective plan period, against the requirement in the table below.

SP5: Infrastructure and Connectivity: Requires the provision of infrastructure, services and facilities that are identified to serve the needs arising from new development.

SP6: 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 Clacton as a 'Strategic Urban Settlement' within a hierarchy of settlements designed to direct future growth to the most sustainable locations. Strategic Urban Settlements are expected to accommodate the largest proportion of the district's housing stock over the plan period to 2033.

SPL2: Settlement Development Boundaries: Seeks to direct new development to sites within settlement development boundaries. The boundary for Clacton extends to include the application site.

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 that 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.

HP2: Community Facilities: Requires development to support and enhance community facilities where appropriate, including by providing new facilities on site or contributing towards enhanced community facilities elsewhere to meet needs arising from the proposed development.

HP3: Green Infrastructure: Will be used as a way of adapting to, and mitigating the effects of, climate change, through the management and enhancement of existing spaces and habitats and the creation of new spaces and habitats, helping to provide shade during higher temperatures, flood mitigation and benefits to biodiversity, along with increased access.

HP5: 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 towards off-site provision required from smaller sites.

LP1: Housing Supply: Sets out the sources of new housing that will contribute towards meeting objectively assessed housing needs in the period up to 2033. The application site is identified in the Plan as a site suitable for residential redevelopment and is therefore is anticipated to contribute towards meeting the District's new housing need.

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.

LP8: Backland Residential Development: Residential development of "backland" sites can be acceptable subject to the following criteria being met: no existing dwelling shall be left with a private amenity space below the Council's standards as a result of the development; there must be suitable access arrangements; the site must be appropriate for development and not prejudice a more appropriate comprehensive development solution; the proposals must not result in a hard urban edge or be out of character with the area; and must not be out of character with the area or set a harmful precedent.

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 towards 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.

PPL9: Listed Buildings: States that proposals for new development affecting a listed building or its setting will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric.

PP12: Improving Education and Skills: Requires the impacts of development on education provision to be addressed at a developer's costs, either on site and/or through financial contributions. The policy 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.

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

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

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

Supplementary Guidance

Essex Design Guide for Mixed Use and Residential Areas (2018)

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

3. Relevant Planning History

91/00081/FUL	The siting of a mobile home for use by on site staff for security and supervision of the environmental equipment at the nursery on a 24-hour basis.	Approved	08.03.1991
91/00132/FUL	Replacement of fire damaged	Approved	08.03.1991

	glasshouse.		
92/01307/FUL	(Earls Hall Nursery Ltd., Earls Hall Drive, St Johns) Siting of mobile home for use by on-site staff for security and supervision of the environmental equipment at nursery on 24 hour basis (renewal of TEN/91/0081)	Approved	23.12.1992
94/00448/FUL	(Earls Hall Drive, St Johns Road, Clacton on Sea) Continued use of building as office accommodation (Renewal of permission TEN/574/89)	Approved	10.06.1994
94/01303/FUL	(Earls Hall Nursery Ltd., Earls Hall Drive, St John's) Siting of mobile home for use by on-site staff for security and supervision of the environmental equipment at nursery on 24 hour basis (renewal of TEN/92/1307)	Approved	25.11.1994
96/00220/FUL	(St Johns Nursery, Earls Hall Drive, Clacton on Sea) Siting of a mobile home for use by on-site staff for the security and supervision of the nursery and environmental equipment, on a 24 hour basis	Approved	29.03.1996
99/01444/FUL	1) Continued use of building as office accommodation (Renewal of TEN/94/0448) 2) Continued use of mobile home for use by on site staff (Renewal of TEN/96/0220)	Approved	22.11.1999
04/01686/FUL	Demolition of existing glass house and erection of new glass house for horticultural purposes.	Approved	21.10.2004
12/00771/AGRIC	Portal framed packing shed with profiled cladding walls/roof.	Determination	07.08.2012
16/00612/FUL	Proposed storage barn.	Approved	07.07.2016

16/00304/CHGUS3, the subject of enforcement appeal refs APP/P1560/C/18/3214046 & APP/P1560/C/18/3214047	Enforcement notice served to "Cease the mixed use of the site, comprising horticulture, retail, leisure uses and a cafe use and remove from the land all items, fixtures and fittings that facilitate the mixed use".	Dismissed	05.12.2019
17/01197/FUL	Improvements to Earls Hall Drive.	Refused	13.09.2017
17/01198/ADV	1 No. directional sign.	Approved	13.09.2017
17/01770/FUL	Extension to car park.	Approved	08.12.2017
17/01775/FUL	Temporary use of part of nursery as "Christmas Wonderland" - seasonal sales event. Operating from 16th October 2017 to 6th January 2018 - to include a Santa's Grotto and miniature train.	Refused	21.12.2017
17/01935/FUL, the subject of appeal ref. APP/P1560/W/18/3202282	Improvements to Earls Hall Drive.	Allowed	05.12.2019

4. Consultations

Anglian Water Services Ltd

No objection subject to conditions.

Wastewater Services

The foul drainage from this development is in the catchment of St Osyth Water Recycling Centre that will have available capacity for these flows. Used Water Network - Development will lead to an unacceptable risk of flooding downstream. Anglian Water will need to plan effectively for the proposed development, if permission is granted. They will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development. They therefore request a condition requiring a phasing plan and/or on-site drainage strategy.

Surface Water Disposal

The preferred method of surface water disposal is to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer.

From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets and the developer is proposing SuDs at this time as per FRA 5.4.1. The Local Planning Authority should seek the advice of the Lead Local Flood Authority. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, they would wish to be re-consulted to ensure that an effective surface water drainage strategy is prepared and implemented.

Suggested planning conditions requiring the submission and approval of a phasing scheme for the development and a scheme for on-site foul water drainage works, including connection point and discharge rate, and that the development will be built out in accordance with the approved details.

ECC Highways

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

Construction Management Plan;

Highway improvements:

- Where possible the provision/upgrade of a 3-metre-wide shared footway/ cycleway and associated tactile paving on the north side of St Johns Road from its junction with Earls Hall Drive eastwards to the main vehicular access to the site and beyond to tie in with the proposed footway/ cycleway for the Rouses Farm development south of St Johns Road (17/01229/OUT);
- Prior to the occupation of the first residential dwelling, the upgrade of the three closest bus stops on St Johns Road nearest to the St Johns Road site access/ shared cycleway/ footway onto St Johns Road:
 - North Side: outside house nos. 750/ 752; Stop Name: Earls Hall.
 - South Side: (within lay-by) opposite house nos. 734/736; Stop Name: Earls Hall.
 - North Side; outside house no. 692; Stop Name: Rouse Lane.
- Details to be agreed with the Local Planning Authority to encourage use of the public transport network the provision of improvements to include timetable information, bus stop signage and raised kerbs and hardstanding. Including widening of the footway on the north west side; cantilever shelters; Kassel kerbs, bus stop flags/ timetable frames;
- Prior to the occupation of 100 units the provision of a £104,000.00 pro-rata contribution (index linked) for procurement towards the local bus services operating on St Johns Road to serve the development;

Internal Layout

No occupation of the development shall take place until the following have been provided or completed:

The highway works as shown in principle on revised site plan drawing no. 4424/CA/PL1000 Rev. K but to include the following:

- A forward visibility splay of 25 metres needs to be provided on each corner of the development these will need to be hardened so they can be adopted.
- The raised table to be extended to include the drive to plot 173.
- The 2-metre-wide footway to continue round on the north side of the bend to tie into the footway at the junction outside plot 94 and from the north boundary to plot 97.
- Speed-restraint measures should be located at maximum intervals of 60m, starting within 50m of the entry junction or zone.
- The proposed build-out on the access road to the site would need to switch to the opposite lane to remove the potential traffic accessing the site backing up onto St Johns Road;

Residential Travel Information Packs

The Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council, (to include six one day travel vouchers for use with the relevant local public transport operator free of charge).

The public's rights and ease of passage over public footpath / bridleway / byway no. 167_1 (Great Clacton) shall be maintained free and unobstructed at all times.

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.

ECC Place Services Ecology

No objection, subject to conditions.

Having reviewed the Ecology Surveys submitted with the application it is considered that there is sufficient ecological survey & assessment to determine the likely presence of, and impacts to, Protected & Priority species and internationally designated Habitats sites.

Due to the presence of bats within the surrounding area a wildlife sensitive lighting scheme, as specified in the Bat Survey report is secured by a condition of any consent to avoid impacts on bats, both roosting and foraging/ commuting across the site.

No further survey work is necessary for Gt Crested Newt as an offence is highly unlikely but recommend generic precautionary measures are used during demolition and construction phases of development.

The site is noted to be within the Zone of Influences for Hamford Water SAC, SPA and Ramsar site, the Essex Estuaries SAC and Colne Estuary (Mid Essex Coast Phase 2) SPA and Ramsar site and in accordance with the emerging Essex Coast Recreational disturbance Avoidance & Mitigation Scheme (RAMS) a financial contribution (£122.30 per dwelling) should be secured towards visitor management measures at these protected sites.

ECC Place Services Historic Environment (Archaeology)

The planning application has been identified as having the potential to harm non-designated heritage assets with archaeological interest.

A number of cropmark complexes in the surrounding area attest to the archaeological potential of the area of the proposed development. These include settlement enclosures, trackways and linear features of probable agricultural origin. Previous investigation within the surrounding area have shown the field systems to be of Roman origin. The recorded cropmarks are immediately adjacent to the site and can be expected to continue into the development area. Any surviving below ground heritage assets would be damaged or destroyed by the proposed development. Much of the site is covered by glasshouses which would need to be demolished prior to an archaeological investigation to determine the potential for survival of archaeological remains.

ECC Place Services Historic Environment (Historic Buildings and Conservation)

No Objection to the application. However, two designated heritage assets are located within the environs of the site:

- Grade II Listed, Earls Hall Lodge (List Entry ID:1309075); and - Grade II Listed, Duchess Farmhouse (List Entry ID: 1111522).

It is recommended that a condition is attached to any granted permission pertaining to planting to ensure the development is adequately screened on the north side in views from Earls Hall Lodge.

ECC Schools Service

Early Years and Childcare

The proposed development is located within the St Osyth and Point Clear Ward and will create the need for an additional 14.76 places. According to Essex County Council's childcare sufficiency data, published in Summer 2018, there are 4 providers of early years and childcare in the area. Overall a total of 0 unfilled places

were recorded.

Essex County Council has a statutory duty under the Childcare Act 2006 to ensure that there is sufficient and accessible high quality early years and childcare provision to meet local demand. The data shows that there is insufficient provision within the ward to meet the demand created from this development.

Additional provisions will be required and an additional 14.76 places would be provided at an estimated total cost of £257,149 at April 2019 prices. This equates to £17,422 per place and so, based on demand generated by this proposal set out above, a developer contribution of £257,149 Index linked to April 2019, is sought to mitigate its impact on local EY&C provision.

Primary Education

The proposed development is located in the priority admissions area of St Osyth CE Primary Academy. The demand generated by this development would require an additional 49.2 places and would be provided at an estimated cost of £751,825 at April 2019 prices. This equates to £15,281 per place and so, based on demand generated by this proposal set out above, a developer contribution of £751,825 Index linked to April 2019 is sought to mitigate its impact on local primary education.

Having reviewed the proximity of the site to the nearest primary school, Essex County Council will also be seeking a primary school transport contribution as there are no current safe walking routes from the proposed development to the nearest primary school. The cost of providing this is £745,970.40 index linked to April 2019.

Secondary Education

With regard to secondary education needs, the proposed development is located within the priority admissions area of Clacton Coastal Academy. The demand generated by this proposal would require an additional 32.8 places and would be provided at an estimated cost of £761,419 at April 2019 prices. This equates to £23,214 per place and so, based on demand generated by this proposal set out above, a developer contribution of £761,419 Index linked to April 2019 is sought to mitigate its impact on local secondary education.

Subject to confirmation, having reviewed the proximity of the site to the nearest secondary schools, Essex County Council will not be seeking a secondary school transport contribution.

ECC SUDS Consultee

No objection, subject to conditions.

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application there was initially a holding objection from the Lead Local Flood Authority, as the proposals to achieve 20% betterment on existing brownfield run-off rates were unacceptable.

The applicant revised the Surface Water Drainage Strategy to reflect the LLFA's requirement that discharge rates should be limited as close as reasonably practicable to the 1 in 1-year greenfield run-off rate for the site for all events up to and including all 1 in 100-year events with allowance made for climate change. Having reviewed the amended Strategy, the SuDs team withdrew their holding objection.

Essex Police

No objection.

The dwellings seem to be positioned well for good natural surveillance while protecting the vulnerable rear of the properties by having the gardens backing directly onto other gardens.

There is however insufficient detail to allow an informed decision to be made whether the development will accord with the NPPF by creating a safe environment, so that crime and disorder, and the fear of crime, do not undermine the quality of life. Such detailed considerations include uniform lighting without dark areas, effective physical security on each property, garden gates sited as near as possible to the front of the property.

They recommend that Secure By Design accreditation is sought for both the domestic and commercial units.

Natural England

It has been identified that 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).

They raise no objection subject to appropriate mitigation being secured. They understand that TDC have screened this proposed development and consider that it falls within scope of the Essex Coast RAMS, and that TDC have undertaken a Habitats Regulations Assessment (HRA) (Stage 2: Appropriate Assessment) in order to secure any necessary recreational disturbance mitigation, and note that TDC have recorded this decision within your planning documentation.

They consider that without appropriate mitigation the application would have an adverse effect on the integrity of European designated sites within scope of the Essex Coast RAMS.

They are satisfied that the mitigation described in TDC's Appropriate Assessment is in line with their strategic-level advice. The mitigation should rule out an 'adverse effect on the integrity' (AEOI) of the European designated sites that are included within the Essex Coast RAMS from increased recreational disturbance.

They advise that an appropriate planning condition or obligation is attached to any planning permission to secure the on-site mitigation measures, including links to footpaths in the surrounding area. The financial contribution should be secured through an appropriate and legally binding agreement, in order to ensure no adverse effect on integrity.

NHS North East Essex CCG

No objection subject to a financial contribution to mitigate the impact of the GP practices.

The proposed development is likely to have an impact on the services of two branch surgeries including their main GP practices operating within the vicinity of the application site. These GP practices and branch surgeries do not have capacity for the additional growth

- Nayland Drive Branch Surgery (including its Main Practice Green Elms Health Centre part of ACE Community Practices & includes Epping Close Practice & Frinton Road Medical Centre)
- Clacton Road Branch Surgery (including its Main Practice Old Road Surgery)

The development would give rise to a need for improvements to capacity, in line with emerging Estates Strategy, by way of refurbishment, reconfiguration, extension, or potential relocation at the Nayland Drive Branch Surgery. A developer contribution of £72,864 was originally sought, based on a development of 210 dwellings, to be paid before the development commences. The CCG have advised that the contribution for a development of 195 dwellings would be £67,666.

TDC Building Control and Access

The Architect to ensure that access for fire fighting appliances is provided in accordance with Section 5 from Approved Document B.

TDC Environmental Protection

There is some indication of contamination from our potential contaminated land database register less than 250m away. Also due to previous uses of the site there might be some contamination (redundant fuel tanks etc). Prior to the commencement of the proposed development, the applicant is advised to undertake a suitable and sufficient site investigation and any necessary risk assessment to ensure the land is free from significant levels of contamination. Therefore a standard contaminated land condition should be applied.

In addition to the above, an asbestos survey should be carried out prior to demolition and removal of any asbestos containing material should be carried out by a qualified contractor.

TDC Housing

Consultation response following submission of revised plans/reduction in number of dwellings outstanding at the time of writing the report. Their updated views will be reported to Members at the Planning Committee meeting.

TDC Public Realm, Open Space & Play

There is currently a deficit of 41.08 hectares of play in the Clacton/Holland area and any additional development in Clacton will increase demand on already stretched facilities.

Recommendation.

It is noted that due to the size of the development site, on site provision of open space and play facilities to a LEAP standard have been included within the design.

TDC Tree & Landscape Officer

In order to show the potential impact of the development proposal on the trees on the application site and taking into account previous consultee comments the applicant has submitted an amended Tree Survey and Report. The report contains an Arboricultural Impact Assessment (AIA) and Tree Protection Plan (TPP) and has been completed in accordance with BS5837: 2012 Trees in relation to design, demolition and construction; Recommendations.

The tree report accurately describes the health and condition of the trees and shows the extent to which they are a constraint on the development potential of the land. It also shows how retained trees will be physically protected for the duration of the construction phase of any planning permission that may be granted.

The tree report shows the retention of the best trees with the greatest amenity value close to the western boundary adjacent to the existing entrance to the garden centre and the Oaks on the eastern and eastern part of the northern boundary.

The most significant amendment to the tree report is that the Poplars planted as a windbreak on the northern boundary are to be removed. The condition of the Poplars is such that they are not viable in the medium term and the amenity of the locality and appearance of the development would be best served by their removal and replacement with alternative species.

Replacement planting could be secured by condition. In this respect details of the soft landscaping, including tree planting, as indicated on the

Amended Block Plan, should be secured under condition attached to any planning permission that may be granted or provided prior to the determination of the application.

TDC Waste Management

All access roads to be constructed to withstand weight and be of sufficient width to accept refuse collection vehicles. Bin stores allocated with apartments to be constructed with lockable gates and roof and to be a suitable size to provide wheeled bins for residual waste on a fortnightly basis and wheeled bins for alternate weekly collection of paper/cardboard and plastic bottles, tins and cans collection.

5. **Representations**

- 5.1 Following a detailed review of the amended plans, Councillors highlighted numerous concerns and observations in respect of the following:

Location and layout: The proposed development would constitute an overdevelopment of a site, the layout of which, together with the number and type of dwellings, would have an overwhelming effect on the population density. The plans show a stark difference in the private amenity space between the existing properties along St John's Roads and those which have been shoehorned into the site, in addition to a marked difference in the appearance of the new dwellings, which are out of character with those along St John's Road.

Whilst it is acknowledged that consideration has been given to both residential and visitors parking, there are concerns as to the prevention of on road parking and the effective management of allocated visitors parking bays, so as to ensure that they are not used for additional residential parking. They also state that it is also worthy of note that there is an apparent lack of any visitors parking in the north eastern area of the development, as outlined in drawing '4424 pl1002'.

The Parish Council would also draw attention to the lack of future infrastructure to ensure the sustainability of the development, such as charging points for electric vehicles.

They state that it is noted that a number of dwellings in the south eastern area of the development, as outlined in drawing '4424 pl 1004 j' will overlook the commercial units, the need for which the Parish Council find incredibly surprising, given the potential impact from large delivery vehicles needing access to the site of the commercial units for loading and unloading, on the residents whose properties will overlook the units.

Whilst it is noted that the development would include a 'public open space', the Parish Council has serious concerns as to the location of the attenuation pond, which is in close proximity to the location of what would seem to be a children's play area. Additionally, concerns were raised as to the need for and subsequent maintenance of the pond. Given the inclusion of an attenuation pond, the Parish Council would also question the surfacing to be used on the driveways and parking areas, which it is suggested should be porous in both design and material.

The Parish Council would also maintain that the proposed development is 'unsympathetic' to the rural area, in which the District Council has already proven a housing stock of 5.6 years.

Vehicular Access: They raise concerns that there is proposed to be a single point of access to and egress from the site, from and onto the B1027, via a basic 'T-junction'. The Parish Council is extremely concerned as to the increase in and impact of traffic using St John's Road, given the proximity of the proposed dwellings to a development of up to 950 properties

(17/01229/OUT refers), the entrance for which will be approximately 110 metres east of the proposed access to the planned development.

Members of the Parish Council are concerned that the vehicular movement generated by the traffic from the two developments, numbering approximately 1,145 dwellings (18/01779/FUL & 17/01229/OUT refer), could result in some 2,000+ additional vehicles using the B1027 on a daily basis. This would have a significant impact of the volume of traffic passing St Osyth and will undoubtedly result in traffic delays, for vehicles exiting the village via both entrances/ exits, in addition to a build-up of traffic in area of the junctions to both developments, especially as despite having a filter lane for eastbound traffic, the access to the development as part of 17/01229/OUT will still comprise of a basic 'T-junction'.

The proximity of the two developments, together with the omission of a dedicated filter lane for westbound traffic needing to access the proposed development of 195 dwellings is a cause for serious concern; as is access to the development and guaranteed passage along the B1027 for emergency vehicles.

Infrastructure: The Parish Council would again raise serious concerns as to the continued impact of large-scale developments on local infrastructure, especially medical and educational services. In the case of the latter, it should be noted that all dwellings proposed as part of the application will be within the catchment areas for St Osyth Church of England Primary School.

Concerns have been expressed to the Council by residents of St John's Road as to the provision of adequate sewage disposal, given that the existing system regularly 'backs up'.

For all the reasons listed above, St Osyth Parish Council objects in the strongest possible terms to this application. The views of the Council were endorsed by members of the public in attendance at the extraordinary meeting.

- 5.2 15 no. letters of objection have been received from local residents, along with a petition comprising 40 signatories. They raise the following concerns:

Principle of Development

- There has been a lot of new development already and more is planned. There is no need for more housing;
- The Council can currently demonstrate a 5-year housing land supply so there is currently no need for this site to be considered for housing development;
- The site should not be considered ahead of the examination of Part Two of the new Local Plan;
- The cumulative impacts of this proposed development along with the planning permission granted for 950 dwellings on land west of Jaywick Lane should mean the application should be refused; and
- The location of the site and scale of development means that this cannot be considered sustainable development – it is remote from St Osyth and has no continuous footway connection and is on the edge of Clacton.

Highways

- The highway network cannot take all the additional traffic - St John's Road is already a very busy road, which has queuing traffic, including at the junction with Jaywick Lane. Traffic volumes means it is difficult for existing residents to pull out onto the road and this is before the estates, which already have planning permission, at Rouses Farm, Leisure Glades and St. Osyth Priory are built. The road is considerably busier during the summer months due to the number of holiday parks at St Osyth and Point Clear;

- ECC Highways are seeking very significant changes to the St Johns Road junctions with Jaywick Lane, Cloes Lane and London Road in an effort to alleviate the highways impact of the development of 950 dwellings off St Johns Road, and these improvements were necessary even before this development was considered;
- Before any more housing estates are given planning permission to the West of Jaywick Lane there must be a new link road from there to the A133;
- Traffic surveys undertaken by the applicant do not reflect recently consented houses in the town;
- Vehicular access - a single access road serving the development is not sufficient; the access is opposite an access for a farm and residential properties and is close to one of the access points for the 950 home development West of Jaywick Lane; there are no details of the new junction on St. Johns Rd – will it be a roundabout, traffic lights or a T-junction?
- Insufficient parking – 1 space per one bed flat and two space for a five-bed dwelling will not be adequate. This could lead to the over-spill spreading to neighbouring streets;
- St Johns Road has already had two three car accidents near the proposed access;
- The traffic problems on St Johns Road caused by the Christmas event at the Nursery caused uproar and these problems would be replicated by this development; and
- The footway along St Johns Road towards St Osyth ends at Leisure Glade, with no footpath along a very busy road until the start of the St Osyth bypass.

Services / Facilities

- Residents will need to commute out of the area as there are not enough jobs for all these residents;
- Local schools are already full;
- It is very difficult to get appointments to see GPs and Colchester hospital has no spare capacity;
- Bus service along St Johns has previously been cut back so service is now limited;
- Access to Clacton railway station is limited; and
- The sewage system is not designed to cope with this number of new houses.

Design

- This area is a semi-rural unsuited for this scale of development;
- This is a large back land development and particularly unsuitable for blocks of flats which should be located on main roads;
- Four storey flats and three storey town houses backing onto bungalows is unacceptable. Other developments have been required to be in keeping with existing developments - as the properties along St Johns Road are predominantly bungalows this application should include bungalows along the adjoining boundary of existing developments;
- The gardens of the new properties will be a third of the size of residents existing gardens, exacerbating loss of privacy and sense that new development is over-bearing; and New dwellings are being proposed too close to existing properties. Dwellings close to the site boundaries should be single storey.

Other Matters

- The access road for this development will pass very close to existing properties on either side and this could also cause structural damage;
- The development will be close to wind turbines and the noise from these can be quite loud;
- Concern about noise, dust and mud during construction, particularly as existing residents will have development being built on both sides of St Johns Road with the 950 development already approved;
- Extra traffic on St Johns Road will result in deteriorating air quality and increased noise pollution;
- Property values of properties surrounding the site will suffer and loss of views from existing properties;

- Local people will not be able to afford these new homes and they will be occupied by people who cannot afford to live in London;
- The conifer trees on the boundary that it is assumed will be removed should be replaced along with new high fences; and
- Where will the displaced wildlife live?

5.3 One further representation has been submitted with the author being 'neutral' towards the development, but wishing that the Council consider the following issues:

- There is inadequate provision of health care and education in the local area and the services need more resources;
- The site boundaries should all be fenced to stop trespass onto neighbouring land, including Earls Hall Drive which is a private road;
- The proposed playground and sports area are much needed facilities and should be conditioned
- The maximum height of dwellings should be 2 storeys to be in keeping with surrounding properties.

6. **Assessment**

Site Context

- 6.1 The application site comprises 7.6 hectares of horticultural land which is located approximately 300m to the west of Clacton-on-Sea, within the Parish of St Osyth. It is to the north of St. Johns Road (B1027), with the majority of the site being to the rear of a ribbon of residential development that fronts onto the road (even no's 690 – 762).
- 6.2 Planning permission was granted in 1972 for the construction of glasshouses and ancillary structures, and the majority of the site is covered with pitched roof glasshouses; hardstandings, including car parking and service areas; water and fuel tanks; silos; and a variety of other buildings, including metal clad storage buildings and plant that has developed over the years to serve the nursery business. Currently the vehicular access to the site is off Earls Hall Drive, a private road which passes along the western boundary of the site.
- 6.3 It is proposed to provide a footpath/cycleway within the current curtilage of 762 St Johns Road adjacent to the existing lane. In addition, the application site also includes a chalet bungalow and its garden at 700 St Johns Road which it is proposed to demolish, in order to provide a new, replacement vehicular access to the site, in lieu of the Earls Hall Drive one.
- 6.4 To the northern and eastern site boundaries there are hedgerows with trees within them, which are of variable quality, beyond these are fields that are in agricultural use. To the north of the site, and within arable farmland, there is also the Earls Hall Wind Farm which contains five turbines. Along the southern boundary are the rear gardens of the dwellings that front St Johns Road, these all tend to be long with most being in excess of 40m deep. To the west of the site is Earls Hall Drive, with the site boundary comprising a mix of tall hedge and timber close boarded fencing where enclosed.
- 6.5 To the west of Earls Hall Drive, the ribbon of development fronting St Johns Road continues, but to the rear of these properties there is either existing development, such as the Leisure Glades Lodge Holiday Park, or land where the Council has previously approved development, including: the grant of Outline planning permission for 14 dwellings (820 St Johns Road, ref. 18/00379/OUT); Outline planning permission for 34 dwellings (Land Forming Part of Earls Hall Farm, Earls Hall Drive, ref. 17/00826/OUT); and a change of use of land for the stationing of up to 62 holiday units was granted in April 2019, to allow an extension to the adjoining Leisure Glades Caravan Park (Land north of 782 and 828 St Johns Road, ref. 18/00952/FUL). A pair

of semi-detached houses, 1 & 2 Earls Hall Drive also front the site's western boundary, approximately $\frac{3}{4}$ of the way up.

- 6.6 In addition to these developments, to the southern side of St Johns Road and to the east of Rouses Lane, the Council has granted outline planning permission for the development of up to 950 dwellings; a new Neighbourhood Centre comprising local healthcare facility, units for retail and food and drink and/or a community centre. The developer is also required to provide a 2.1ha site for a new primary school (ref. 17/01229/OUT).

Proposal

- 6.7 This application seeks full planning permission for demolition of the nursery glasshouses, buildings and structures and the dwellinghouse at 700 St Johns Road and the redevelopment of the site with a predominantly residential scheme.
- 6.8 The application was originally submitted in October 2018 and it was proposed that the site be redeveloped to provide 210no residential units (comprising 24no two bed houses, 88no three bed houses, 32no four bed houses, 22no five bed houses, 12no one bedroom apartments and 24no two bedroom apartments), and 8no live work units.
- 6.9 Following discussions between the applicant and Officers, revisions have twice been made to the application as originally submitted, and include amended drawings, as well as additional/revised documents. The principal revisions to the original submission comprised: A reduction in the number of dwellings from 210no to 196no; Revisions to the design of a large number of house types and to Apartment Block C; Highway modifications to meet ECC Highways' requirements on widths of roads and the number of speed bumps/tables; and the provision of a segregated footpath/cycleway, extended through the central Green from Earls Hall Drive.
- 6.10 On assessing the revised proposal in greater detail, including having regard to consultation responses and representations made, it became apparent to Officers that there were still a number of issues with regard to the application. Consequently, further information was sought from the applicant, which was submitted early December 2019.
- 6.11 In totality the application submission now comprises:
- Planning application form;
 - Site Location Plan;
 - Existing Survey plan;
 - Proposed Site plan;
 - Dwelling Type plan;
 - Materials schedule;
 - Private Amenity Space plan;
 - Car & Cycle Parking Provision plan;
 - Refuse Storage and Collection plan;
 - Proposed Highway Adoption extent plan;
 - Public Open Space plan;
 - Elevations & Floor Plans for each house type & live work unit; apartment block & garage;
 - Residential type schedule;
 - Residential schedule by plot;
 - Arboricultural Impact Assessment;
 - Design and Access Statement;
 - Extended Phase 1 Habitat Survey and Bat Risk Assessment;
 - Bat Survey;
 - Reptile Survey;
 - Flood Risk Assessment and surface water drainage strategy; and associated plans;

- Heritage Impact Assessment;
- Phase 1 Geo-Technical/Contamination Desk Study;
- Planning Statement, Heads of Terms & Affordable Housing Statement;
- Shadow Habitat Regulations Assessment; and
- Transport Assessment.

6.12 The revisions requested have resulted in some key changes and additional drawings and documents listed below:

- Refuse Storage Plan – This shows refuse and recycling storage bin locations for each plot and bin stores for the flats, including details of door dimensions demonstrating easy access to the stores for collection;
- Refuse Collection Plan - The Transport Statement previously submitted includes tracking plans that demonstrate that the entire site road system can accommodate refuse vehicles. The vast majority of homes would be able to deposit refuse bins for collection on the edge of the house plot. For a very limited number of dwellings that are served by short private drives, collection day bin storage locations are identified within easy reach of the highway, demonstrating that residents would not be required to carry/wheel bins more than 25 metres from their properties for collection, and refuse operatives would have an even shorter walk to collection points on bin day;
- Cycle Storage Plan – This demonstrates that each dwelling would have car parking and secure cycle storage for bicycles; and Flat blocks would have communal cycle stores, all in accordance with ECC's standards. For houses that have garages, internal measurements of 7m x 3m are achieved to satisfy this requirement;
- Site Ownership/Management Area Plan - This shows the areas to be offered for adoption (roads and footpaths), the remaining land would be conveyed to occupiers and the Public Open Space, play area and communal areas, such as flat parking courts and the parking court/service yard to the Live-Work Units would be maintained by a private management company;
- Garden Size Plan - There is a private amenity space plan showing the private amenity areas for each dwelling and confirming that all the garden areas comply with the minimum standards set out within the Development Plan/Essex Design Guide and explaining how the space is calculated for clarity;
- Parking Plan - There is a parking plan which shows the number and location of all parking spaces within the site. Some of the larger homes would exceed the Council's standards as they would allow for visitor parking on plot. Other homes would meet the Council's standards with visitor spaces located in accessible locations close to the homes. Overall the number of car parking spaces on the site would exceed the parking standards with an average of 2.1 spaces per dwelling and an additional 35 spaces for visitors (1 visitor space for each 4 homes (25%);
- Circular Dog Walking Plan - A dog walking plan showing links to the Public Rights of Way network and approximate walking distances within and around the site roads has been provided for consideration by the Council and in connection with the Habitat Regulations Assessment (HRA);
- Surface Water Drainage - ECC SUDS team raised no objection to the application, subject to standard conditions which demonstrate its acceptance of the strategy for draining the site, however additional plans showing the extent of possible standing water in flood events is now included to demonstrate the usability of the main area of Public Open Space. The section

plans produced show levels across the Open Space, including the dwellings adjacent to it and an explanation of the effects of rainfall events on it;

- Play Area/Public Open Space - At this stage the play space and recreational area is illustrative, for the purposes of demonstrating scale and distance. The precise content and design of the play area and recreational area within the open space is not fixed and the applicant expects that the Council would wish to have an input into its content and design. *[Officer Comment – this would be included as a Planning Obligation]*. The plans do however demonstrate the distances between housing and the play area, to demonstrate that it meets the Fields in Trust minimum buffer distances between homes and play areas, recommended play area sizes and specifications, including the use of dog-proof fences, safety surfacing and seating areas within a naturally landscaped space, which would also offer habitat and ecological improvements;

- Arboriculture Impact Assessment - The application now recognises the advice of the Council's Tree and Landscape Officer with regards to the removal of the Poplars on the northern boundary for safety reasons. Planning conditions securing the new planting can be imposed to ensure the boundary contains the range of species that would result in both an aesthetic improvement and ecological enhancement of the edge of settlement boundary. This would apply to new planting along all boundaries;

- Plans - Design & Layout:

- Site entrance - Brick walls are now proposed along both sides of the entrance road;

- Back to Back Distances - All plots have been reviewed and house positions revised to ensure the minimum back to back distances of 25 metres are achieved. To achieve this, houses have been revised in terms of position, some modest changes to some of the house types on the individual plots carried out and an overall reduction of one plot taking the total from 196 to 195;

- All homes continue to achieve the Council's standards in terms of area and depth;

- Increased parking for flats has been achieved by creating larger parking courts adjacent to the flat blocks. This has resulted in a reduction in open space within the centre of the site, although calculations still show that more than 10% of the site area would be open space, in accordance with the Council's standard for larger sites; and

- Parking bays – The scheme utilises the 'Essex' preferred bay sizes of 5.5m x 2.9m and all garage spaces also to meet the 7m x 3m internal dimension required so that they can be considered to be useable parking spaces.

6.13 In totality, therefore, the proposed development now comprises: Demolition of the dwelling at 700 St Johns Road and the demolition and clearance of the nursery site; creation of a new priority junction and an access road with 2no footways; the erection of 195 units (comprising 6 two bed houses, 87 three bed houses, 33 four bed houses, 25 five bed houses, 12 one bedroom apartments and 24 two bedroom apartments), and 8 live work units (mixed commercial units measuring 1064 square metres in total with flats above), with associated roads, open space, drainage, landscaping, and other infrastructure.

6.14 Pursuant to The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, the project, the subject of this planning application falls within Schedule 2 as set out therein: 10. Infrastructure projects; (b) Urban development projects - (ii) the development includes more than 150 dwellings. Consequently, it falls to the local planning authority to consider whether it is likely to have significant effects on the environment.

6.15 Officers have carried out a Screening Opinion (SO), which can be found on the planning register, this concludes that significant effects on the environment are not likely and therefore an Environmental Impact Assessment is not required for this development.

6.16 The main planning considerations are:

- Principle of Development;
- Landscape & Visual Impact;
- Ecology and Nature Conservation;
- Heritage;
- Design and Layout;
- Living Conditions;
- Surface Water and Drainage;
- Ground Conditions and Contamination;
- Access, Highways and Transportation;
- Planning Obligations and Viability; and
- Planning Balance and Conclusion.

Principle of Development

6.17 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. The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its housing policies being out of date. Paragraph 213 of the NPPF allows local planning authorities to give due weight to adopted policies according to their degree of consistency with the policies in the NPPF.

6.18 As of 16 June 2017, the 'emerging' Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. Section 1 of the emerging 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 raised 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 being undertaken to address the Inspector's concerns and the North Essex Authorities are potentially working towards submitting this evidence to facilitate a resumption of the Inquiry.

6.19 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.

6.20 The application site is not allocated for development in the adopted Local Plan and it lies outside (albeit approximately 300 metres) of the settlement development boundary for Clacton. The site is not identified on the Inset Maps in the adopted Local Plan as being subject to any other planning policy designations.

6.21 In the Tendring District Local Plan 2013-2033 and Beyond Publication Draft however, the site is included within the proposed new settlement boundary for Clacton, which includes the frontage development along St Johns Road as far as Pump Hill. By virtue of the site being located within the proposed new development boundary the Council has indicated that it

believes in principle that the site is suitable for residential development. The application site is identified as 'white land' and has no specific policy designation or requirements.

- 6.22 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 are considered relevant to the determination of the application as they state 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.
- 6.23 Policy SP1 of the emerging Local Plan sets out how the Council intend to manage growth, and the spatial strategy sets out that the District's Strategic Urban Settlements (Clacton-on-Sea, Harwich, Dovercourt and the Tendring Colchester Borders) will accommodate the largest portion of the District's increase in housing stock over the plan period. These settlements have the larger populations and a wide range of existing infrastructure and facilities, making them the most sustainable locations for growth. These settlements also provide better opportunities for encouraging more sustainable means of transport (public transport, walking and cycling) and for new jobs to be created through established town centres, employment areas and infrastructure.
- 6.24 The emerging Local Plan proposes substantial new development to the west of Clacton. In addition to the proposal to extend the settlement development boundary to the west, the plan identified two mixed use development sites:
- *Hartley Gardens* (Land north of Bockings Elm and west of A133, identified on map SAMU2 in the Draft Local Plan) is allocated for between 800-1,000 new homes; at least 7 hectares of land for employment; a new primary school and early years and childcare facility; and 1 hectare of Public Open Space; and
 - *Rouses Farm* (Land west of Jaywick Lane and south of St. John's Road, identified on map SAMU4 in the Draft Local Plan), is allocated for at least 850 new dwellings mix of residential development, community facilities and Public Open Space as follows: a new primary school with early years and childcare facility; a new neighbourhood centre; a site for a new healthcare facility; and a minimum of 5 hectares of Public Open Space. The Planning Committee passed a resolution, at the March 2019 meeting, to grant Outline Planning Permission, with all matters reserved except access for up to 950 dwellings in (17/01229/OUT).
- 6.25 This means that in addition to the existing local services that exist within the west of the town (the applicants TA states there is a nursery, local food shops, post office, community centre and healthcare centre within 15 minutes' walk of the site), the Rouses Farm development on the opposite side of St Johns Road will see the provision of additional community facilities, which should include the provision of a new primary school, with early years and childcare facility and a new neighbourhood centre.
- 6.26 The application site has been in use as a commercial nursery (horticultural use) for in excess of 40 years, and the Council's adopted and emerging Development Plan contain policies that seek to protect land that has been in employment uses (policies ER3 and PP6 respectively).
- 6.27 However, whilst Policy ER3 of the Tendring District Local Plan 2007 states that the Council will ensure that land in employment use, or allocated in the Plan for employment use will normally be retained for that purpose, there is no policy basis to protect the existing lawful use on this site. This is because Policy ER3 only seeks to protect 'employment land' which is defined by LP paragraph 3.5 as "*all types of employment use within Classes B1 [(b) and (c)], B2 and B8 of the Use Classes Order 1987 (as amended).*"

- 6.28 With regard to emerging Policy PP6, this states that “*The Council will seek to protect existing employment sites, as set out in the Council’s current Employment Land Review. These will be safeguarded for B1 (Business), B2 (General Industry) and B8 (Storage or Distribution) purposes and uses that are classified as sui generis if they are akin to employment type uses and also where appropriate A1 (Retail)*”. This site is not one of those set out in the Employment Land Review. The Aspinall Verdi document reviews 5no sites in Clacton as: Ford Road (Newman) Industrial Estate; Oakwood and Crusader Business Park; Gorse Lane Industrial Estate; Valleybridge Road Industrial Estate and Oxford Road Industrial Estate. Therefore, this development if permitted would not result in the loss of employment land as defined in the Council’s study.
- 6.29 However, as a result of several pre-application meetings and discussions with Officers, the applicant acknowledges the importance of presenting a scheme which also offers modern, purpose built employment space (circa 1000sq m) as part of a mixed use scheme. The applicant opines that if granted planning permission this purpose built business (live-work) accommodation would provide for up to 100 jobs (reference Employment Density Guide). The business units would provide a valuable resource in the town where the Employment Study reports good demand for such facilities, but which also reports a generally poor quality of accommodation currently available.
- 6.30 The inclusion of the site within the settlement development boundary of the emerging plan represents a significant material planning consideration, and demonstrates that it is the Council’s intention going forward to release this land for residential purposes. The emerging Local Plan has been the subject of extensive public consultation and no third party objections have been raised to its inclusion.
- 6.31 Some objectors to the planning application have raised concerns about the cumulative impacts of this proposed development with the planning permission granted for 950 dwellings at Rouses Farm, but the technical reports accompanying the application and the advice of consultees consider the cumulative impacts of the developments.
- 6.32 It is relevant to note that the Council’s planning policies – Policy HG13 of the adopted Local Plan and Policy LP8 of the emerging Local Plan, both seek to guard against the development of inappropriate ‘Backland’ residential development. ‘Backland’ developments are defined as residential development:
- a. which lies generally behind the line of existing frontage development;
 - b. has little or no frontage to a public highway; and
 - c. which would constitute piecemeal development in that it does not form part of a large area allocated for development.
- 6.33 Whilst the development would see residential development on land with little or no frontage to a public highway, as the emerging Local Plan proposes that the site will be included within the settlement development boundary, it effectively (by default) allocates this land for development. Furthermore, by the very nature of how settlements evolve, quite frequently new development finds itself situated behind existing housing and therefore in many cases a ‘backland’ scenario is inevitable. In addition, it is the intention of the applicant for the vast majority of the proposed road layout to be adopted by the Local Highway Authority.
- 6.34 Accordingly the proposals do not fall to be considered against Policy HG13 and LP8, although many of the above considerations still apply to the detailed consideration of this application – the effect of the proposals upon the living conditions of occupiers of existing neighbouring dwellings; ensuring that a safe and convenient means of vehicular and pedestrian access can be provided; and ensuring that the scheme is in keeping with the character of the area.

6.35 The site is in a relatively sustainable location and given the on-going pressure to increase housing supply and delivery within the district, Officers consider that no objection should be raised to the site coming forward for redevelopment, ahead of the examination of Part Two of the new Local Plan. Consequently, the principle of residential development on the site is considered acceptable.

Landscape & Visual Impact

6.36 NPPF para. 170 stipulates that the planning system should contribute to and enhance the natural and local environment by, amongst other things, protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside.

6.37 The application site is located in a semi-rural area beyond the urban fringes of Clacton, however this is a brownfield site. Officers note that although the site is currently almost completely covered with buildings and hard-standing, it is not visually intrusive in the landscape. Although lying beyond the main urban area, there is a ribbon of development along St Johns Road that gives the area a partially residential character.

6.38 There are no trees or other significant vegetation in the main body of the site, but along the site's boundaries, there are some established hedgerows and trees which make some contribution towards screening the existing buildings in some views of the site. The trees are varied in species and quality, and include ornamental trees near the entrance on Earls Hall Drive; coniferous hedging and several mature Oaks that are prominent features in their setting, albeit peripheral location.

6.39 Officer's requested that a Tree Survey and Report be submitted to demonstrate that the layout of the proposed dwellings would ensure a good relationship with retained trees of value. The submitted report confirms that the retention of the trees with the greatest amenity value close to the western boundary, adjacent to the existing entrance to the garden centre. The tree report also demonstrates the retention and protection of the Oaks on the eastern and north eastern boundaries of the site.

6.40 Officers were also concerned that the Tree Report recommended the retention of the Poplars that were planted as a windbreak for the nursery along the northern boundary. Poplars are a fast-growing species and these are already circa 20m tall, they are known to have propensity for branch failure as they mature and are not a long-lived species. Officer's concluded that it would not be sensible to retain them adjacent to new residential properties, although it is understood that their removal would mean that they would cease to visually screen the site.

6.41 Ultimately, the residential redevelopment of the site would change the character of the site, but Officers consider that the proposed development would not have a significant adverse visual impact on the wider landscape and that retained trees and hedgerows on the site's boundaries can be enhanced by new native planting through a detailed landscaping scheme to help create a positive new urban edge to the town.

Ecology and Nature Conservation

Protected Species

6.42 The applicant's Ecologist undertook a Phase One survey to identify potential habitats within the application site and establish whether there are habitats that might indicate the presence of protected species on it. The survey identified that the land surrounding the application site is dominated by both residential dwellings and arable land. Within the site, in areas not covered by buildings or other structures, the ground is varied in its structure and habitats within it form a mosaic, including bare ground, semi-improved amenity grassland, scrub, intact hedgerow

and spoil heaps. Having analysed the habitats present, further work was carried out in respect of the following species.

- 6.43 Badgers – As no evidence of badger was noted on site, no further surveys are recommended for this species, however as they are a highly mobile species it is recommended that a walkover survey should be carried out two weeks prior to works on site to ensure that the situation hasn't changed.
- 6.44 Bats – A Bat Risk Assessment was carried out on the site, but the ecologist acknowledges that this was done in March which is a sub-optimal time of year to carry out this work. The assessment did however identify six buildings and three trees that were assessed as having low potential to contain roosting bats. Further bat surveys were carried out, but no bats were observed utilising the buildings or trees on site during these surveys; and the report concludes that bats are unlikely to roost on site. Bats were however observed roosting in a tree adjacent to the site and were also observed both commuting across and foraging on the site. The report recommends a bat sensitive scheme of external lighting; the erection of temporary bat boxes on trees during site clearance and construction and long- term mitigation of bat boxes to be built into at least 1 in 5 of the new buildings on site. It is recommended that these matters are secured by condition.
- 6.45 Birds – a number of nesting birds on the site means that the site should not be cleared during the bird nesting season as a precautionary measure. To mitigate for the loss of nesting opportunities at the site, bird boxes should be erected at the site/incorporated within the fabric of buildings. Again, it is recommended that these matters are covered by condition.
- 6.46 Great Crested Newts – A small, drainage ditch is present just outside the eastern boundary of the site that was dry at the time of the survey. A pond is present approximately 280m to the south west of the site, separated from the site by residential housing and the busy B1027. The Council's Ecologist advises that no further survey work is necessary for Gt Crested Newt, as an offence is highly unlikely, but recommends generic precautionary measures are used during demolition and construction phases of development.
- 6.47 Reptiles – The Phase One Habitat Survey states there are habitats on site that provide opportunities for reptiles to bask and shelter. A further reptile survey was commissioned and this reports that no evidence of native reptiles was recorded. The main species located on the site is the European Wall Lizard which is a non-native species of lizard which has a long history of introduction into the UK. The European Wall lizard is listed under the Wildlife & Countryside Act 1981 (as amended) under Section 14 as a non-native animal not normally resident in the UK and it is illegal to release these animals into the wild. The applicant's ecologist recommends that prior to the commencement of development works the wall lizards should be removed from site and either humanely disposed of or re-homed in captivity in order to stop any animals escaping into the wider countryside.
- 6.48 Having reviewed the Ecology Surveys submitted with the application, it is considered that there is sufficient survey & assessment information to determine the likely presence of, and impacts to, Protected & Priority species and internationally designated Habitats sites, to allow the Council to determine the planning application.

Habitat Regulations Assessment

- 6.49 The development falls within the 'Zone of Influence' (Zoi) for one or more of the European designated sites scoped in the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). This residential development lies within the Zoi for Hamford Water SPA and Ramsar, and Essex Estuaries SAC and Colne Estuary (Mid Essex Coast Phase 2) SPA and Ramsar site.

- 6.50 The Council has a duty as a competent authority under the Habitats Regulations, to consider the potential for there to be a significant effect on the sensitive features of European protected coastal sites. It is anticipated that without mitigation, new residential development such as this one would have a likely significant effect on the sensitive features of the coastal European sites, through increased recreational pressure when considered 'in combination' with other plans and projects. It is considered that the proposal falls within the scope of RAMS as 'relevant development'.
- 6.51 Natural England state that provided their guidance is adhered to, an 'adverse effect on the integrity' (AEOI) of the European sites included within the Essex Coast RAMS from increased recreational disturbance can be ruled out, subject to appropriate mitigation.
- 6.52 One recommended way of trying to avoid increasing recreational pressures on the coastal European sites, is to encourage dog owners to exercise their dogs near their homes and not drive to the protected sites. The applicant has submitted details of the strategy that they propose to implement within a shadow Habitat Regulations Assessment (HRA). This highlights that the proposed development site itself contains public open space in accordance with COM6 of the Local Plan (Tendring District Council, 2007) which requires at least 10% of the site area as public open space. Additionally, a PROW runs adjacent to the western boundary of the site, along Earls Hall Drive, this links up with further rights of way and provides circular walking routes of various lengths adjacent to the site. It is anticipated that the Rights of Way network and on-site open space would serve the majority of the everyday recreational needs of the residents.
- 6.53 Information leaflets would also be distributed to new householders highlighting local footpaths within the open countryside and alternative areas of green space including nearby country parks. Details of the information leaflets and dog waste bins can be secured by condition, with the provision of the latter being prior to first occupation of the development, and retained as approved thereafter. The information leaflet can be included within the residents' welcome pack to every new dwelling. A Planning obligation can also secure the long-term maintenance and management of the green space.
- 6.54 Legal advice has been sought in relation to the Essex Coast RAMS which supports the view that Tendring District Council can also seek financial contributions in accordance with the strategy. The Council has produced a HRA setting out the mitigation that is proposed – namely the details contained within the strategy and a RAMS payment of £122.30 per dwelling (£23,848.50 based on 195 dwellings), is proposed to be included within the S106 agreement, to enable to fund strategic off-site measures. These measures should be targeted towards increasing the relevant Europeans sites' resilience to recreational pressure (such as schemes to provide wardens at them who will help manage and educate visitors, in line with the aspirations of the emerging RAMS.
- 6.55 Natural England are satisfied that the mitigation described in the Council's appropriate assessment is in line with their strategic-level advice; and advise that an appropriate planning condition or obligation is attached to any planning permission to secure the on-site mitigation measures, including links to footpaths in the surrounding area. The financial contribution should be secured through an appropriate and legally binding agreement, in order to ensure no adverse effect on integrity i.e. the S106 agreement.
- 6.56 Subject to the mitigation being secured there would be 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.

Heritage

- 6.57 Paragraph 184 of the NPPF states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. In determining planning applications, NPPF Para.189 states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.
- 6.58 The Planning (Listed Buildings and Conservation Areas) Act 1990 is concerned with the protection of the historic environment. Section 66 of the Act imposes a statutory duty upon local planning authorities to consider the impact of proposals upon listed buildings and their settings, and to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest that it possesses.
- 6.59 There are no listed buildings within the application site, but there are two Grade II listed buildings relatively nearby - Dutchess Farmhouse approximately 110m east of the site and Earls Hall Lodge which is approximately 300m to the north of the site.
- 6.60 The Heritage Impact Assessment submitted by the applicant accepts that the application site is located within the wider setting of Dutchess Farm and Earl's Hall Lodge, but states that the impact of the proposed development on the special architectural and historic interest of these buildings and their settings is neutral. The applicant argues that the proposed development would have little or no bearing on their setting due to screening by mature planting along the nursery site boundaries which would be retained or enhanced, and that where the development is visible in longer views, then this would be seen in the context of nearby 20th century housing along St John's Road.
- 6.61 The redevelopment of the site, including the introduction of buildings that are taller than are currently characteristic of the area, would change the character of the site and would result in it having a more urban character. Officers consider that this extension of the urban area into an area which currently has a more rural characteristic would alter the setting within which the listed buildings are experienced, most notably Earl's Hall Lodge to the north. However, ECC Place Services Historic Environment (Historic Buildings and Conservation) recommend that a condition is attached to any granted permission pertaining to landscape planting to ensure the development is adequately screened on the north side in views from Earls Hall Lodge.
- 6.62 Consequently, in terms of effects of the scheme upon above ground heritage assets, the application is considered acceptable, and would preserve the setting of the listed buildings. Therefore no harm would be caused to these designated heritage assets.
- 6.63 ECC Place Services (Heritage) have stated that the planning application has been identified as having the potential to harm non-designated heritage assets with archaeological interest. A number of cropmark complexes in the surrounding area attest to the archaeological potential of the area of the proposed development. These include settlement enclosures, trackways and linear features of probable agricultural origin. Previous investigation within the surrounding area have shown the field systems to be of Roman origin. The recorded cropmarks are immediately adjacent to the site and can be expected to continue into the development area.
- 6.64 Any surviving below ground heritage assets would be damaged or destroyed by the proposed development, much of the site is covered by glasshouses which would need to be demolished prior to an archaeological investigation to determine the potential for survival of archaeological remains. It is recommended that a condition requiring a Programme of Archaeological trial trenching following demolition be imposed upon any grant of planning permission.

Design and Layout

- 6.65 Paragraph 124 of the NPPF states that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.
- 6.66 The applicant's Design and Access Statement states that the buildings have been designed to encompass modern design elements, such as deeper window recesses and feature brickwork panels to create a theme of contemporary design whilst using traditional materials. This approach is intended to produce dwellings that appear modern whilst also incorporating features that would assist the development in relating to the surrounding area.
- 6.67 The majority of dwellings on the site would be houses and these have been designed to be two or three storeys. Parking for the houses would generally be provided on-plot, although there are cul-de-sacs where parking is arranged in courts in front of houses. It is also proposed to construct three blocks of flats. Blocks A & B, located on the west of the site, near Earls Hall Drive, would be three storey and contain 6no flats in each block. Parking for these flats would be either in bays to the front of the block or small courts to the rear.
- 6.68 Apartment C would be located more centrally within the site, next to (east of) the central green, and would be a four-storey building containing 24 flats. The parking for these flats would be provided through an external parking court and within a ground floor undercroft car park. With the exception of the entrances /stairwells, and bin storage, the whole of the ground floor would be parking with the flats on the first, second and third floors of the building. The applicant has revised the scheme so that it complies with the Council's parking standards of one space for each 1-bed unit and two spaces for each 2-bed flat.
- 6.69 Following concerns raised by Officers regarding the original scheme, the applicant has reduced the number of proposed dwellings in total by 15, this reduces the average net density of development down to 29 dwellings per hectare (dph). With private rear gardens meeting or exceeding the standards set out within the Essex Design Guide (EDG), the scheme would not give rise to an over-development of the site.
- 6.70 Third party views with regard to the scale of the dwellings to the rear of the properties on St John's Road are noted, however the minimum building to building distances between the proposed development and existing dwellings way exceed the EDG standards and overall it is considered that the scheme would not over-dominate its built context.
- 6.71 Adopted Local Plan Policy COM6 states that the Council will require at least 10% of the gross site area as Public Open Space on a development site of this size, and provision works out to be around 10.7%. This provision must include appropriate equipment and be laid out to a specification agreed with the District Council; this can be secured through the S106 legal agreement.
- 6.72 The majority of the open space is to be provided in a central Green and the layout shows that this would provide a children's play and an area for informal recreation. The Green would also feature swales and function as part of the surface water drainage system in times of extreme flooding (1:100 year event, plus taking into account climate change). It would be overlooked by housing on all sides providing good natural surveillance of the space. The Green would continue to the west to provide a green pedestrian/cycle corridor through and adjacent to Earls Hall Drive, and leading onto St John's Road.

- 6.73 The revised site layout shows a good level of soft landscaping, including tree planting, precise details of which should be secured under condition. With no clearly discernible building form or architectural theme along St John's Road, and with the design of the proposal taking some cues from the Essex Design Guide, Officers consider that the scheme would respond positively to local character, provide buildings that exhibit individual architectural quality and house-types with well-defined public and private spaces.
- 6.74 The public realm through additional landscaping, street furniture and other distinctive features would also assist in creating a sense of place, and provide streets and spaces that are overlooked and active, promoting natural surveillance and inclusive access, as well as including parking facilities that are well integrated as part of the overall design. Therefore, in totality, it is considered that the scale, layout, density, height and massing of buildings and overall elevational design would harmonise with the character and appearance of the surrounding area.

Living Conditions

- 6.75 Para.117 of the NPPF states that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Para.127 of the NPPF also refers to the need to ensure a high standard of amenity for existing and future users.
- 6.76 The EDG sets out guidance on new development, which should be designed in order to provide a decent standard of amenity for future occupants of the development, as well as protecting the amenities of existing residents who live adjacent to the development. The EDG states that *"with rear-facing habitable rooms, the rear faces of opposite houses approximately parallel, and an intervening fence or other visual barrier which is above eye level from the potential vantage point, a minimum of 25 metres between the backs of houses may be acceptable"*. It goes on to state that *"where new development backs on to the rear of existing housings, existing residents are entitled to a greater degree of privacy to their rear garden boundary, and therefore where the rear faces of the new houses may not encroach any closer than 15 metres to an existing rear boundary, even though with a closer encroachment 25 metres between the backs of houses would still be achieved"*.
- 6.77 The proposed dwellings along the southern boundary are predominantly two storeys, with some 2 ½ storey houses. The existing dwellings on St Johns Road do however enjoy deep rear gardens and the new dwellings would be situated at least 15 metres from the boundaries of existing dwellings. Consequently, adherence to these standards would ensure that the living conditions of existing residents would be protected from a material level of overlooking; and no material a loss of outlook or daylight/sunlight would ensue either.
- 6.78 Local Plan Policy HG9 sets out the Council's standards for private amenity space for new dwellings. All houses are provided with rear gardens and one house type (3D) are also provided with 25 sq.m. first floor balconies between the houses. The applicant has provided an accommodation schedule which shows that all the houses meet or exceed the minimum standard: 100 sq.m for three or more bedrooms; 75 sq.m. for two bedrooms; and 50 sq.m. for one bed houses.
- 6.79 For flats, Policy HG9 requires the provision of either a communal garden with a minimum of 25 sq.m. per flat; or a minimum of 50 sq.m. private garden area for a ground floor flat or maisonette and a minimum balcony area of 5 sq.m. for units above. The applicant proposes that each flat in Blocks A, B and C be provided with a balcony with an area of between 5-7 sq.m. Block A & B would also be provided with a communal garden area.

- 6.80 The applicant proposes that the occupants of Block C and the 8 live-work units are not provided with a communal garden area, suggesting that the occupants would be able to use the Green which is next to the Block C and a short walk from the live-work units. Officers consider this level of provision to be acceptable. Conditions are recommended regarding the setting out of the amenity spaces and the boundary treatments to ensure residents will have useable private amenity spaces whilst ensuring an attractive public realm.
- 6.81 The new vehicular access and associated footways to serve the development would be formed by demolishing the dwelling that stands at 700 St John's Road. The resulting road would therefore run between the gardens of the dwellings at 698 & 702 St Johns Road. The first set of revised plans showed that the applicant proposed an acoustic fence along both garden's side boundaries. Whilst no details had been provided, on reflection Officers considered that to ensure both a reasonable standard of amenity and to provide a suitable quality entrance to the site, brick boundary walls would be required on both sides of the road, with additional landscaping to soften the appearance. The applicant agreed to this change and precise construction details of the walls, including the materials, design and detailing can be secured by condition.
- 6.82 Given the proximity of existing residential properties to the application site, the Council's Environmental Health department have recommended a number of conditions concerning demolition and construction activities to minimise potential nuisance. Such conditions would cover matters such as noise controls; controls over the hours of work and deliveries; details of any piling works (if applicable); the prohibition of burning waste produced during demolition and construction; as well as dust suppression.
- 6.83 To the north of the application site is the Earls Hall Wind Farm which comprises five wind turbines, with a hub height of 80 metres and a maximum height to blade tip of 125 metres. The wind farm was granted planning permission on appeal in 2009 (Planning Application no. 07/00433/FUL). During the Planning Inquiry, the Inspector carefully considered the issue of noise from the turbines as local residents argued that this was a reason for the application to be refused. The Inspector concluded that the turbines would not cause any significant noise harm to the living conditions of local residents, including Pond House and Earls Hall Farm which are closer to the turbines than the proposed dwellings on the application site. The Council's Environmental Health Officer reports no complaints concerning noise from the Wind Farm and overall raises no objection to the application on noise grounds.
- 6.84 Overall, Officers consider that the proposal as revised, has been designed in a manner which achieves an appropriate relationship with the existing dwellings. All in all it is considered that the above measures would ensure that the living conditions of existing and future residents would be protected from any materially detrimental impacts.

Surface Water and Drainage

- 6.85 Anglian Water raises no objection to the application and have confirmed that the St Osyth Water Recycling Centre would have sufficient capacity to deal with the foul drainage flows from the proposed development. Works would be required to foul water sewers in order to prevent the risk of flooding and a condition is recommended to ensure that the applicant works with Anglian Water and the delivery of housing is phased.
- 6.86 The applicant has submitted a Drainage Strategy which has been considered by Essex County Council who are the Lead Local Flood Authority (LLFA). The LLFA initially submitted a holding objection as the applicant was not proposing to sufficiently limit the discharge of surface water from the site. Following receipt of a revised Surface Water Drainage Strategy this holding objection was withdrawn and the LLFA raise no objection to the granting of planning permission subject to conditions relating to the submission and subsequent approval of a

detailed surface water drainage scheme, a maintenance plan, and a scheme to minimise the risk of offsite flooding and prevent pollution during construction.

- 6.87 As explained above, Officers were however concerned about a lack of detail in respect of the design of the SUDS features, particularly as the main central area of open space is proposed to be used as a holding area for surface flood water. Therefore, the latest set of plans that were submitted in December, take account of the other changes to the layout made to address Officer's wider list of issues and now provides clarification on the impact of flood events on the open space.
- 6.88 The applicant highlights that the site would have considerably more natural drainage than the current hard surfaced/covered site which would be a significant improvement in itself. The submitted sections shown on the plans demonstrate that engineered ponds would comfortably cater for storage during the 1 in 1 and 1 in 5-year flood events, leaving the informal recreational area and equipped play space entirely free of standing water during such events. The ponds would be designed with safety in mind and to enhance the ecological value of the site for the benefit of all users and wildlife.
- 6.89 Surface water may pool on the informal recreational area by up to 150mm in a more severe 1 in 30-year flood event and by up to 300mm in a very severe 1 in 100-year event. However, the section plans show that even in the extreme 1 in 100-year storm event, the equipped play area and all homes around would not be affected by standing surface water. This means that whilst the area is designed to flood that the frequency of flooding would be very rare and for a short duration of time.
- 6.90 From this basis it is considered that the Council could not substantiate reasons for refusal of planning permission in respect of drainage matters, and the proposal would not give rise to flood risk emanating from surface water generated by the proposal.

Ground Conditions and Contamination

- 6.91 Para.170 of the NPPF states that to prevent unacceptable risks from pollution and land instability, planning decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.
- 6.92 The site is understood to have been used as a horticultural nursery since the 1970's and the applicant's initial assessment of potential contamination of the site identified a number of potential sources of contamination. Some of the buildings are made with asbestos containing material and this would require specialist demolition and removal to be carried out in accordance with statutory regulations.
- 6.93 In addition, there is considered to be a risk of contamination from the storage of various fuels and horticultural chemicals at the site. Environmental Health also refer to a potential risk arising from land approximately 250metres from the site that is on the potential contaminated land database register. Further intrusive, systematic sampling across the site is proposed. Environmental Health does not object to the application, but have stated that further investigation is required, followed by a period of rehabilitation. Further surveys and a remediation strategy can be secured by condition to ensure that existing residents neighbouring the site and future occupants of the development are not adversely affected by possible land contamination.

Access, Highways and Transportation

- 6.94 Where concerning the promotion of sustainable transport, the NPPF in para. 103 states that the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
- 6.95 Paragraph 102 of the NPPF requires Councils when making decisions to ensure:
- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
 - b) safe and suitable access to the site can be achieved for all users; and
 - c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 6.96 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. As highlighted above, in addition to the existing local services that exist within the west of the town (the applicants TA highlights that there is a nursery, local food shops, post office, community centre and healthcare centre within 15 minutes' walk of the site), the Rouses Farm development on the opposite side of St Johns Road will see the provision of additional community facilities, which should include the provision of a new primary school, with early years and childcare facility and a new neighbourhood centre.
- 6.97 Furthermore, existing bus services also pass the site, along St John's Road and include Hedingham route 6 between Point Clear, St Osyth and Clacton (half-hourly service Monday – Saturday daytimes, hourly Monday – Saturday evenings and Sundays), and FirstGroup route 98 between Clacton and Colchester (hourly Monday – Saturday daytimes, and two evening services Monday – Saturday evenings). Consequently, along with other developments proposed to the west of Clacton there are opportunities to increase the attractiveness of more sustainable means of transport, including by walking, cycling and bus services.
- 6.98 Policy TR1a 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 CP1 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.
- 6.99 It is acknowledged that some local residents and the Parish Council have objected to the proposal with concerns about the development's impact on St John's Road, general road safety and capacity. Highways Officers have stated that at the main junction into the site they would have ideally preferred to see a ghosted right turn lane provided on St John's Road. However, on closer inspection they state that there does not appear to be enough publicly maintainable highway to accommodate a ghosted right turn lane at this location, and if there were it would be at the expense of the shared footway/cycleway being provided in the vicinity of the site. Consequently, it is understood why this cannot be achieved at this location. Essex County Council, in its capacity as the Local Highway Authority, has considered the proposal and concluded that it would be acceptable from a highways perspective subject to a number of conditions and obligations the subject of which, as highlighted within the summary of their response above are included at the end of this report.

- 6.100 The Council's adopted parking standards state that a minimum of 1 space per dwelling should be provided for 1 bedroom dwellings and a minimum of 2 spaces per dwelling should be provided for 2 and more bedroom dwellings. Also 0.25 space per dwelling is required for visitor parking. Parking spaces should measure 5.5 metres by 2.9 metres and garages (to be counted towards parking provision) should measure 7 metres by 3 metres. The proposed development has been laid out in a manner that adheres to these standards and pays regard to the need to plan for sustainable access for all.
- 6.101 The transport impacts of the development are not considered to be severe and, from this perspective, refusal of planning permission on such grounds would not be justified, particularly bearing in mind that the draft Local Plan includes this site within the settlement development boundary. Therefore it is considered that the proposal, during either the construction or operational phases would not have a detrimental effect upon the highway network or the general accessibility of the surrounding area with sustainable mitigation measures proposed and to be secured by the appropriate means.

Site Assessment Conclusion

- 6.102 No substantive objections to the application have been raised by any statutory consultees. Having assessed the specific merits of the site in terms of its potential to accommodate the proposed development in a sustainable manner, Officers are of the opinion that the proposed quantum of development could be accommodated without significant adverse impacts, subject to securing planning obligations in respect of social infrastructure and facilities; and the 'Planning Balance' exercise carried out thereafter.

Planning Obligations and Viability

- 6.103 For the avoidance of doubt and duplication, the socio-economic impacts that would be mitigated through planning obligations (in addition to any previously cited within this report) secured through S106 of the Town and Country Planning Act 1990, and the policy basis for requiring them, are included in this section of the report. Ultimately, para. 54 of the NPPF states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.
- 6.104 Consequently, this section also outlines the manner in which planning obligations would satisfy the tests set out in the Community Infrastructure Levy Regulations 2010 (CIL Regs) and para. 56 of the NPPF, which states that obligations should only be sought where they meet all of the following tests:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.

- 6.105 Section 8 of the NPPF requires the planning system to take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.
Affordable Housing

- 6.106 Para. 62 of the NPPF requires, *inter alia*, LPAs where they have identified that affordable housing is needed, to set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and the agreed approach contributes to the objective of creating mixed and balanced communities. Para. 64 of the NPPF states that where major development involving the provision of housing is proposed,

planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership.

- 6.107 Adopted Policy HG4 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, whereas draft Policy LP5 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, subject to viability testing.
- 6.108 The NPPF requires Councils to consider economic viability when it applies its policies and the Council's own 2013 viability evidence in support of the new Local Plan demonstrates that 40% affordable housing is unlikely to be viable in Tendring and that between 10% and 30% is more realistic. Emerging Policy LP5 states that the Council will expect 30% of new dwellings to be provided as Affordable Housing. As an alternative, the Council will accept a minimum 10% of new dwellings provided on-site as Affordable Housing with a financial contribution towards the construction or acquisition of property for use as Affordable Housing equivalent to delivering the remainder of the 30% requirement.
- 6.109 The Council's Housing Officers confirm that Clacton is the area with the highest demand on the housing register within the District with a high level of demand for all sizes of dwellings. As the site is located in the area with the highest demand, there is a need for affordable housing to be provided on site and the Council's preference would be for 30% of the total number of homes to be provided as Affordable Housing on site.
- 6.110 However, due to the presence of the glasshouses that cover the majority of the site, there is a considerable cost to its re-development, taking into account the removal of glass, possible asbestos and the frames, this abnormally affects viability, to the tune of approximately £1.98m. The Council's appointed valuation consultants BNP Paribas Real Estate have liaised at length with the applicant, in order to ascertain what percentage of affordable housing the development can afford to provide; and it has been concluded that this is 10%, in accordance with the minimum requirements of NPPF paragraph 64.

Ecology/ Habitat Regulations Assessment

- 6.111 To ensure that the Council discharges its duty as competent authority under the Habitats Regulations, it is necessary to secure mitigation to ensure that the new residential development would not have a significant effect on the sensitive features of the coastal European sites, through increased recreational pressure when considered 'in combination' with other plans and projects.
- 6.112 In accordance with the Habitat Regulations Assessment (HRA) prepared by the Council and approved by Natural England, a RAMS payment of £122.30 per dwelling (£23,848.50 based on 195 dwellings). These measures should be targeted towards increasing the relevant European sites' resilience to recreational pressure (such as wardening schemes) and be in line with the aspirations of the emerging Essex RAMS.

Education

- 6.113 NPPF paragraph 94 states that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education and give great weight to the need to create, expand or alter schools.
- 6.114 Essex County Council, the Local Education Authority (LEA), have been consulted on the proposal. Having assessed the likely demand for places generated by the proposed

development and having assessed current capacity in the area, the LEA recommend that financial contributions be sought to create additional places to ensure that there are sufficient places available for Early Years and Childcare in the St Osyth and Point Clear Ward, St Osyth CE Primary Academy and Clacton Coastal Academy. Consequently, the following financial contributions (all index linked to April 2019) recommended to go towards both the construction and expansion of existing facilities are sought:

- Early Years and Childcare: £257,149;
- Primary Education: £751,825;
- Secondary Education: £761,419 for (Clacton Coastal Academy); and
- Primary school transport contribution of £745,970.40, as there are no safe walking routes from the site to St Osyth.

6.115 However, in response to this, the applicant highlights that Ravenscroft Primary School and Cann Hall Primary School, are 1.7km (1.05 miles) and 2.3km (1.43 miles) away from the site respectively, and whilst the latter is further away than St Osyth CE Primary Academy (1.9km), both of these Clacton schools are easily accessible via existing hard surfaced footways. Officers also note that St Clares RC Primary School is approximately 1.6km away (1 mile). In addition, the applicants highlight that planning permission for a new primary school at Rouses Farm on the opposite side of St Johns Road has been granted and therefore would be closer still to the application site, in due course.

6.116 Whilst it is likely that the application site would be built out and occupied prior to the construction and opening of the Rouses Farm Primary School, it is considered reasonable to question the logic in bussing children from the application site to St Osyth when they could walk from a location on the edge of Clacton to one of at least three of Clacton's Primary schools. It is understood that the proposed development would give rise to a greater demand for school places within the locality; and the applicant does not raise an issue with regard to making financial contributions towards the construction and expansion of existing facilities in respect of Early Years and Childcare, Primary and Secondary Education, only the Primary School transport contribution, the inclusion of which would render the development as unviable.

6.117 From this basis Officers consider that the request for a Primary School transport contribution would not pass the CIL tests, as it would not be necessary to make the development acceptable in planning terms; would not directly relate to the development; or fairly and reasonably relate to the development in scale and kind.

Healthcare

6.118 NPPF paragraphs 91 and 92, amongst other things, state that the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities.

6.119 NHS North East Essex CCG has been consulted on the proposed development. Having reviewed the current situation they confirm that there is insufficient capacity at the local surgeries to meet the demand arising from this number of new dwellings, however they confirm that they have no objection to the application, subject to a financial contribution to mitigate the impact of the development upon GP practices. A contribution of £67,666 is requested towards capacity improvements at the Nayland Drive Branch Surgery (including its Main Practice Green Elms Health Centre part of ACE Community Practices & includes Epping Close Practice & Frinton Road Medical Centre).

6.120 The improvements could involve the refurbishment, reconfiguration, extension, or potential relocation of the Surgery. The NHS request that the money is paid before the development commences.

Highways and Transportation

- 6.121 NPPF paragraph 102, amongst other things requires opportunities to promote public transport use are identified; and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 6.122 ECC Highways state that they have assessed the highway and transportation impact of the proposal including full assessment of the Transport Assessment, examination of all documents submitted, and undertaken a site visit and do not wish to raise an objection subject to the imposition of reasonable planning conditions and obligations. It is considered that the majority of the required works can be covered by planning condition, with the exception of the provision of 3no bus stops on St Johns Road; a pro-rata financial contribution of £104,000 to bus services operating along St John's Road; and the provision/upgrade of a 3-metre wide shared footway/cycleway on the north side of St Johns Road from its junction with Earls Hall Drive eastwards to the main vehicular access to the site and beyond to tie in with the proposed footway/ cycleway for the Rouses Farm development south of St Johns Road (17/01229/OUT).

Live/Work units

- 6.123 Paragraph 80 of the NPPF states that planning decisions should help create the conditions in which businesses can invest, expand and adapt. It goes onto state that 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.
- 6.124 As highlighted above, as a result of several pre-application meetings and discussions with Officers, the applicant acknowledges the importance of presenting a scheme which offers modern, purpose built employment space (circa 1000sq m) as part of a mixed use scheme. The business units would provide a valuable resource in the town where the Employment Study reports good demand for such facilities, but which also reports a generally poor quality of accommodation currently available.
- 6.125 In order to ensure that the live/work units are provided, it is recommended that a trigger of no more than 75% of open market dwellings should be occupied until the live/Work units have been constructed and actively marketed.

Public Open Space

- 6.126 NPPF para.s 91 and 92, amongst other things, state that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. As previously stated, the Adopted Local Plan Policy is that on residential development sites greater than 1.5ha there is a requirement that Public Open Space (POS) is provided equal to at least 10% of the site area.
- 6.127 The Council's Public Realm Officer has advised that there is currently a deficit of 41.08 hectares of play in the Clacton/Holland area. As the development will increase demand on already stretched facilities it will need to mitigate this impact. The applicant proposes on site provision of open space and play facilities to a LEAP standard have been included within the design. As referred to above, the proposed on-site provision works out to be around 10.7% of the site area, and this provision must include appropriate equipment and be laid out to a specification agreed with the District Council which can be secured through the S106 legal agreement.
- 6.128 As the level of provision on-site is considered appropriate, no contribution is being requested for off-site provision. The delivery of the Open Space and Play Area will need to be controlled through the S106 agreement, along with suitable arrangement for future ownership and

maintenance. In this instance the Public Open Space and Play Area, the developer will need to arrange for this to be transferred to a private Management Company.

Viability

- 6.129 Paragraph 57 of the NPPF states that it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. It goes on to state that the weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case.
- 6.130 As covered within the Affordable Housing section above, during the course of the application the applicant has submitted a viability assessment which demonstrates that the scheme is not viable with the planning obligations that the Council would normally seek. The applicant's viability assessment has been independently assessed by the Council's specialist viability consultant; and they have confirmed that the assessment has followed the recommended approach in national planning guidance, including standardised inputs.
- 6.131 Paragraph 6.110 above highlights that due to the presence of the glasshouses that cover the majority of the site, there is a considerable cost to the site's re-development, taking into account the removal of glass, possible asbestos and the frames; this abnormally affects viability, to the tune of approximately £1.98m.
- 6.132 The Council's appointed valuation consultants have confirmed that these abnormal costs reduce the amount of affordable housing that can be provided by this development, the percentage of affordable housing the development can afford to provide is 10%; and that is without the aforementioned Primary School transport contribution.
- 6.133 The above obligations are summarised here and overall, it is considered that they satisfy the tests for planning obligations set out in the CIL Regulations, which are necessary to: make the development acceptable in planning terms; directly relate to the development; and fairly and reasonably related to the development in scale and kind:
- Affordable Housing – 10 %;
 - Ecology - Financial Contribution towards RAMS - £23,848.50;
 - Education - Financial Contributions towards EY&C, Primary and Secondary school provision - £1,770,393;
 - Healthcare - Financial contribution for additional floorspace at Nayland Drive Surgery - £67,666;
 - Highways & Transportation –
 - Provision of 3no bus stops on St Johns Road;
 - Pro-rata financial contribution to bus services on St John's Road - £104,000;
 - Provision/upgrade of a 3-metre wide shared footway/cycleway on the north side of St Johns Road from its junction with Earls Hall Drive eastwards to the main vehicular access to the site and beyond to tie in with the proposed footway/ cycleway for the Rouses Farm development south of St Johns Road (17/01229/OUT);
 - Live/Work units to be constructed and marketed prior to 75% dwelling occupation;
 - Public Open Space – To be laid out and transferred to a Management Company.

7. Planning Balance & Conclusion

- 7.1 As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case the application site is located outside of a designated settlement development boundary and as such is located on land designated as countryside in the adopted Local Plan.

- 7.2 However, in the emerging Local Plan it is specifically included within the defined settlement boundary of the town of Clacton. The emerging plan has now reached a relatively advanced stage of the plan-making process, and the Council relies on this to boost the supply of housing in line with government planning policy. It is therefore considered that the inclusion of this land within the settlement development boundary in the emerging Local Plan should carry considerable weight in the decision making process, particularly as no objections were raised to this during the public consultation.
- 7.3 Furthermore, at the time of writing 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.
- 7.4 As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):
- an economic objective (to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure);
 - a social objective (to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being); and
 - an environmental objective (to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy).
- 7.5 In terms of the economic and social objectives, the development of the site for 195no dwellings, in addition to 8no live/work units would contribute towards the District's 5-year housing supply, whilst also providing 20 affordable units, of an appropriate dwelling type mix to meet social needs.
- 7.6 There would also be jobs generated during the construction stage and once occupied, future occupiers would contribute to the vitality of Clacton and St Osyth, through providing further support for existing services and businesses. The development of the site would also secure financial contributions to assist in mitigating the impact upon services and Public Open Space within the area, which through the provision of children's play equipment on site, and financial contributions towards bus service improvements would likely give rise to benefits to the wider community. As such, it is considered there are numerous economic and social benefits that would arise from the development that can be afforded moderate to significant weight in favour of the scheme.
- 7.7 In terms of the environmental objective, the site is situated outside of the adopted development boundary for Clacton, but the scheme would give rise to the redevelopment of an underutilised site, and would ensure that the glass houses, as well as any potential Asbestos Containing Materials (ACM) are safely removed and disposed of appropriately. The site forms part of the urban fringe whereby the landscape is considered to have the capacity to absorb the development without detriment to the character and appearance of the wider countryside. The creation of the access through the plot of 700 St John's Road would change the living

environment for the occupiers of the adjacent dwellings, however it would be of a width that would comply with the requirements of the Local Highway Authority, as well as ensuring landscaping and brick walls are provided, to enable an acoustic barrier to be formed.

- 7.8 In terms of other aspects, the development would provide the potential for a high quality residential layout that could create a good sense of place and appropriate character whilst complying with the standards for internal and external amenity, as well as the Council's adopted parking standards. The site could also reasonably be developed without material detriment to the occupants of neighbouring dwellings and heritage assets, and would retain the majority of existing trees considered of amenity value.
- 7.9 The site is also in a relatively sustainable location, which would enable access by foot/cycle/bus to facilities in Clacton such as schools, the GP practice and the town centre, as well as the future development at Rouses Farm. Therefore, it is considered overall that there would be limited environmental harm connected with the development.
- 7.10 The applicant has submitted a suite of detailed documents which demonstrate that the site is free of any constraints to residential development which cannot be resolved by way of conditions and through planning obligations (the S106 Agreement).
- 7.11 When considering the planning balance and having assessed the specific merits of the application, and having regard to the requirements of the NPPF as a whole, Officers consider that the benefits of the proposal outweigh the adverse impacts and as such it is recommended that planning permission should be granted, subject to the specific mitigation set out within this report.

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 section 106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Affordable Housing	10 %
Ecology (RAMS)	£23,848.50
Education	£1,770,393
Healthcare	£67,666
Highways & Transportation	- Provision of 3no bus stops on St Johns Road; - Pro-rata financial contribution to bus services on St John's Road - £104,000; - Provision/upgrade of a 3-metre wide shared footway/cycleway on the north side of St Johns Road from its junction with Earls Hall Drive eastwards to the main vehicular access to the site and beyond to tie in with the proposed footway/ cycleway for the Rouses Farm development south of St Johns Road (17/01229/OUT);
Live/Work units	To be constructed and marketed prior to 75% of dwelling occupation.
Public Open Space	To be transferred to a Man. Co.

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 approved drawings as listed within the 'e3 design g/4424/03/drawing issue sheet – planning last updated 20/12/2019'; and '4424 PL 0040 - Material Reference Schedule Rev B dated 3.5.2019'.

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

- 3) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any Order amending, revoking and re-enacting that Order) the live-work premises on plots 203-201, shall be used as a mixed use of A1 and/or A2 and/or B1 at ground and first floor levels; and C3 at second floor level and for no other purposes.

Reason - To protect the amenities of the occupiers of the second floor flats and other nearby residential properties, and to ensure that an element of commercial activity is retained on the application site.

- 4) All garages and car parking spaces shall be kept available for the parking of motor vehicles at all times. The garages and car parking spaces shall be used solely for the benefit of the occupants of the dwelling/commercial unit of which it forms part/is intended to serve, and their visitors, and for no other purpose, and permanently retained as such thereafter.

Reason - To ensure adequate parking and garage space is provided within the site in accordance with the standards adopted by the local planning authority.

- 5) No development shall take place, including any ground works or site clearance, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The approved Plan shall provide for the following all clear of the public highway:

- a. the parking of vehicles of site operatives and visitors;
- b. loading and unloading of plant and materials;
- c. safe access to/from the site, including the routeing of construction traffic;
- d. storage of plant and materials used in constructing the development;
- e. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- f. wheel and under-body washing facilities;
- g. measures to control the emission of dust and dirt during demolition and construction;
- h. a scheme for recycling/disposing of waste resulting from demolition and construction works;
- i. a scheme to control noise and vibration during the demolition and construction phases, including details of any piling operations; and
- j. details of how the approved Plan will be implemented and adhered to.

The approved Plan shall be adhered to throughout the construction process.

- 6) In accordance with the Summary and Recommendations of the submitted 'Phase 1 Desk Study Report', prior to the commencement of development a comprehensive survey shall be undertaken to assess the nature and extent of any contamination on the site (including

Asbestos Containing Materials), a copy of the survey findings together with a remediation scheme to bring the site to a suitable condition in that it represents an acceptable risk shall be submitted to and agreed in writing with the Local Planning Authority prior to the commencement of development. Formulation and implementation of the remediation scheme shall be undertaken by competent persons and in accordance with 'Model Procedures for the Management of Land Contamination, CLR 11'. Further advice is available in the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers'. Such agreed measures shall be implemented and completed prior to the commencement of development hereby approved.

Notwithstanding the above, should contamination be found that was not previously identified or not considered in the remediation scheme agreed in writing with the Local Planning Authority, that contamination shall be made safe and reported immediately to the Local Planning Authority. The site shall be re-assessed in accordance with the above and a separate remediation scheme shall be submitted to and agreed in writing with the Local Planning Authority. Such agreed measures shall be implemented and completed prior to the first occupation of any parts of the development.

The developer shall give one-month's advanced notice in writing to the Local Planning Authority of the impending completion of the remediation works. Within four weeks of completion of the remediation works a validation report undertaken by competent person or persons and in accordance with the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers' and the agreed remediation measures shall be submitted to the Local Planning Authority for approval. There shall be no residential occupation of the site (or beneficial occupation of the office building hereby permitted) until the Local Planning Authority has approved the validation report in writing. Furthermore, prior to occupation of any property hereby permitted, the developer shall submit to the Local Planning Authority a signed and dated certificate to confirm that the remediation works have been completed in strict accordance with the documents and plans comprising the remediation scheme agreed in writing with the Local Planning Authority.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 7) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

Reason - To avoid the excessive raising or lowering of any building hereby permitted and the alterations of ground levels within the site which may lead to unneighbourly development with problems of overlooking and loss of privacy.

- 8) No preliminary groundworks or other development below existing ground and slab level shall commence until a programme of archaeological trial trenching has been secured and undertaken in accordance with a Written Scheme of Investigation, which has previously been submitted to, 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, shall be submitted to and approved in writing by the local planning authority.

No development or preliminary groundworks 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, which has been signed off in writing by the local planning authority.

Reason - The site may be of archaeological interest; and to enable full investigation and recording of archaeological artefacts.

- 9) 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 site may be of archaeological interest; and to enable full investigation and recording of archaeological artefacts.

- 10) Prior to the occupation of the development hereby approved, a scheme of landscaping shall be submitted to and approved in writing by the local planning authority. The scheme shall incorporate a detailed specification including plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying where appropriate.

All areas of hardstanding shall be constructed using porous materials laid on a permeable base unless otherwise agreed in writing by the local planning authority.

All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in the first planting and seeding seasons after the commencement of the development unless otherwise previously agreed in writing by the local planning authority.

All hard surface areas agreed as part of the scheme shall be carried out before the first occupation of the buildings or upon the completion of the development whichever is the earlier.

Any trees or plants which die, are removed, or become seriously damaged, or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting season with others of a similar size and species unless the local planning authority gives written consent to any variation.

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

- 11) The development shall be carried out in full accordance with the recommendations as set out within section 8 of the submitted 'Arboricultural Impact Assessment' report produced by EnviroArb Solutions Ltd, dated 5 December 2019. No alterations or variations to the approved works or tree protection schemes shall be made without prior written consent of the local planning authority.

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

- 12) All ecological mitigation & enhancement measures and/or works shall be carried out in accordance with the details contained in the 'Extended Phase 1 Habitat Survey and Bat Risk Assessment' (Total Ecology, May 2018), 'Bat Survey' report (Total Ecology, May 2018) and 'Reptile Survey' (Total Ecology, Sept 2018) as submitted with the planning application and agreed in principle with the local planning authority prior to determination. This should include the appointment of an appropriately competent person e.g. an ecological clerk

of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out in accordance with the approved details.

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

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

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

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

- 14) Prior to the first occupation of any dwelling hereby permitted, a Biodiversity Enhancement Layout for Protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Layout shall include the following:

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

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter in perpetuity.

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

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

- 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;
- Limiting discharge rates to 8.8 l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change or via infiltration depending on on-site infiltration testing results;

- A provision of 10% for urban creep should be included in calculations;
- 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;
- Demonstrate that all storage features can half empty within 24 hours for the 1:100 plus 40% climate change critical storm event;
- Final modelling and calculations for all areas of the drainage system;
- The appropriate level of treatment for all runoff leaving the site, including roof water, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753;
- Detailed engineering drawings of each component of the drainage scheme, including details of minimum 1 in 3 side slopes for swales/ponds/basins;
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features; and
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

Reason - To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, 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. Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

- 16) Prior to first occupation of the development hereby permitted, 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, shall be 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. The development shall be carried out and managed in accordance with the agreed details in perpetuity.

Reason - To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

- 17) 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.

- 18) Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme.

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

- 19) No site clearance, demolition or construction work shall take place on the site, including starting of machinery and delivery of materials, outside the following times:

Monday to Friday 0800 hours - 1800 hours;
Saturday 0800 hours - 1300 hours; and
Sundays, Public and Bank Holidays - no work

Reason - To protect the amenities of the occupiers of nearby residential properties and the surrounding area.

- 20) No burning of refuse, waste materials or vegetation shall be undertaken in connection with the site clearance or construction of the development.

Reason - To protect the amenities of the occupiers of nearby residential properties and the surrounding area.

- 21) No dwelling or live-work unit shall be occupied until the refuse and recycling bins, and where applicable, storage areas and collection points, for that dwelling/unit have been provided and are available for use.

Reason - To ensure adequate facilities for refuse and recycling in the interests of residential amenity and in order to prevent the unsightly storage of refuse containers and in the interests of amenity.

- 22) Prior to the demolition of 700 St John's Road, details of the form of construction of the acoustic wall to be erected along its eastern and western boundaries, adjacent to nos 698 and 702 St John's Road respectively, shall be submitted to and approved in writing by the local planning authority. The walls shall be erected in accordance with the agreed details prior to the construction of the new access road.

Reason - To protect the amenities of the occupiers of nearby residential properties and the surrounding area.

- 23) Prior to first occupation of the development hereby approved, details of all gates, fences and other walls, or other means of enclosure, shall be submitted to and approved in writing by the local planning authority. The details shall include position, design, height and materials of the enclosures. The enclosures as approved shall be provided prior to the occupation of the development hereby approved and shall be permanently maintained as such.

Reason - To enhance the appearance of the development and in the interests of visual amenity and privacy.

- 24) Prior to the first occupation of the development hereby permitted, full details of the construction of the footpath/cycleway proposed to run through the existing curtilage of 780 St John's Road shall be submitted to and approved in writing by the local planning authority. The details shall include the extent of demolition of existing extensions/outbuilding/s and the method for making good, with full elevations and floor plans of the resultant works. The development shall be carried out in accordance with the agreed details.

- 25) The bicycle parking facilities as shown on the approved plan are to be provided prior to the first occupation of the development and retained at all times.

Reason - To ensure appropriate bicycle parking is provided in accordance with the Council's adopted Parking Standards.

- 26) No occupation of the development shall take place until the following have been provided or completed: The highway works as shown in principle on revised site plan drawing no. 4424/CA/PL1000 Rev. K, but to include the following minor amendments:
- A forward visibility splay of 25 metres needs to be provided on each corner of the development these will need to be hardened so they can be adopted;
 - The raised table to be extended to include the drive to plot 173;
 - The 2-metre-wide footway to continue round on the north side of the bend to tie into the footway at the junction outside plot 94 and from the north boundary to plot 97;
 - Speed-restraint measures should be located at maximum intervals of 60m, starting within 50m of the entry junction or zone; and
 - The proposed build-out on the access road to the site needs to switch to the opposite lane to remove the potential traffic accessing the site backing up onto St Johns Road.

Reason – In the interests of highway safety.

- 27) The Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council, (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.

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.

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.

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.

Sustainable Urban Drainage Informatives

Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.

Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.

Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.

It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.

The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.

We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.

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

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>

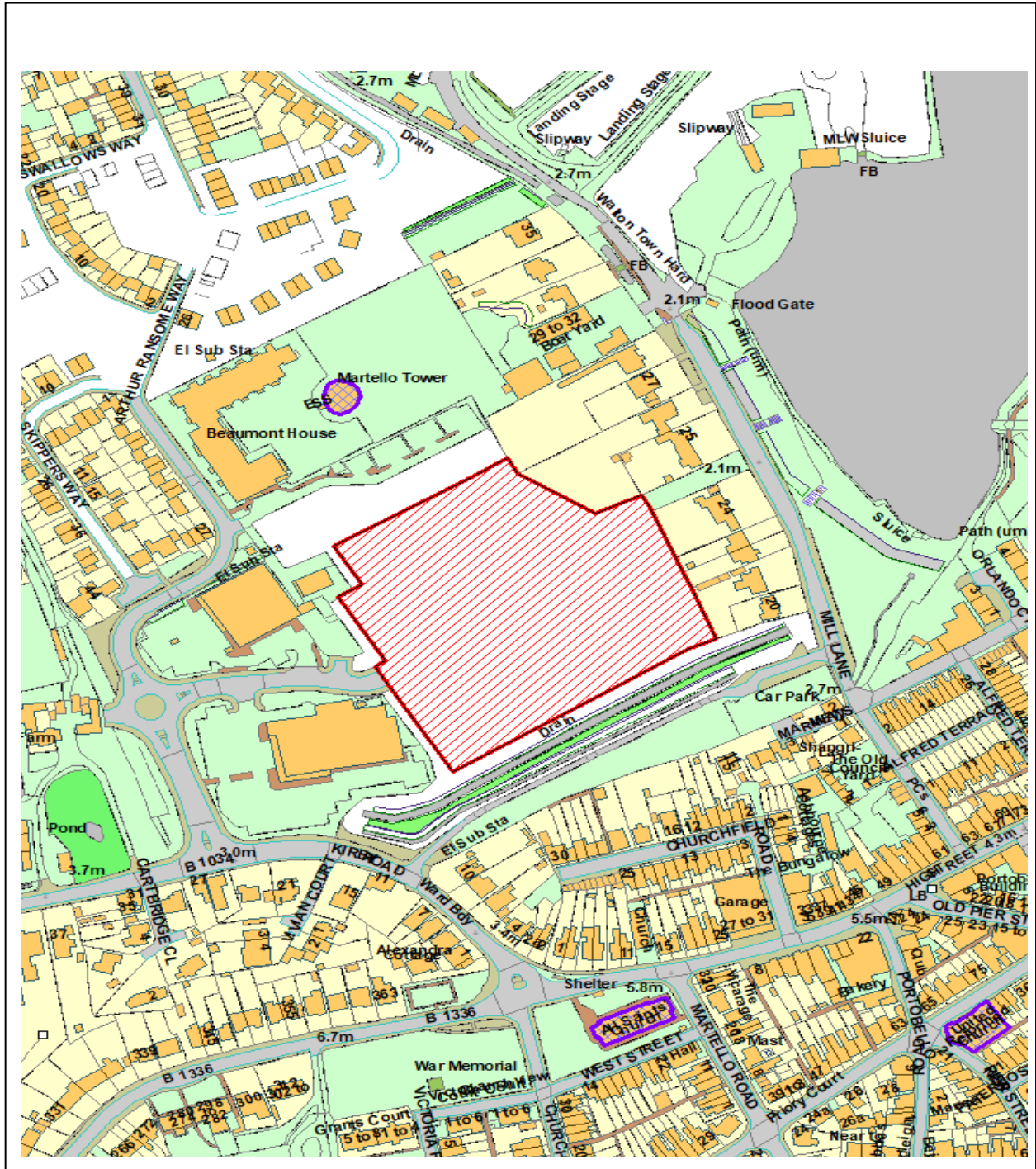
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PLANNING COMMITTEE

12 FEBRUARY 2020

REPORT OF THE HEAD OF PLANNING

A.2 PLANNING APPLICATION – 19/01116/FUL – LAND SITE OF FORMER MARTELLO CARAVAN PARK KIRBY ROAD WALTON ON THE NAZE CO14 8QP



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Application: 19/01116/FUL

Town/Parish: Frinton & Walton Town Council

Applicant: Partner Construction Ltd and Clapper Capital Ltd

Address: Land site of former Martello Caravan Park Kirby Road Walton On The Naze
CO14 8QP

Development: Proposed 53no. dwellings and associated landscaping, roads, parking and drainage works

1. **Executive Summary**

- 1.1 The application has been referred to Planning Committee at the request of Councillor Delyth Miles due to concerns over the density of development; flood risk; serious issues emerging regarding sewerage waste; and affordable housing – there is a huge need in Walton – therefore, on-site provision is essential.
- 1.2 The development will be 100% affordable housing and seeks ‘full’ planning permission for the erection of 53 dwellings, comprising a mix of 2 and 3-bedroom semi-detached and terraced two-storey houses and apartments. Access would be provided via a new road linking into the existing carriageway to the west of the site. Areas of open space will be provided along the southern and eastern boundaries of the site which allow for the retention of existing trees along these boundaries. It is also proposed to create a SuDS feature within the eastern open space.
- 1.3 The site is essentially a vacant parcel of land within the former Martello Caravan site which has been redeveloped for a mixture of residential, care and retail uses (two food stores). The site benefitted from a previous approval for a Tesco supermarket which has subsequently lapsed. A residential development on this site is considered a compatible use in what is a sustainable location accessible by a range of means of transport – including public transport, walking, and cycling as well as by car.
- 1.4 The proposed development would have a gross density of just under 30 dwellings per hectare (29.8dph) which for a site which is considered highly sustainable is considered appropriate and helps make best use of the site.
- 1.5 The layout is considered acceptable with regard to privacy and avoidance of overshadowing; all plots will benefit from either on-plot or parking court/frontage parking which would be fully compliant with parking standards. The majority of plots will be fully compliant with private amenity and ‘back-to-back’ separation distances. Where there are small deviations from these standards this is principally for design reasons where plots turn corners or to support the retention of existing trees along the site boundaries.
- 1.6 The proposed height of dwellings throughout the site is two-storeys, which is considered acceptable in the context of the scale and form of existing and proposed development which immediately surrounds the site. Overall, the general appearance of the development is considered acceptable in terms of creating a sense of place and integrating it with existing and proposed surrounding development.
- 1.7 ECC Highways have no objections to access and layout.
- 1.8 The proposed scheme provides for a strategic landscape approach which will facilitate the delivery of a well thought out and usable open spaces.

- 1.9 The site, in part, lies within Flood Zone 3, and accordingly the proposal has been subject to a 'Sequential Test' which has confirmed that there are no sequentially preferable sites in the urban area of Walton, Frinton and Kirby for the proposed development. Both the Environment Agency and ECC SuDS, have confirmed that they do not object to the proposals subject to conditions that ensure that the development does not increase flood risk to others. In terms of flood risk mitigation measures, the submitted FRA advises that with some site re-profiling the finished floor levels can be set above the 1:200 year plus Climate Change annual probability peak still water tidal level at Walton-on-the-Naze and, subject to implementation of an appropriately designed surface water drainage scheme, will enable any potential overland flows to be conveyed safely across the site without affecting property in accordance with the approach promoted by government policy.
- 1.10 The Martello Tower, a Scheduled Ancient Monument and Listed Building lies in close proximity to the site. Both Historic England and ECC Historic Environment Team, whilst noting the planning history of the site, maintain that a housing scheme would still have an impact on the setting of the Tower. Accordingly, in terms of its landscape setting it is considered that the proposals will cause a material degree of harm to its significance and it will be for the Council to weigh this against any public benefits of the proposed development. However, given that approval has been granted for land north of the site for bungalows and houses and closer to the designated heritage asset it is not considered justifiable to argue that the current application will impact further on the setting of the historic asset. Alongside this the public benefits of a 100% affordable housing scheme to meet a proven local need is a material consideration that weighs in the balance and is tilted towards approval of the development.
- 1.11 ECC and the Council's Open Spaces Team have advised that the proposal would generate a requirement for circa £600K of education and open space requirements. The applicant has subsequently argued that the development of the site for 100% affordable housing is unlikely to come forward and deliver this form of housing and that waiving of the recommended S106 financial contributions is justified and essential to deliver the scheme. To support this position, a Viability Study has been submitted and has been subject to consideration by the Council's own independent consultants, who have confirmed that the scheme will be unviable and cannot support the S106 financial requirements.
- 1.12 Following the above advice, further discussions have been held with the applicant and ECC with respect to the scheme's educational requirements. ECC have further considered the application on receipt of advice that the scheme is for 100% affordable housing, and in view of the fact that the request for primary and secondary school contributions and secondary school transport has been made, if the Council decide that the scheme would not be viable should such contributions be required, then this is accepted. However, ECC would welcome the inclusion of a Review Mechanism within a Section 106 Agreement so that the matter can be given further scrutiny should the financial position change.
- 1.13 The planning merits of this case hinge on the relative weight that should be given to the need to provide housing in the District – and in particular the proven 'desperate' local need for more affordable housing in Walton – as set against the lack of contributions to mitigate the impacts of the scheme in terms of addressing the additional demands on education and open space.
- 1.14 On balance, officers are content that, given the importance of maintaining housing land supply (and in particular helping meet local affordable housing requirements) and the special circumstances of this case where viability concerns have been proven and accepted by the Council's independent experts, the grant of planning permission with a S106 Agreement allowing for a 'Review Mechanism' and a financial contribution towards RAMS (circa £6.5K) is accepted in this case.
- 1.15 In conclusion, the principal of development on this site has been established through the previous consent for a supermarket. Whilst that consent has lapsed, it is considered that a

residential scheme on what is now essentially a land-locked site - surrounded by existing and new residential development and retail uses - is appropriate and makes best use of this vacant site. Subject to the inclusion of conditions contained within the recommendation and a S106 Agreement, there is not considered to be any adverse impacts in respect of visual amenity, residential amenities, drainage, heritage assets, habitats and any highway safety. Accordingly, the application is recommended for approval.

Recommendation:

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

- a) **Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):**
 - **Financial Contribution towards RAMS**
 - **Affordable Housing Provision:**
 - **Viability Review Mechanism**
- b) Subject to the conditions stated in section 8.2
- 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 s106 planning obligation.

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

QL3 Minimising and Managing Flood Risk

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

QL12 Planning Obligations

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG4	Affordable Housing in New Developments
HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
HG14	Side Isolation
COM1	Access for All
COM6	Provision of Recreational Open Space for New Residential Development
COM26	Contributions to Education Provision
COM31A	Sewerage and Sewage Disposal
EN1	Landscape Character
EN6	Biodiversity
EN6A	Protected Species
EN6B	Habitat Creation
EN11A	Protection of International Sites European Sites and RAMSAR Sites
EN13	Sustainable Drainage Systems
EN23	Development within the Proximity of a Listed Building
EN29	Archaeology
TR1	Transport Assessment
TR1A	Development Affecting Highways
TR3A	Provision for Walking
TR5	Provision for Cycling
TR6	Provision for Public Transport Use
TR7	Vehicle Parking at New Development
Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)	
SP1	Presumption in Favour of Sustainable Development
SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design

HP1	Improving Health and Wellbeing
LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
LP5	Affordable and Council Housing
PP12	Improving Education and Skills
PP14	Priority Areas for Regeneration
PPL1	Development and Flood Risk
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL7	Archaeology
PPL9	Listed Buildings
CP1	Sustainable Transport and Accessibility
CP3	Improving the Telecommunications Network

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Economic Development Strategy 2013

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**

95/00730/FUL	Internal alterations plus external staircase to Martello Tower Monument No. 123	Approved	08.09.1995
11/00244/FUL	Erection of Class A1 retail supermarket and petrol filling station with associated access, car parking, servicing, landscaping and pedestrian footbridge.	Approved	19.10.2012
14/01085/FUL	The implementation of a new access road and associated highway infrastructure to support the redevelopment of the later development of the Martello site.	Approved	26.01.2015
14/01303/FUL	Three storey, 60 unit extra care unit, comprising of 46 single bed apartments & 14 two bed apartments.	Approved	30.03.2015
14/01320/OUT	Two storey medical centre and	Approved	04.12.2015

	pharmacy.		
14/01837/FUL	The re-profiling of ground levels in the south west section of Martello site to facilitate future development.	Withdrawn	05.06.2015
15/00630/FUL	Demolition of existing buildings and erection of 237 residential dwellings together with associated access, car parking, landscaping and related works.	Refused	13.11.2015
15/01714/FUL	Demolition of existing buildings, re-profiling of ground levels and erection of 216 residential dwellings together with associated access, car parking, landscaping and related works.	Approved	03.11.2016
15/01731/DISCON	Discharge of condition 7 (site levels) of planning permission 14/01303/FUL.	Approved	12.02.2016
16/00171/FUL	Construction of a temporary access.	Approved	01.04.2016
16/00369/FUL	A two storey enabled living facility providing 16 apartments for profoundly disabled adults with staff accommodation in the roof space.	Approved	12.09.2016
16/00568/DISCON	Discharge of condition 3 (materials), 4 (landscaping), 6 (boundary treatments), 10 (surface water management strategy), 11-13 (archaeology), 16 (construction method statement) and 20 (mitigation for protected species and birds) of planning permission 14/01303/FUL.	Approved	04.10.2016
16/00997/FUL	Implementation of a new sub station to cater for wider site redevelopment proposals.	Approved	31.08.2016
17/00210/DISCON	Discharge of condition 8 (detailed scheme) of approved planning application 14/01303/FUL.	Approved	21.04.2017
17/00319/DISCON	Discharge of conditions 3 (Hard and soft landscaping), 5 (refuse strategy), 6 (Surface water drainage), 7 (Foul water drainage), 8 (Phasing plan), 9 (Materials), 10 (Street lighting scheme), 11	Approved	11.07.2017

	(Boundary walls and fences), 12 (floor levels), Condition 13 (Revised drawings addressing highways issues), 14 (Residential Travel info pack), 15 (Construction method statement), 16 (Ecological Mitigation), 17 (Archaeological), 18 (Fibre Optic connection) and 19 (Local Recruitment Policy) of approved planning application 15/01714/FUL.		
17/00451/DISCON	Discharge of conditions 5 (Refuse Strategy) and 19 (Local Recruitment Policy) of approved planning application 15/01714/FUL.	Approved	
17/00571/FUL	A two storey enabled living facility providing 16 apartments for profoundly disabled adults.	Approved	11.08.2017
17/01090/FUL	Redevelopment of the site through the construction of an M&S Foodhall together with associated car parking and landscaping and ancillary cafe.	Approved	28.09.2017
17/01412/DISCON	Discharge of Condition 09 (Roofing Materials) of Planning Permission 15/01714/FUL.	Approved	05.09.2017
17/01803/FUL	To vary condition No. 5 on application 17/01090/FUL - remove the restriction on subdivision of the unit.	Approved	28.11.2017
17/01907/DISCON	Discharge of conditions 16 (Staff Travel Plan), 21 (Drainage Scheme), 22 (Offsite Flooding) and 23 (Maintenance Plan) of approved planning application 17/01090/FUL, and discharge of conditions 21 (Drainage Scheme), 22 (Offsite Flooding) and 23 (Maintenance Plan) of approved planning application 17/01803/FUL.	Approved	04.12.2017
17/02013/DISCON	Discharge of condition 11 (Boundary Treatment) of approved planning permission 15/01714/FUL.	Approved	12.12.2017
17/02124/DISCON	Discharge of conditions 4 (Surfacing Materials), 7 (Landscape Management Plan) & 17 (Construction Method Statement) of planning permission 17/01803/FUL.	Approved	19.02.2018

18/00099/FUL	Variation of condition No. 2 & No. 3 on application 17/01803/FUL -to allow the substitution of drawings to reflect the design amendments.	Approved	21.02.2018
18/00206/DISCON	Discharge of condition No. 8 (Archaeology) of application 17/01803/FUL.	Approved	19.02.2018
18/00331/FUL	Proposed Change of Use of First Floor of Offices to form a new residential dwelling.	Approved	27.04.2018
18/00336/DISCON	Discharge of condition 16 (Recruitment Strategy) of planning permission 18/00099/FUL.	Approved	21.05.2018
18/00434/DISCON	Discharge of conditions 6 (surface water drainage), 7 (foul water strategy), 8 (Phasing Plan and Programme), 9 (External facing and roofing materials specification), 10 (external lighting), 13 (Highways details), and 15 (Construction Method Statement) of 15/01714/FUL.	Approved	20.09.2018
18/00593/NMA	Non-material amendment to 15/01714/FUL - Minor adjustment to the position of dwellings 1-91, associated parking and roads.	Approved	07.06.2018
18/00960/ADV	No.3 signs on building, Trolley Bay Signs and Freestanding Totum sign.	Approved	03.08.2018
18/00961/NMA	Amendment to west building elevation.	Approved	31.07.2018
18/01041/DISCON	Discharge of Condition 17 (external lighting scheme, location and appearance of external plant and machinery, boundary treatments including facing details of retaining walls) of 18/00099/FUL.	Approved	04.09.2018
18/01297/NMA	Non material amendment to planning permission 15/01714/FUL - minor amendment to setting out of Plots 20 and 21 to allow construction mindful of existing fencing.	Approved	28.08.2018
18/01633/DISCON	Discharge of Condition 13 (Cycle Parking) to approved planning application 18/00099/FUL.	Approved	04.10.2018

18/01781/DISCON	Discharge of Condition 3 (Hard and Soft Landscaping) of application 15/01714/FUL with drawing 20875/CIV/1251 C3 substituting drawing 1251 T1 .	Current	
18/01921/FUL	Full planning permission for re-grading earth works to the permitted open space consented under application 15/01714/FUL.	Approved	18.09.2019
18/01943/FUL	Alterations and additions to create new Coast Guard Station with residential flat over.	Approved	08.02.2019
19/00301/DISCON	Discharge of conditions 9 (Materials) and 11 (Boundary Walls) of approved application 15/01714/FUL.	Current	
19/00981/FUL	Proposed re-grading earthworks and associated landscaping and fencing to the permitted open space consented under application 15/01714/FUL.	Current	
19/01116/FUL	Proposed 53no. dwellings and associated landscaping, roads, parking and drainage works.	Current	

4. Consultations

ECC SuDS Consultee	Having reviewed the Flood Risk Assessment and the associated documents, do not object to the application subject to the imposition of a number of planning conditions to address detailed surface water drainage; scheme to minimise the risk of offsite flooding; surface water maintenance plan; and yearly logs of surface water drainage maintenance. They also request a number of informatives.
Environment Agency	Having reviewed the applicant's Flood Risk Assessment (as amended September 2019), the EA have identified the potential for an increase in surface water discharge from the new development via the outfall in the Statutory Main River (Tributary of Walton Channel). This could increase flood risk in the surrounding area if surface water is not appropriately managed. Therefore, they fully support the imposition of a condition to address detailed surface water drainage as recommended by ECC SuDS Team.
Anglian Water	The foul drainage from the development is in the catchment of Walton-on-the-Naze Water Recycling Centre that will have capacity for the flows from this development.

ECC Infrastructure Planning

ECC 'initial' comments on this application were that the proposal would generate 4.41 Early Years and Childcare (EY & C) places; 14.7 primary school places; and 9.8 secondary school places. Whilst there are surplus EY&C places within either the Homelands or Walton Ward and as such no developer contribution is required in that regard, there would be a requirement to meet additional demands at both primary and secondary school levels. An additional 14.7 primary school places would generate a cost of £15,281 per place at an overall cost of £224,631. An additional 9.8 secondary school places would generate a cost of £23,214 per place at an overall cost of £227,497. In addition, having reviewed the proximity of the site to the nearest secondary school, the County would seek a school transport contribution of £49,343. In total, this would equate to an education contribution of circa £500K.

On receipt of advice that the scheme is for 100% affordable housing, ECC is in agreement that, in view of the fact that the request for primary and secondary school contributions and secondary school transport has been made, if the District Council decide that the scheme would not be viable should such contributions be required, then this is accepted.

However, ECC would welcome the inclusion of a Review Mechanism within a Section 106 Agreement so that the matter can be given further scrutiny should be position change.

ECC Highways

No objection to the application subject to the imposition of a number of planning conditions and informatives.

Historic England

This is a proposal for a residential housing development within the housing development within the landscape setting of Martello Tower K, an important C19 coastal defence work which is scheduled monument. It follows an earlier scheme (11/00244/FUL) for a supermarket and associated development on this site in 2012, to which Historic England objected on the grounds that the proposals would be harmful to the significance of the scheduled monument, and for which planning permission was subsequently granted.

The current application is for 53 dwellings with associated landscaping, roads, parking and drainage works. While the impact which a housing development on the site would have on the contribution which setting makes to then significance of the Martello tower would be less than that of the consented supermarket in terms of scale, height and massing, the proposals would erode its landscape setting and cause a material degree of harm to its significance which your Council should weigh against any public benefits in the proposed development.

ECC Historic Environment Team

Impacting the legibility of the strategic orientation of the Martello Tower (a Grade II Listed Building) towards the seafront, the development will result in harm to the significance of the tower as derived from its setting and the appreciation of its planned relationship with the maritime landscape. The scheme proposes injury to the understanding of the building's original function as a defensive structure, divorcing its association with the sea with the encroachment of modern development. Considering the structure has already experienced harm to the historically open nature of its setting from most aspects, the proposal is seen to infill the last remaining space which may give us an idea of its original appearance within the landscape, causing further and cumulative harm.

For the above, the scheme is considered to cause "less than substantial harm" to the significance of a designated asset as derived from its setting and paragraph 196 of the NPPF is relevant.

ECC Archaeology

A Heritage Statement has been submitted with the planning application which identifies the high potential of archaeological deposits being identified on this site. Previous archaeological investigations have found evidence of multi-period archaeological deposits which is identified on the Historic Environment Record and within the heritage statement submitted with the application.

Given the above, a Programme of Archaeological Evaluation and Excavation is recommended to be controlled by way of a number of conditions.

TDC Open Space & Play

There is currently a deficit of 14.12 hectares of equipped play in Frinton, Walton & Kirby. However, there is more than adequate formal open space across the area.

Any additional development in Walton-on-the-Naze will increase demand on already stretched play areas.

Accordingly, it is recommended that due to the significant lack of play facilities in the area a contribution towards play is justified and relevant to the planning application. Additional facilities will be added to Bathhouse Meadow.

Based on the Council's Open Space SPD this contribution would equate to circa £106K.

TDC Housing

This scheme is intended to deliver 100% affordable housing with the tenure and mix to be agreed at a later date.

In terms of demand, there are currently 119 households on the housing register seeking a 2 bedroom home in the

town and 91 households seeking a 3 bedroom property. As such, there is a desperate need for affordable housing in the town and as such the application is supported.

5. Representations

- 5.1 Councillor D Miles requested that this application is referred to Planning Committee because of the following material planning considerations: density of development; flood risk; serious issues emerging regarding sewerage waste; and affordable housing – there is a huge need in Walton – therefore, on-site provision is essential.
- 5.2 Frinton and Walton Town Council has recommended refusal on the following grounds:
- Lack of local infrastructure
 - Bland – under-designed and overdeveloped
 - Concern has been raised by local residents in regard to flooding of sewerage in Mill Lane from development which has already taken place and with this in mind the Town Council are concerned that this will exacerbate the problem
- 5.3 Representations have been received from 4 households to the ‘original’ submission raising the following comments and objections:
- Flood risk – instances of local flooding along Mill Lane and this development could add to problems; future sea level rises could make parts of Walton uninhabitable, including this site;
 - Raising of ground levels to take site outside of flood zone could impact on water levels of lower lying properties on Mill Lane;
 - The site known as ‘Cartbridge Meadow’ is a green field site and part of the flood plain;
 - The site is a safe haven for many birds, flora and fauna; albeit this has been reduced by the redevelopment of the wider caravan park;
 - Air and Noise Disturbance during construction, particularly if need to pile drive;
 - Potential overlooking to properties in Mill Lane;
 - Concerned over location of proposed SUDS feature close to eastern boundary and risks to neighbouring properties;
 - Not enough space in local GP and schools

Any addition comments received with respect to the latest amended plans will be provided by way of the Committee Update Sheet.

6. Assessment

Site Context

- 6.1 The site is within the grounds of the former Martello Caravan Park and lies within the setting of the Martello Tower, which is a grade II listed building and a Scheduled Ancient Monument.
- 6.2 The site is a vacant and unkempt area of scrubby grassland with some limited tree and hedge cover particularly to its outer boundaries. Immediately to the north of the site is a narrow section of land which obtained outline planning permission in late 2018 for a residential development comprising four terraced houses (three storey) and 6 detached bungalows (yet to commence). The aforementioned approval will share access with a recently constructed extra care/assisted living apartment complex (granted planning permission on 30 March 2015 under reference 14/01303/FUL) and its associated parking area (which adjoin an area of open space situated around the Martello Tower). Beyond this to the north are new dwellings forming part of

the 216 residential unit scheme (still under construction and called 'Hamford Park') on the former caravan park (granted planning permission on 3 November 2016 under reference 15/01714/FUL). Further again to the north lies The Twizzle and a marina.

- 6.3 Mill Lane is located to the east and serves residential properties that back onto the land the subject of this application. These sit lower than the site and comprise a bespoke mixture of detached bungalows, chalets and houses.
- 6.4 Proposed access to the site will be taken from the western boundary by way of an existing access road which forms an arm off of the main access road into 'Hamford Park'. The access road serves two new food stores which abut the site; one being an M & S Foodhall to the north and an Aldi supermarket to the south. Indeed the application site itself was subject of a now expired planning permission for a Tesco supermarket (planning reference 11/00244/FUL granted planning permission on 19 October 2012).
- 6.5 Immediately to the south of the site, lies an area of grassland and ditch, beyond which is a single carriageway road which provides a link between Mill Lane and Kirby Road, and to a Council owned car park. To the south of this lie existing residential properties on Marina Mews and Churchfield Road.
- 6.6 The site lies outside of, but directly adjacent to the settlement boundary of Walton in the adopted Local Plan. It also lies outside of but immediately adjacent to the urban regeneration area identified by Policy QL6. The site lies inside the revised settlement boundary of the emerging Local Plan, taking into account its proposed allocation as a mixed use redevelopment site in the Walton Regeneration Framework and the extant planning permission described above.

Proposal

- 6.7 This application seeks 'full' planning permission for the erection of 53 dwellings, comprising a mix of 2 and 3-bedroom semi-detached and terraced two-storey houses and apartments (of which there would be 8 spread over two floors in two blocks). Access would be provided via a new road linking into the existing carriageway to the west of the site which serves the two food stores. Within the site itself, there would be a central line of street fronting units with the other units being served from three cul-de-sacs; 2 to the north and 1 to the south of this principal street.
- 6.8 The development will be 100% affordable housing and in this regard the applicant has stated that:

"Our intention is to partner up with a Housing Association to deliver the entirety of the site for them, with any S106 Agreement restricting the standard percentage in Tendering as affordable housing with the remainder having the ability to be any housing tenure that meets local needs. To this end the standard percentage affordable housing S106 housing tenure split will be determined by the Local Authority with the rest of the site provided as additionality of affordable housing based on a tenure mix that works for our selected local Housing Association Partner. All units will need to be Homes England Grant Fund assisted to enable viability of deliverability of the scheme as 100% affordable housing."
- 6.9 Areas of open space will be provided along the southern and eastern boundaries of the site which will allow for the retention of existing trees along these boundaries. It is also proposed to create a SuDS feature within the eastern open space.

Principal of Development

- 6.10 The site lies outside of the Settlement Development Boundary (SDB) of the saved Local Plan (Tendring Local Plan 2007) but within the SDB of the draft Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). The site also lies within a protected caravan park designation in the saved plan (ER18) which is not carried forward into the emerging plan due to the granting of residential/care home development on the remainder of the site (which is now well advanced in terms of build out).
- 6.11 In this instance the site falls within the former Martello Caravan site for redevelopment and is situated on land which has previously benefitted from a consent for the Tesco supermarket, which has subsequently lapsed. Immediately to the north of the site outline planning permission has been granted in late 2018 for 10 new dwellings (yet to be implemented) and beyond that land has been allocated within the emerging local plan for residential development. This is the subject of a planning permission (15/01714/FUL) for the demolition of existing buildings, re-profiling of ground levels of erection of 216 residential dwellings together with associated access, car parking, landscaping and related works which is now well advanced in terms of build-out. This development proposal seeks to provide additional residential development on what is essentially the remaining undeveloped area on the former Caravan Park amongst other compatible uses.
- 6.12 The basis for any decision on a planning application is required to consider the land use planning policy in the first instance and then alongside any other material considerations. The site is essentially part of a wider brownfield site and in a sustainable location (albeit out of town centre) and is accessible by a range of means of transport – including public transport, walking and cycling as well as by car. The Council's assessment of the application takes into account the NPPF presumption in favour of sustainable development and the status of the adopted Local Plan and the emerging Local Plan and also has regard to other material considerations. Undue weight has not been given to any one policy but regard has been had to all three arms of the sustainability criteria of the NPPF which cannot be judged in isolation and to the strong material considerations that exist in that site no longer operates as a caravan park (Policy ER18 therefore carries little, if any, weight).
- 6.13 Overall, taking into account all the above matters, it is considered that the principle of residential development is acceptable.

Layout

- 6.14 The proposed development would provide a gross density of just under 30 dwellings per hectare (29.8dph) which for a site which is considered highly sustainable is considered appropriate and helps make best use of the site.
- 6.15 The scheme is considered to provide a generous standard of road and footway width, ensuring that the internal road layout can safely and comfortably accommodate emergency services and waste collection services. All houses and apartments would benefit from either on-plot or parking court/frontage parking which would be fully in compliant with parking standards.
- 6.16 It is considered that residential amenity for future residents would be acceptable having regard to privacy and avoidance of overshadowing; albeit there would be a slight reduction to the recommended 'back-to-back' separation distance for plots 33 and 34 with plots 41 to 43 inclusive. However, this should be weighed against the ability to deliver a landscape buffer to the southern boundary and to support the retention of existing trees along this boundary. All other plots are fully compliant.
- 6.17 In terms of private amenity areas, all plots are fully compliant with minimum standards, apart from plots 2, 20, 21 and 38, which comprise either corner turning units or a mid-terrace unit. It

is considered, as prescribed in the Essex Design Guide that for place-making and design reasons that there will be instances where standards should be relaxed and this often tends to be plots which sit on corner plots. Accordingly, it is considered that the proposed layout is acceptable.

Scale and Appearance

- 6.18 The proposed height of dwellings throughout the site is two-storeys, which is considered acceptable in the context of the scale and form of existing and proposed development which immediately surround the site. Existing residential properties to the south and east of the site are situated a minimum of 60m from the nearest proposed dwelling or apartment so are not considered to be unduly impacted in terms of visual intrusion or any perceived overlooking. Whilst existing properties on Mill Lane are set at a lower level, the provision of an informal public open space along this boundary and the careful orientation of the proposed dwellings assists in limiting any undue impact. The relationship with the proposed permitted residential development immediately to the north of the site is considered acceptable with the 'back-to-back' separation distances being fully policy compliant.
- 6.19 In terms of appearance, the proposed dwellings and apartments are of a simplistic traditional vernacular design, albeit some interest and articulation is provided by the inclusion of front door roof canopies and the use of rendered rather than brick façade finishes for some corner turning units. Overall, the general appearance of the development is considered acceptable in terms of creating a sense of place and integrating it with existing and proposed surrounding development.

Access

- 6.20 ECC Highways have no objections to access and layout subject to the securing a number of planning conditions to cover such matters as:
- details of estate road and footways including surfacing and means of surface water drainage;
 - no surface water discharge onto the highway;
 - provision of residential travel information packs; and
 - Construction Method Statement
- 6.21 Pedestrian and vehicular access to the site will be taken from the existing spur road to the west of the site which feeds into a roundabout which serves the two existing food stores and the new 'Hamford Park' estate to the north and then links onto Kirby Road.

Landscaping

- 6.22 It is considered that the proposed scheme layout provides for a strategic landscape approach which will facilitate the delivery of a well thought out and usable open space along the eastern and southern boundaries of the site, whilst also facilitating the retention of existing trees to add to this setting. However, specific detailed planting proposals are still required and accordingly this needs to be subject to condition.

Drainage

- 6.23 Upon submission of a site specific Flood Risk Assessment the Environment Agency has confirmed that they have no objections to the development subject to the application of planning conditions suggested by ECC SuDS (more on this below) to ensure that the development does not increase flood risk to others (it is recognised that there is potential for an increase in surface water discharge from the new development via the outfall into the Statutory Main River (Tributary of Walton Channel). This could increase flood risk in the surrounding area if surface water is not appropriately managed).

- 6.24 As more than half of the site sits within Flood Zone 3 the Environment Agency requested that a 'Sequential Test' be applied to the proposal as set out in Paragraph 158 of the National Planning Policy Framework. The applicant duly submitted a 'Flood Risk Sequential Test' in December 2019 and this confirmed that there are no suitable and available sites for the immediate delivery of 53 affordable houses in or adjoining the urban area of Walton, Frinton and Kirby. This is due to the absence of sites of a suitable size (around 1.75ha) that are immediately available, not in Flood Zone 2 or 3, in another use, earmarked by other housing developers, allocated for other uses in the emerging Local Plan (especially environmentally sensitive ones such as green space and coastal protection), or lacking suitable access from the public highway network. Accordingly, it is accepted that there are no sequentially preferable sites for the proposed development in regard to flood risk and that the proposal passes the Sequential Test in this instance.
- 6.25 In terms of flood risk mitigation measures, the submitted FRA advises that with some site re-profiling the finished floor levels can be set at 5.30m AOD which will provide a 0.13m freeboard above the 1:200 year plus Climate Change (2119) annual probability peak still water tidal level at Walton-on-the-Naze and, subject to implementation of an appropriately designed surface water drainage scheme, will enable any potential overland flows to be conveyed safely across the site without affecting property in accordance with the approach promoted by government policy.
- 6.26 ECC, as Sustainable Drainage consultee, originally objected to the submitted drainage Flood Risk Assessment on grounds that it did not comply with the requirements set out in the ECC adopted Sustainable Drainage Systems Design Guide and associated standards and codes, and in particular did not confirm that discharge rates would be limited to the greenfield 1 in 1 year rates required from a new development and also the need to allow for an 'urban creep' 10% allowance. Following the submission of an amended FRA, ECC SuDS has removed their 'holding objection' subject to conditions securing details, provision and maintenance of the drainage strategy.

Heritage Impact

- 6.27 A key material consideration in the determination of this application is its effect on the setting and appearance of the Martello Tower located in close proximity to the site. The Martello Tower is a Scheduled Ancient Monument and Listed Building.
- 6.28 The Planning (Listed Buildings and Conservation Areas) Act 1990 S. 66 imposes a general duty as respect listed buildings (including Scheduled Ancient Monuments) in the exercise of planning functions.
- 6.29 In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of state shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 6.30 Saved policy EN23 in the saved Local Plan seeks to resist development proposals that would adversely affect the setting of listed buildings and policy resists development that will adversely affect nationally important archaeological sites and their setting. Scheduled Ancient Monuments are referred to in paragraph 6.142 of the supporting text for the latter policy. Policy PP9 in the emerging Local Plan similarly gives protection to the setting of listed buildings and scheduled ancient monuments as heritage assets.
- 6.31 The applicant has submitted a Heritage Statement to consider the significance of the Martello Tower and the potential impact of the development on its significance and its setting. Both Historic England and ECC Historic Environment Team, whilst noting the planning history of the site in terms of the previous approval for a supermarket, maintain that a housing scheme

would still have an impact on the setting of the Martello Tower (albeit to a lesser extent) in terms of its landscape setting and cause a material degree of harm to its significance and it would be for the Council to weigh this against any public benefits in the proposed development. It is considered that the scheme would cause “less than substantial harm” to the significance of a designated asset as derived from its setting and paragraph 196 of the NPPF is relevant.

- 6.32 With respect to the above, these comments appear to ignore the fact that there is an extant consent for land immediately to the north of the site which lies between the application site and the Martello Tower. Indeed, Historic England had accepted that the scheme for 10 houses and bungalows on that site was an improvement on an earlier approval for apartments for disabled adults on this same site. Given that approval has been granted for land north of the site and closer to the designated heritage asset it is not considered justifiable to argue that the current application will impact further on the setting of this historic asset. Alongside this the public benefits of providing a 100% affordable housing scheme to meet a proven local need is a material consideration that weighs in the balance and is tilted towards approval of the development.

Habitats

- 6.33 Legal advice has been sought which confirms that Tendring District Council should seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). A Habitat Regulations Assessment (HRA) has been carried out to confirm that the mitigation will be the RAMS contribution as recommended by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any adverse impact the proposal may have on European Designated Sites (Hamford Water Special Protection Area (SPA), Special Area of Conservation (SAC) & Ramsar).

Section 106 of the Town and Country Planning Act 1990 and Viability Matters

- 6.34 As set out earlier in this report, ECC and the Council’s Open Space Team have advised that this proposal, to mitigate against its impacts, would generate a requirement for a circa £500K education contribution (towards primary and secondary school child places and a school travel contribution) and a circa £106K contribution towards an enhancement in play facilities at Bathhouse Meadow.
- 6.35 The applicant has subsequently argued that the development of the site for 100% affordable housing is unlikely to come forward and deliver this form of housing and that waiving of the recommended S106 financial contributions is justified and essential to deliver the scheme.
- 6.36 To support this position, the applicants submitted a Viability Study setting out the costs. The Study has been subject of detailed and lengthy consideration and testing by the council’s own independent consultants BNP Paribas, which has confirmed that the scheme will be unviable and cannot support the S106 financial requirements for education and open space contributions if delivered as a 100% affordable housing scheme (indeed, for reference, BNP Paribas tested the scheme on the basis of a policy compliant 70% market to 30% affordable housing offer, and that would only support a circa £300K contribution, around 50% of what has been requested).
- 6.37 Following the above advice, further discussions have been held with the applicant and ECC with respect to the scheme’s educational requirements. ECC have further considered the application on receipt of advice that the scheme is for 100% affordable housing, and in view of the fact that the request for primary and secondary school contributions and secondary school transport has been made, if the Council decide that the scheme would not be viable should such contributions be required, then this is accepted. However, ECC would welcome the

inclusion of a Review Mechanism within a Section 106 Agreement so that the matter can be given further scrutiny should the financial position change.

6.38 The planning merits of this case hinge on the relative weight that should be given to the need to provide housing in the District – and in particular the proven ‘desperate’ local need for more affordable housing in Walton – as set against the lack of contributions to mitigate the impacts of the scheme in terms of addressing the additional demands on education and open space.

6.39 On balance, officers are content that, given the importance of maintaining housing land supply (and in particular helping meet local affordable housing requirements) and the special circumstances of this case where viability concerns have been proven and accepted by the Council’s independent experts, the grant of planning permission with a S106 Agreement allowing for a ‘Review Mechanism’ and a financial contribution towards RAMS (circa £6.5K) is accepted in this case.

7. Conclusion

7.1 The principal of development on this site has been established through the previous consent for a supermarket. Whilst that consent has lapsed, it is considered that a residential scheme on what is now essentially a land-locked site - surrounded by existing and new residential development and retail uses - is appropriate and makes best use of this vacant site. Subject to the inclusion of conditions contained within the recommendation and a S106 Agreement, there is not considered to be any adverse impacts in respect of visual amenity, residential amenities, drainage, heritage assets, habitats and any highway safety. Accordingly, 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 and the prior completion of a section106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Affordable Housing Provision	100%
Financial contribution towards RAMS.	£122.30 per dwelling
Viability Review Mechanism	

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 not be carried out except in complete accordance with the details shown on the following submitted plans:

- Amended Site Location Plan drawing no. 40974/025
- Amended Site Layout drawing no.40974/020G
- Amended Plots 25-28 drawing no. 40974/035
- Amended Plot type F113-F115-F113 drawing no. 40974/032
- Amended Plot type F114-F115-F114 drawing no. 40974/013b
- Amended Plot type F114-F114 drawing no. 40974/011a

- Amended Plot type F113-F112 drawing no. 40974/010b
- Amended Plot type F112-F112 drawing no. 40974/08b
- Amended Plots 29-32 floor plans and elevations drawing no. 40974/005b
- Amended presentation site layout drawing no. 40974/0024a
- Amended street scenes drawing no. 40974/023a
- Amended materials plan drawing no. 40974/022c
- Amended F113-F114 render drawing no. 40974/034
- Amended F114-F113 drawing no. 40974/033
- Amended F114-F114 render drawing no. 40974/014b
- Amended F113-F112 render drawing no. 40974/012b
- Amended boundary treatment plan drawing no. 40974/021c
- Amended F114-F114 hipped drawing no. 40974/031

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

- 3 Within 6 months of the commencement of the development hereby approved, a scheme of hard and soft landscaping works for the site, which shall include any proposed changes in ground levels shall have been submitted to and approved in writing by the Local Planning Authority.

Reason - Insufficient information is submitted with the application for consideration of these details.

- 4 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 ensure the satisfactory implementation of the approved landscaping scheme.

- 5 No development, other than groundworks and construction of dwellings up to floor level, shall take place until full written details of the refuse facilities for the development have first been submitted to and approved in writing by the Local Planning Authority and such facilities shall be made available before first occupation of the residential area to which it relates.

Reason - Insufficient information is submitted with the application for consideration of these details.

- 6 No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:
- 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;
 - Limited discharge rates to 5 l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change;

- 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;
- Demonstrate that all storage features can half empty within 24 hours for the 1:100 plus 40% climate change critical storm event;
- Final modelling and calculations for all areas of the drainage system;
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753;
- Detailed engineering drawings of each component of the drainage scheme;
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features;
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

Reason

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site;
- To ensure the effective operation of SuDS features over the lifetime of the development;
- To provide mitigation of any environmental harm which may be caused to the local water environment;
- Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

- 7 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 to 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.

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

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

- 8 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, shall be submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

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

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

- 9 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.

- 10 No development or preliminary ground-works can commence until a programme of archaeological evaluation has been secured and undertaken with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the Local Planning Authority.

Following the completion of the initial phase of archaeological work, a summary report will be prepared and a mitigation strategy detailing the approach to further archaeological excavation and/or preservation in situ, shall be submitted to the local planning authority.

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 assets with archaeological interest.

- 11 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, which has been signed off by the local planning authority.

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 assets with archaeological interest.

- 12 Following completion of any archaeological fieldwork, the applicant will submit to the local planning authority a post-excavation assessment (within six months of the completion date, unless otherwise agreed in advance with the 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 assets with archaeological interest.

- 13 No development shall commence until a Phasing Plan and Programme for the application site has been submitted to and approved in writing by the Local Planning Authority. The document shall identify the physical extent of each proposed phase of development with reference to the approved layout and an indicative timescale for implementation of each phase.

Reason - To ensure a satisfactory development programme in the interests of the occupiers of the development and in terms of local amenity and pedestrian safety.

- 14 No development, other than groundworks and construction of dwellings up to floor level, shall take place until precise details of the manufacturer and types and colours of the

external facing and roofing materials to be used in the construction of that phase have been submitted to and approved, in writing, by the Local Planning Authority. Such materials so approved shall be those used in that particular phase of development.

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

- 15 No development, other than groundworks and construction of dwellings up to floor level, shall take place until full written details of a scheme for the external lighting of the development have been submitted to and approved in writing by the Local Planning Authority. The agreed lighting shall be installed within the development before the first unit is occupied, unless otherwise agreed in writing by the Local Planning Authority.

Reason - Insufficient information is submitted with the application for consideration of these details.

- 16 No development shall take place until precise details of the provision, siting, height, design and materials of all boundary walls and fences which face onto public spaces/highways or private drives have been submitted to and approved in writing by the Local Planning Authority. The boundary walls and fences so approved shall be erected prior to the building/s to which they relate being first occupied and shall thereafter be retained in their approved form.

Reason - To ensure a satisfactory development in terms of appearance and functionality, in the interests of amenity.

- 17 Prior to the occupation of any of the proposed development the internal road and footway layout shall be provided in principal and in accordance with drawing number: 40974/020F

Reason - To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety.

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

Reason - To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety.

- 19 The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, has been hard surfaced, sealed and 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 development unless otherwise agreed with the Local Planning Authority.

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.

- 20 As per an in principal with the proposed block plan the main access road shall be provided, but not be limited to, the following aspects;

- Carriageways measuring no less than 5.5m in width
- 2x2m Footways on both sides of the access road
- Appropriate pedestrian crossing facilities where appropriate.
- All internal road junctions should be provided with 25m x 2.4m x 25m vehicular visibility splays.
- Kerb radii measuring 6m.

- Any other reasonable items to ensure the access is in accordance with current policy standards.

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

- 21 Prior to commencement of the development details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times.

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.

- 22 Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres and each tandem vehicular parking space shall have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles.

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

- 23 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.

- 24 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.

- 25 The finished lower ground floor of all dwellings shall be set no lower than 5.30m above Ordnance Datum (AOD).

Reason - In the interest of safety and resilience in the event of flooding.

- 26 Prior to occupation of the development, the Developer shall be responsible for the provision, to the first owner of each dwelling on the site, of a Residential Travel Information Pack for sustainable transport, approved by the Local Planning Authority, in consultation with Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.

Reason - To promote travel from the site by sustainable modes including public transport as an alternative to the private motor car.

- 27 No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall include details of:
- i) the use of barriers to mitigate the impact of noisy operations;
 - ii) parking of vehicles of site operatives and visitors;

- ii) the loading and unloading of plant and materials;
- ii) the proposed use of machinery and plant;
- iv) method for piling works;
- v) method for storing and removing waste from the site;
- iii) storage of plant and materials used in constructing the development;
- iv) wheel and under-body washing facilities; and
- v) hours of construction and delivery

The development shall be carried out in accordance with the statement so approved.

Reason - To ensure that the development takes place in a satisfactory manner with regard to its impact on amenity and highways in the local area.

- 28 The hereby permitted development shall not be occupied until a fibre optic broadband connection installed on an open access basis and directly accessed from the nearest exchange, incorporating the use of resistant tubing, has been installed at the site, in accordance with details that shall be submitted 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.

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

Reason – In the interests of residential and visual amenity.

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.

S106 Informative

The applicant is reminded that this permission is linked to a planning obligation under Section 106 of the Town and Country Planning Act 1990.

Conditions Informative

Please note that in accordance with Government Legislation a formal application must be made to the Local Planning Authority when submitting details in connection with the approval of details reserved by a condition. A fee of £34 for householder applications and £116 for all other types of application will be required for each written request.

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.

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 area(s) 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 carriageway.

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 services.

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.

The Applicant should be advised to contact the Essex County Council travel plan team at travelplanteam@essex.gov.uk to confirm arrangements for the provision of the Residential Travel Information Packs.

Drainage Informatives

Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk

Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.

Changes to existing water courses may require separate consent under the Land Drainage Act before works take place.

It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.

Notification of intention to connect to the public sewer under S106 of the Water Industry Act. Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 6066087.

Protection of existing assets – A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.

Building near to a public sewer – No building will be permitted within the statutory easement width of 3 meters from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 6066087,

The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact Anglian Water Development Services Team on 0345 6066087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with 'Sewers for Adoption Guide for Developers', as supplemented by Anglian Water's requirements.

Other Informatives

Essex Police provide a free impartial service to any applicant who wishes to incorporate Crime Prevention through Environmental Design and apply for the police preferred 'Secured by Design' accreditation. The applicant is invited to contact Essex Police via designingoutcrime@essex.pnn.police.uk

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

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

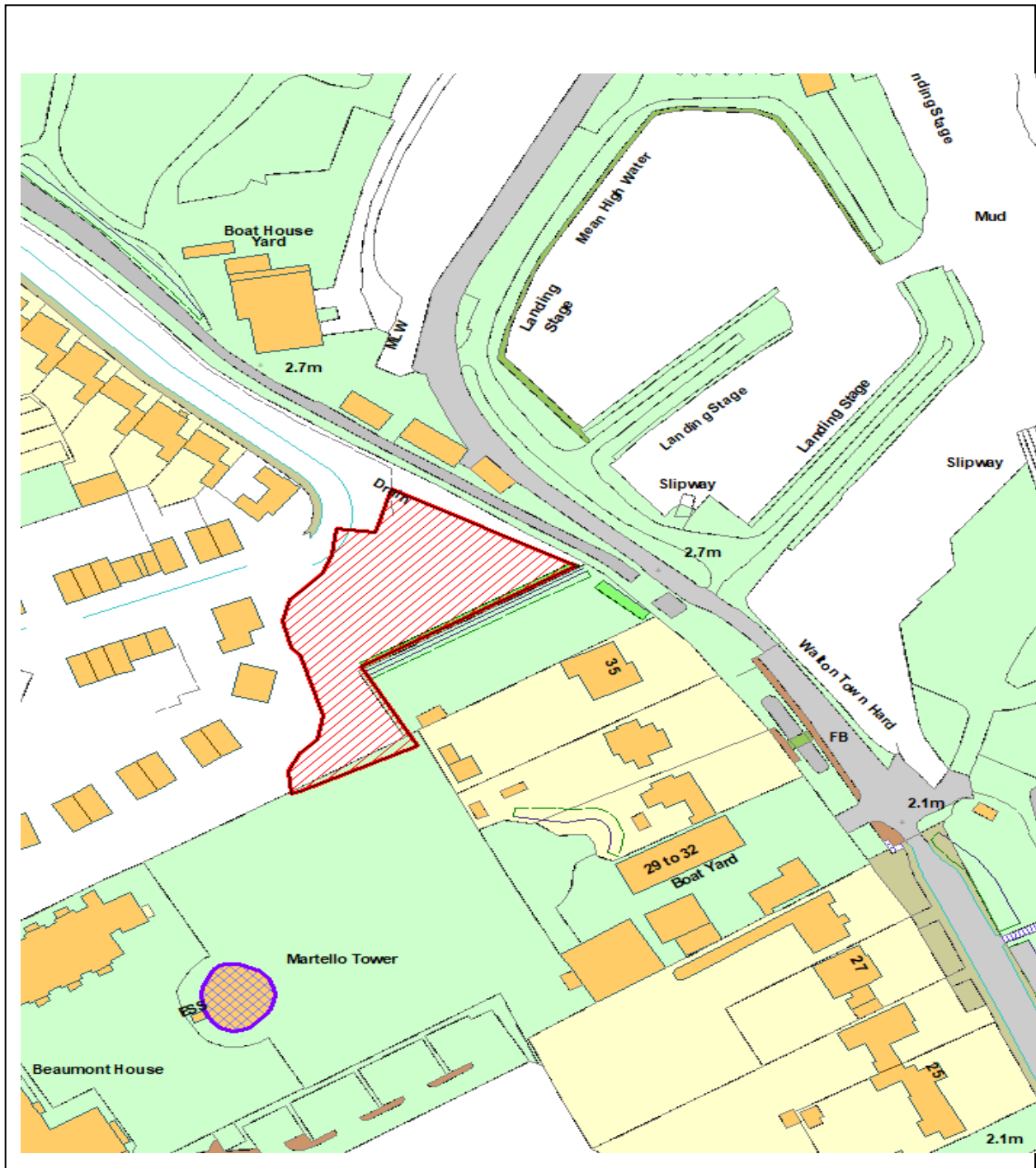
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PLANNING COMMITTEE

12 FEBRUARY 2020

REPORT OF THE HEAD OF PLANNING

A.3 PLANNING APPLICATION – 19/00981/FUL – FORMER MARTELLO CARAVAN PARK KIRBY ROAD WALTON ON THE NAZE CO14 8QP



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Application: 19/00981/FUL

Town/Parish: Frinton & Walton Town Council

Applicant: Taylor Wimpey UK Ltd.

Address: Former Martello Caravan Park Kirby Road Walton On The Naze CO14 8QP

Development: Proposed re-grading earthworks and associated landscaping and fencing to the permitted open space consented under application 15/01714/FUL.

1. Executive Summary

- 1.1 This application has been called in by Councillor Turner on the grounds that it will be detrimental to its neighbours and does not address drainage and possible landslip issues.
- 1.2 The development to be considered is land raising with a 1:3 slope down to the existing ground levels along the full southern boundary with a vacant plot known as Fenland 36 Mill Lane. The nearest dwelling is Landermere 35 Mill Lane which is located around 20 metres from the southern boundary. The north-eastern boundary is to a ditch with the road and Walton Marina beyond. The north and west boundaries are to the new housing development. To the south-western edge of the application site lies Martello Tower K which is a Scheduled Ancient Monument and Grade II Listed Building.
- 1.3 Given the existing levels surrounding this site and the screening provided by existing vegetation it is not considered the visual impact of the land raising will result in any material harm to visual amenity or the character of the surrounding area.
- 1.4 The site lies within tidal Flood Zone 3a having a high probability of flooding. A Flood Risk Assessment has been submitted and both the Environment Agency and ECC SuDs as Lead Local Flood Authority have confirmed no objection on flood risk or drainage grounds.
- 1.5 There will be overlooking from the application site to the vacant plot Fenland, exacerbated by the land raising. However, this land is a small area of open space with the much larger open space to the north of the housing development. There is also existing vegetation within the control of Fenland which offers screening, in addition to the six trees (3-3.6m high at planting) proposed along this boundary and 1045 shrub plants (60-90cm at planting) along this bank. It is therefore considered that the proposed landscaping will mitigate against any significant loss of privacy to both Fenland, and the dwelling Landermere at 35 Mill Lane.
- 1.6 The levels of the open space and attenuation depression closest to the new dwellings and in the corner of the site closest to the Martello Tower remain unchanged so there is no material change to the setting of the Martello Tower under this application. Due to the separation distance (86 metres minimum), and the orientation of site boundaries and vegetation, views of the Martello Tower from the Marina area would be across the middle of the area incorporating the attenuation depression. The levels in this area remain unchanged and it is therefore considered that there would be no material impact upon views of the heritage asset from the proposed works.

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.

National Planning Practice Guidance

NPPF National Planning Policy Framework 2019

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL3 Minimising and Managing Flood Risk

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

EN13 Sustainable Drainage Systems

EN23 Development within the Proximity of a Listed Building

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

SP1 Presumption in Favour of Sustainable Development

SP6 Place Shaping Principles

SPL3 Sustainable Design

PPL1 Development and Flood Risk

PPL5 Water Conservation, Drainage and Sewerage

PPL9 Listed Buildings

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.

3. Relevant Planning History

11/00903/OUT	Proposed redevelopment of the Martello Caravan Park for a new residential neighbourhood with ancillary mixed-use commercial zone. Phase 1 comprising a site area of fifteen acres and providing 150 dwellings including sheltered housing and ancillary commercial zone to include a food superstore, retirement home and doctors group practice/health centre.	Withdrawn	12.08.2011
12/01147/DEMCON	Demolish the Wellington Suite Complex; Amusement arcades and associated stores, supermarket, offices & stores, former camp offices, new camp offices and stores, former cinema building, garage / workshop buildings, sewerage pumping station and swimming pool, enclosure and associated buildings.	Withdrawn	26.09.2013
13/01412/OUT	Hybrid application for proposed development consisting of: - a 60 unit extra care apartment block: 48 single bed apartments, 12 two bed apartments (full planning permission sought) - a medical centre and pharmacy (outline planning permission sought).	Withdrawn	19.03.2014
14/01085/FUL	The implementation of a new access road and associated highway infrastructure to support the redevelopment of the later development of the Martello site.	Approved	26.01.2015

14/01837/FUL	The re-profiling of ground levels in the south west section of Martello site to facilitate future development.	Withdrawn	05.06.2015
15/00630/FUL	Demolition of existing buildings and erection of 237 residential dwellings together with associated access, car parking, landscaping and related works.	Refused	13.11.2015
15/01714/FUL	Demolition of existing buildings, re-profiling of ground levels and erection of 216 residential dwellings together with associated access, car parking, landscaping and related works.	Approved	03.11.2016
16/00171/FUL	Construction of a temporary access.	Approved	01.04.2016
16/00997/FUL	Implementation of a new sub station to cater for wider site redevelopment proposals.	Approved	31.08.2016
16/02019/TELLIC	Installation of 1 no. OSCP cabinet.	Determination	21.12.2016
17/00319/DISCON	Discharge of conditions 3 (Hard and soft landscaping), 5 (refuse strategy), 6 (Surface water drainage), 7 (Foul water drainage), 8 (Phasing plan), 9 (Materials), 10 (Street lighting scheme), 11 (Boundary walls and fences), 12 (floor levels), Condition 13 (Revised drawings addressing highways issues), 14 (Residential Travel info pack), 15 (Construction method statement), 16 (Ecological Mitigation), 17 (Archaeological), 18 (Fibre Optic connection) and 19 (Local Recruitment Policy) of approved planning application 15/01714/FUL.	Approved	11.07.2017
17/01412/DISCON	Discharge of Condition 09 (Roofing Materials) of Planning Permission 15/01714/FUL.	Approved	05.09.2017
17/02013/DISCON	Discharge of condition 11 (Boundary Treatment) of approved planning permission 15/01714/FUL.	Approved	12.12.2017
18/00434/DISCON	Discharge of conditions 6 (surface water drainage), 7 (foul water strategy), 8 (Phasing Plan and Programme), 9 (External facing and roofing materials specification), 10	Approved	20.09.2018

(external lighting), 13 (Highways details), and 15 (Construction Method Statement) of 15/01714/FUL.

18/00593/NMA	Non-material amendment to 15/01714/FUL - Minor adjustment to the position of dwellings 1-91, associated parking and roads.	Approved	07.06.2018
18/01297/NMA	Non material amendment to planning permission 15/01714/FUL - minor amendment to setting out of Plots 20 and 21 to allow construction mindful of existing fencing.	Approved	28.08.2018
18/01781/DISCON	Discharge of Condition 3 (Hard and Soft Landscaping) of application 15/01714/FUL with drawing 20875/CIV/1251 C3 substituting drawing 1251 T1.	Withdrawn	11.12.2018
18/01921/FUL	Full planning permission for re-grading earth works to the permitted open space consented under application 15/01714/FUL.	Approved	18.09.2019
19/00981/FUL	Proposed re-grading earthworks and associated landscaping and fencing to the permitted open space consented under application 15/01714/FUL.	Current	

4. Consultations

ECC SuDS

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:
 We have no objection to this application, however the site should be subject to the previously recommended drainage conditions as part of application 15/01714/FUL.

Environment Agency

We have inspected the application, as submitted, and we are now in a position to remove our holding objection to the plans as proposed, providing that you have taken into account the flood risk considerations which are your responsibility. We have highlighted these in the flood risk section below.

Flood Risk

Our maps show the site lies within tidal Flood Zone 3a defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for re-grading earthworks land raising and landscaping an amenity open space, and our view is that this is classified as a

'water compatible' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. Please note that our view should not fetter the local planning authority in reaching its own conclusion on the flood risk status of the development proposal.

Therefore, to comply with national policy the application is required to pass the Sequential Test and be supported by a site specific Flood Risk Assessment (FRA).

To assist you in making an informed decision about the flood risk affecting this site, the key points to note from the submitted FRA by RSK Land & Development Engineering Ltd, referenced 133589-R2(1)-FRA and dated 30th May 2019, are:

Actual Risk

- The site lies within the flood extent for a 0.5% (1 in 200) annual probability event, including an allowance for climate change.

- The site does benefit from the presence of defences. The defences have an effective crest level of 3.80m AOD which is below 0.5% (1 in 200) annual probability flood level including climate change and therefore the site is at actual risk of flooding in this event.

- The existing site level is at a minimum of 3.05m AOD and therefore flood depths on site are 0.86m in the 0.5% (1 in 200) annual probability flood event including climate change.

- Finished land raised site levels have been proposed at a minimum of 4.05m AOD. This is above the current day 0.5% (1 in 200) annual probability flood level of 3.91m AOD and therefore dry of flooding by 0.14m depth in this event. As such these proposed works result in this site no longer flooding in the current day 0.5% flood event.

- Finished land raised site levels have been proposed at a minimum of 4.05m AOD. This is below the 0.5% (1 in 200) annual probability flood level including climate change of 5.01m AOD and therefore at risk of flooding by 0.96m depth in this event.

- Finished land raised site levels have been proposed at a minimum of 4.05m AOD. Therefore there is not refuge above the 0.1% (1 in 1000) annual probability flood level including climate change of 5.39m AOD.

- Therefore assuming a velocity of 0.5m/s the flood hazard is danger for most including the general public in the 0.5% (1 in 200) annual probability flood event including climate change.

However section 7.2 of the FRA states that safe access and egress from the public open space is achieved through the residential development directly south of this proposed open space. This residential development has land raised above the 0.5% (1 in 200) annual probability flood level including climate change.

- Therefore this proposal does have a safe means of access in the event of flooding from all new buildings to an area wholly outside the floodplain up to a 0.5% (1 in 200) annual probability including climate change flood event. A Flood Evacuation Plan has not yet been proposed.

- Compensatory storage is not required.

Residual Risk

- Section 5.1.1 of the FRA explores the residual risk of a breach using the Environment Agency's tidal breaches from the Clacton 2018 (JBA) tidal model. The site could experience breach flood depths of up to 2 metres during the 0.5% (1 in 200) annual probability including climate change breach flood event and up to 2 metres during the 0.1% (1 in 1000) annual probability including climate change breach flood event (up to the year 2118).
- Therefore assuming a velocity of 0.5m/s the flood hazard is danger for all including the emergency services in the 0.5% (1 in 200) annual probability flood event including climate change.
- Finished land raised site levels have been proposed at a minimum of 4.05m AOD. This is below the 0.5% (1 in 200) annual probability breach flood level including climate change of 5.05m AOD and therefore at risk of flooding by 1m depth in this event.
- Finished land raised site levels have been proposed at a minimum of 4.05m AOD. Therefore there is not refuge above the 0.1% (1 in 1000) annual probability breach flood level including climate change of 5.05m AOD.

Environmental Permit for Flood Risk Activities

The applicant may need an environmental permit for flood risk activities if they want to do work in, under, over or within 8 metres (m) from a fluvial main river and from any flood defence structure or culvert or 16m from a tidal main river and from any flood defence structure or culvert. The Walton Channel, is designated a 'main river'. Application forms and further information can be found at: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>. Anyone carrying out these activities without a permit where one is required, is breaking the law.

5. Representations

- 5.1 Frinton and Walton Town Council: Original plans: REFUSAL due to the application being retrospective and the concern of the residents in Mill Lane in regard to the drainage. Amended plans: REFUSAL – lack of in depth information received.
- 5.2 This application has been called in by Councillor Turner on the grounds that it will be detrimental to its neighbours and does not address drainage and possible landslip issues.
- 5.3 Two letters of objection have been received summarised below:
 - In discussions with the developer in 2015 were assured this area would be left level to protect views to Martello Tower and views and drainage from existing properties.
 - The raising at up to 2 metres will allow views directly into neighbouring properties.
 - Spot heights not taken in lower areas
 - No profile plans or drainage diagrams
 - Water table already high
 - Developer not communicating with regular newsletters as previously promised
 - Justification that land needs to be raised to tie in with housing levels is dubious
 - Cross sections don't appear to accurately reflect ground levels in Fenland so are misleading
 - Raised level will allow overlooking onto Fenland and Landermere resulting in loss of privacy contrary to QL11, SPL3 and SP6.

- Flood zone 3 at high risk of flooding and will surely displace flood water over the counter wall and weaken it contrary to QL3, PPL1 and SPL3.
- Adverse impact on surface water drainage contrary to EN13, PPL5 and SPL3.
- Martello Tower is Grade II listed and a Scheduled Monument raised ground levels are within its protected viewing corridor contrary to the NPPF and heritage policies EN23, EN29 (archaeology), QL9, QL11, PPL9, SP6 and SPL3.

6. Assessment

Site Context

- 6.1 The site is located within Walton-on-the-Naze to the north west of the town centre. The wider Martello regeneration site (previously Martello Caravan Park) extends to 14 hectares in total comprising housing, care accommodation and supermarkets.
- 6.2 The application site falls outside of the settlement development boundary for Walton-on-the-Naze in the adopted Local Plan, but within in the emerging Local Plan reflecting the fact it forms part of a large housing development resulting from the approval of 15/01714/FUL. The site also lies within tidal Flood Zone 3a having a high probability of flooding.
- 6.3 To the eastern boundary lies Walton Marina; to the southern boundary lies a vacant plot known as Fenland 36 Mill Lane, with dwellings beyond fronting Mill Lane. The north and west boundaries are to the new housing development. To the south-western edge of the application site lies Martello Tower K which is a Scheduled Ancient Monument and Grade II Listed Building.

Planning History

- 6.4 15/01714/FUL approved erection of 216 dwellings which included associated re-profiling of ground levels to raise parts of the site above flood risk level. The site is currently at an advanced stage of construction. The application proposal relates to a small area of public open space in the south-eastern corner of the site, known as Martello Green. The larger area of public open space is at the north of the site and planning permission was granted (18/01921/FUL) under delegated powers in September 2019 to undertake additional earthworks to create a more level area of play. Typically the levelling involved raising by 1 metre adjacent the external boundaries, and up to 3 metres mainly to the banks of the attenuation pond and the centre of the open space.
- 6.5 The land raising proposed within this application was originally submitted as a discharge of the landscaping condition (18/01781/DISCON) but that was withdrawn as it was confirmed the works required full planning permission.
- 6.6 This application was submitted in July 2019 and subject to consultation at that time. However, it was confirmed as invalid by the Case Officer as insufficient drawings in relation to existing and proposed levels had been provided. Sections have been provided, two along each affected boundary to illustrate the change in levels. This additional information was provided in December 2019 and has been subject to reconsultation which has now expired.

Proposal

- 6.7 The application proposes re-grading earthworks to the smaller open space approved under 15/01714/FUL. This area has already been partly raised and is currently being used for construction parking and materials storage.
- 6.8 The approved details include the sloped pathway shown and depression which provides minimum 18 cubic metres volume to accommodate localised surface water flooding from the adjacent road in an extreme event. These details remain unchanged.

- 6.9 The development to be considered is land raising with a 1:3 slope down to the existing ground levels along the full southern boundary with Fenland 36 Mill Lane and the north-eastern boundary with the road and Walton Marina beyond.

Principle of Development

- 6.10 The proposal relates to alterations to an approved area of open space associated with a residential development of 216 dwellings (15/01714/FUL). The principle of development is therefore accepted subject to the detail of the proposal as considered below.

Visual Impact

- 6.11 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 considerations are reflected in emerging Policy SPL3.
- 6.12 The approved Flood Risk Assessment requires a minimum ground floor slab level of 5.1m Above Ordnance Datum (AOD) for the dwellings. The levels of the open space closest to the dwellings remain as approved 5.030-5.230m AOD. The site would then slope to the east and the south to 4.400-4.050m AOD before then dropping at a 1:3 gradient to meet the existing ground level. Existing and proposed spot heights and four sections have been provided to illustrate the change in levels.
- 6.13 Along the Southern boundary with Fenland 36 Mill Lane the slope will begin between 2m and 2.8m away from the boundary and rise up the proposed bank to a height increase of approximately 1.2m. Along the Eastern boundary with the ditch, road and Marina beyond there is already a small raised bank under the vegetation. The proposed slope will begin approximately 4.4m away from the boundary and rise up the proposed bank to a height increase of approximately 1.2m. Existing levels across the site vary being generally lowest to the east (around 3.05-3.15m) and rising to the south western corner (around 3.54-3.68). There are therefore larger increases of around 1.3m-1.6m at some points. The approved area around the attenuation depression represents the largest land raising above existing ground level at around 2 metres.
- 6.14 Given the existing levels surrounding this site and the screening provided by existing vegetation it is not considered the visual impact of the land raising will result in any material harm to visual amenity or the character of the surrounding area.

Flood risk/drainage

- 6.15 The site lies within tidal Flood Zone 3a having a high probability of flooding. The original approval was subject to a Flood Risk Assessment (FRA) and conditions relating to surface water drainage. A Flood Risk Assessment has been submitted with this application and has been subject to consultation with both the Environment Agency and ECC SuDs as Lead Local Flood Authority.
- 6.16 An existing counter flood wall runs along the boundary with the vacant plot at Fenland 36 Mill Lane with other flood defences to the front of that plot and along the north-eastern boundary facing the Marina.
- 6.17 The approved details include the sloped pathway shown and depression which provides minimum 18 cubic metres volume to accommodate localised surface water flooding from the adjacent road in an extreme event. These details remain unchanged. The development to be considered is land raising with a 1:3 slope down to the existing ground levels along the full

southern boundary with Fenland 36 Mill Lane and the north-eastern boundary with the road and Walton Marina beyond.

- 6.18 The FRA compares the pre-development topography and post-development topography where levels vary from 3.05m Above Ordnance Datum (AOD) to 5.00m AOD. Levels across the site generally fall from west to east. The site lies within defended Flood Zone 3a associated with the Walton Channel, and benefits from the tidal flood defences. As part of the wider Martello Caravan Park development levels have been raised above the 1 in 200 year plus climate change flood event.
- 6.19 The Environment Agency's comments are detailed under Consultations above. They confirm this is a 'water compatible' development and is required to pass the Sequential Test. The Sequential Test ensures that a sequential approach is followed to steer new development to areas with the lowest probability of flooding. The aim is to steer new development to Flood Zone 1 (low probability of flooding). Where there are no reasonably available sites in Flood Zone 1, local planning authorities in their decision making should take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2 (medium probability of flooding). Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 (high probability of flooding) be considered. In this case the proposal relates to an area of open space required to serve the recreational and surface water drainage needs of the 216 dwellings approved under 15/01714/FUL. These needs cannot be met elsewhere as they must directly serve the existing/under construction development.
- 6.20 The Environment Agency confirm the land raising will reduce flood depths on the open space in the 1 in 200 annual probability flood event. With some areas being dry of flooding, and others at risk of flooding by up to 0.96m depth. Finished land raised site levels have been proposed at a minimum of 4.05m AOD. Therefore there is not refuge above the 0.1% (1 in 1000) annual probability flood level including climate change of 5.39m AOD resulting in danger for most in a 1 in 200 flood event. In a 1 in 1000 breach event the site would be at risk of flooding up to 1m deep. However, the directly adjacent residential development lies above this level so there is a safe means of escape directly adjacent to the open space. Furthermore, this is an improvement from the approved levels within the majority of this open space area and would therefore reduce flood risk for users of the open space.
- 6.21 The site is not in Flood Zone 3b (functional flood plain) so it is not raising flood plain land. The Environment Agency have also confirmed that compensatory storage is not required.
- 6.22 ECC SuDS confirm no objection but confirm the site should be subject to the previously recommended drainage conditions as part of application 15/01714/FUL. Those conditions still apply and the approved surface water drainage scheme, including the small attenuation depression on this open space remain as approved.
- 6.23 The proposal is therefore considered acceptable in terms of drainage and flood risk.

Landscaping

- 6.24 The landscaping scheme in terms of the proposed soft and hard landscape design/layout for the open space has previously been approved under the already consented development.
- 6.25 The new proposal largely reflects the approved landscaping with a mixture of grass, wildflowers and tree planting but proposes 6 additional trees (3 Black Alder and 3 Silver Birch) along the boundary with Fenland 36 Mill Lane and 1045 shrub plants along this bank. Fencing is also proposed to the boundaries with this plot with 2m high chain link fencing along the long southern boundary and 1.8m close boarded fencing above gravel boards to the western boundary. The information submitted is considered sufficient to secure a satisfactory level of new planting.

Impact on Residential Amenity

- 6.26 The NPPF states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Emerging Local Plan.
- 6.27 To the southern boundary lies a vacant plot known as Fenland 36 Mill Lane, with dwellings beyond fronting Mill Lane. Fenland is stated to have been used for over sixty years as amenity space including camping weekends/BBQs in the same family ownership as the nearby dwelling at West Water 34 Mill Lane. This site has the appearance of a vacant plot with maintained lawn with sporadic trees and planting. The only planning history on the plot is a 2001 approval 'To culvert and fill ditch and replace bridge access'.
- 6.28 The nearest dwelling is Landermere 35 Mill Lane which is located around 20 metres from the southern boundary. Landermere is a three storey dwelling with the second floor within the mansard roof. It has first and second floor windows on the facing flank, and first and second floor windows and a large first floor balcony on the rear. There is intervening vegetation which provides good screening to the rear garden but the large rear balcony and windows can be seen from the application site.
- 6.29 Along the Southern boundary with Fenland 36 Mill Lane the slope will begin between 2m and 2.8m away from the boundary and rise up the proposed bank to a height increase of approximately 1.2m. The top of the slope is around 6 metres from the boundary. Fenland is a vacant plot not a residential property and the impact upon loss of privacy should be considered accordingly. There will be overlooking from the application site to Fenland, exacerbated by the land raising. However, this land is a small area of open space with the much larger open space to the north of the housing development. There is also existing vegetation within the control of Fenland which offers screening, in addition to the six trees (3-3.6m high at planting) proposed along this boundary and 1045 shrub plants (60-90cm at planting) along this bank. It is therefore considered that the proposed landscaping will mitigate against any significant loss of privacy to both Fenland, and the dwelling Landermere at 35 Mill Lane.
- 6.30 The north and west boundaries are to the new housing development. The approved Flood Risk Assessment requires a minimum ground floor slab level of 5.1m AOD for the new dwellings. The levels of the open space and attenuation depression closest to the new dwellings remains unchanged so there is no additional impact upon the occupants of the new dwellings.
- 6.31 A construction method statement condition has been recommended to reduce disturbance, pollution, and inconvenience to highway users during the construction phase.

Heritage Impact

- 6.32 Policy EN23 of the adopted 2007 Local Plan states development affecting a listed building or its setting will only be permitted where it, amongst other things, does not have an unacceptable effect on the special architectural or historic character and appearance of the building or its setting. These sentiments are echoed in Policy PLA8 of the draft Local Plan. The NPPF also attaches great importance to the protection of the historic environment, including designated heritage assets such as Scheduled Ancient Monuments and Listed Buildings.
- 6.33 To the south-western edge of the application site lies Martello Tower K which is a Scheduled Ancient Monument and Grade II Listed Building.

6.34 The levels of the open space and attenuation depression closest to the new dwellings and in the corner of the site closest to the Martello Tower remain unchanged so there is no material change to the setting of the Martello Tower under this application. The changes occur to the north of the boundary with Fenland 36 Mill Lane and towards the boundary with the Marina. Due to the separation distance (86 metres minimum), and the orientation of site boundaries and vegetation, views of the Martello Tower from the Marina area would be across the middle of the area incorporating the attenuation depression. The levels in this area remain unchanged and it is therefore considered that there would be no material impact upon views of the heritage asset from the proposed works.

7. Conclusion

As detailed in the report above the proposal is not considered to result in any material harm to visual amenity or the character of the surrounding area; flood risk or drainage; residential amenity; or the setting or significance of the Scheduled Ancient Monument and Grade II Listed Building Martello Tower K and is therefore 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 details: Drawing numbers 19.4056.01, 20872/CIV/1251 Rev C3, and 20872/CIV/1530 Rev P3; and Flood Risk Assessment by RSK ref 133589-R2(1)-FRA.

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 plan Drawing number 19.4056.01 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 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 – In the interests of residential amenity and to ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

8.3 Informatives

1. 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.
2. The applicant may need an environmental permit for flood risk activities if they want to do work in, under, over or within 8 metres (m) from a fluvial main river and from any flood defence structure or culvert or 16m from a tidal main river and from any flood defence structure or culvert. The Walton Channel, is designated a 'main river'. Application forms and further information can be found at: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>. Anyone carrying out these activities without a permit where one is required, is breaking the law.

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

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

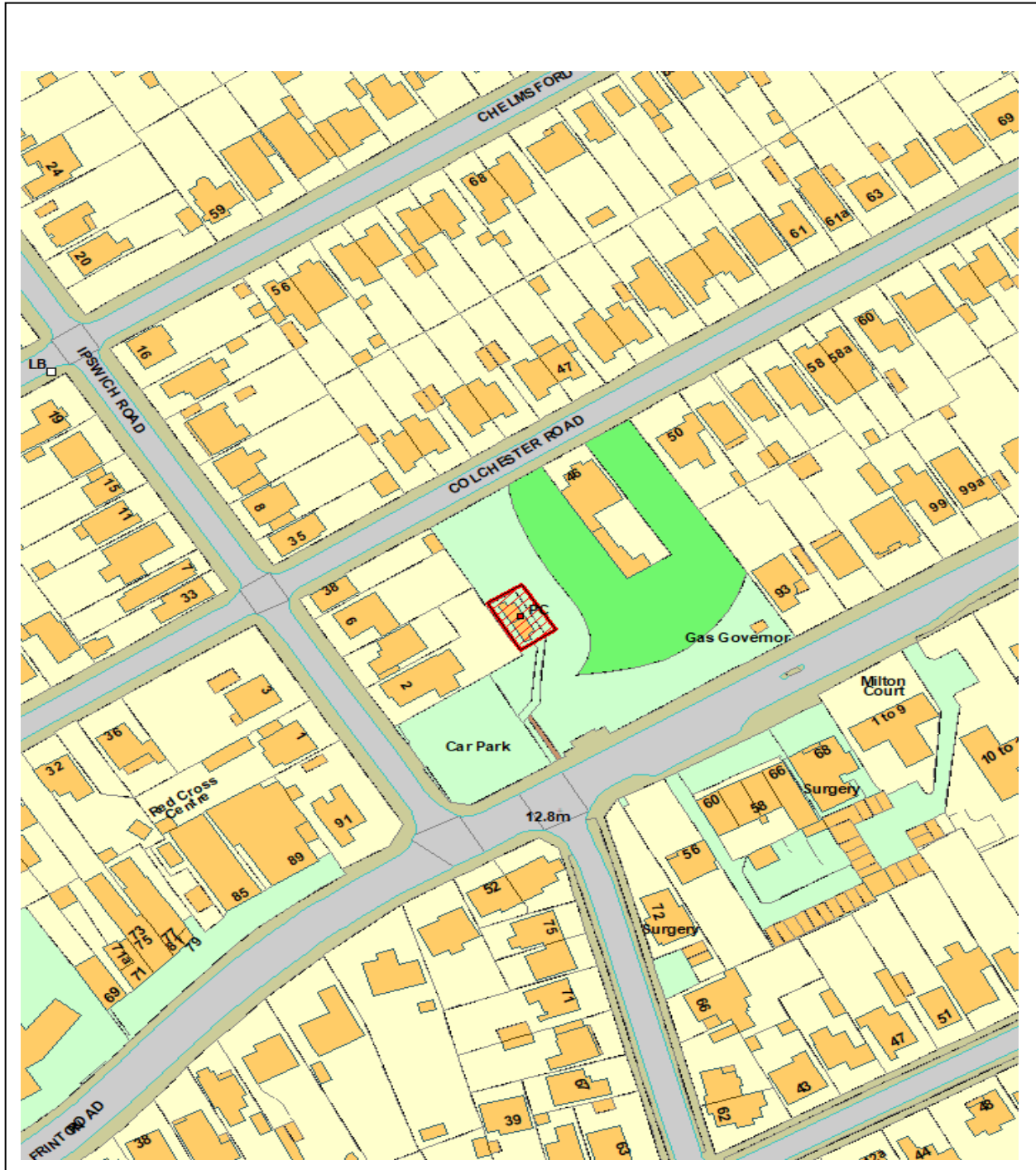
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PLANNING COMMITTEE

12 FEBRUARY 2020

REPORT OF THE HEAD OF PLANNING

A.4 PLANNING APPLICATION – 19/01427/FUL – FORMER PUBLIC CONVENIENCES FRINTON ROAD HOLLAND ON SEA CO15 5DE



DO NOT SCALE

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Application: 19/01427/FUL

Town / Parish: Clacton Non Parished

Applicant: Mr Stuart Hazell

Address: Former Public Conveniences Frinton Road Holland On Sea CO15 5DE

Development: Change of use of former public conveniences to cafe with internal/external seating areas.

1. **Executive Summary**

- 1.1 The planning application has been referred to Planning Committee as the land is owned by Tendring District Council
- 1.2 The building is the former public convenience located within a public open space, adjacent the Ipswich Road public car park.
- 1.3 The site lies inside the defined town centre and in an area that requires the protection of existing recreational open space.
- 1.4 The building is no longer in use and has been empty since its closure. Whilst there is very little appearance of dilapidation, the planning application presents an opportunity to realise a viable alternative tourism-related use for a redundant building that would be in keeping with the general location and also supports local economic activity and wider regeneration aims of the Council.
- 1.5 The modest scale of the proposed café is considered to be an acceptable alternative use. With appropriate conditioning and moderate adaptation, no material harm is envisaged to the visual amenity of the surrounding area and the amenity of residents nearby. The application is therefore 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 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

TR1A Development Affecting Highways

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

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

Local Planning Guidance

Essex Design Guide

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.

3. Relevant Planning History

19/01427/FUL	Change of use of former public conveniences to cafe with internal/external seating areas.	Current
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4. Consultations

ECC Highways Dept

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

5. Representations

5.1 Two letters contributions have been received in response to the four neighbour notification letters and the display of the site notice on 8th November 2019. The letters are summarised below:-

Contribution One

- The British Toilet Association (BTA) advocates the need for more and better toilets to ensure Health and Well-being, Equality, Public and Private Decency and Social Inclusion.
- No documentary evidence could be produced to support the claims of anti-social behaviour and vandalism.
- Mr Hazell's planning application has some incorrect and omitted information in it. For example, no opening hours are listed.
- Notice on the former PC door states the reason for the closure was due to vandalism and antisocial behaviour, and re-redirects people to alternative facilities opposite Brighton Road and Holland Haven Country Park, (2 and 3 miles away respectively). The Country Park facility is not accessible to those with mobility constraints.
- The plans show that the lessee is to extend out over the existing footpath. The TDC map shows there is no footpath from the former PC to Colchester Rd.
- The open space is designated as protected so approval of a planning application to encroach on that space breaches and sets a precedent for more building.
- A loo-pod is required to replace the unfit brick toilet and is now urgent due to relocation of GP surgery Jan20

Contribution Two

- The identified toilet block that forms the basis of this planning application is one meter from the rear boundary of my property. Indeed the rooftop can be clearly seen from my kitchen window, conservatory and garden.
- When in use as a public toilet facility voices were easily carried over the fence and were often of a disturbing nature. On numerous occasions anti-social behaviour has occurred to such an extent that on occasions it has been necessary to seek police assistance for the disturbances.
- The small boundaries of the car park adjacent to the proposed site directly borders the right hand side of my property and travels the right hand side of the garden and our drive access in Ipswich Road. Again at times I have had to raise concern over the noise pollution from this Car Park, causing, at times, significant disturbance and again requiring intervention from the Police.
- Question the appropriateness of a building originally intended as a public convenience as being fit for the suggested purpose?
- Additional concerns are:- Noise pollution and disturbance of the peace for residents • Rubbish/waste storage, collection and associated odours and the inevitable attraction of additional vermin as a result • Cooking fumes which will undoubtedly travel to local residences on a daily basis • Opening hours and security of the identified premises as well as my own premises, during out of hours. (There were considerable episodes of vandalism when this site were open as public toilets) • Two cafe's already available within the immediate vicinity of proposed application, in more appropriate premises • Car parking capacity pressures and how this may cause issues for local residents access to

the local Dr surgery, Tesco express and other local businesses • Access to my own property continues to become compromised when the public car park becomes full. Despite yellow lines, parking is often to be seen on resident access pavements.

6. Assessment

6.1 The main planning considerations are:

- The Principle of the Use;
- Highway Safety/Parking; and
- The Impact on Neighbouring Amenities.

6.2 The application site is the vacant former public toilets situated on the north-west side of Frinton Road and adjacent to Ipswich Road public car-park.

6.3 The single-storey building is simple in its form; being constructed in the late 1960's in red buff brick; it has a dual pitched roof constructed in interlocking cement tiles. To its north and south ends are small additions which comprised the entrances to the gentlemen's toilet to the south and ladies' toilet to the north. The 'middle' entrance provided access to an internal service area at the rear of the building and access to a disabled toilet at the front of the building (with level entrance).

6.4 The surrounding area comprises a side and rear boundary of No. 2 Ipswich Road that abuts both a public car-park that has 22 unrestricted spaces and 2 spaces reserved for disabled drivers and the public open space. The public open space is extremely verdant which benefits from established and mature tree planting. A concrete path exists from the car-park to the north-western end of the toilet block.

6.5 The site is owned by Tendring District Council, and is to be leased to the applicant.

Planning History

6.6 There is no relevant planning history on the site.

Proposal

6.7 The application proposes three main elements; the conversion/change of use of the toilet block to a café, the replacement of the gentlemen's toilet with a larger extension to facilitate a unisex toilet provision and use of the space in front of the building as an outdoor seating area.

Principle of Development

6.8 The site is located within the Development Boundary therefore there is no principle objection to the proposal, subject to the detailed considerations discussed below. The proposed development will re-imagine the functional use of a redundant feature building, revive and animate the location, and contribute to the local economy.

Appearance

6.9 The Government attach great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. One of the core planning principles of The National Planning Policy Framework (NPPF) as stated at paragraph 130 is to always seek to secure high quality design.

- 6.10 Saved Policies QL9, QL10 and QL11 aim to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties. Emerging Policy SP1 reflects these considerations.
- 6.11 Externally the proposal would enlarge the historic 'gentlemens' entrance by 1.0m in width to allow it to become a wheelchair accessible unisex toilet. Other external alterations to the building are of an extremely minor nature and typically comprise simply the replacement of the windows to the front (north-east elevation) with upgraded uPVC frames.
- 6.12 The application property is not a noteworthy building neither is it of high architectural merit. The various physical alterations to the building are considered to be proportionate and necessary to facilitate the operational needs of the proposed café and full accessibility. The proposed alterations to the building are modest and will improve its appearance and facilitate its reuse.

Highway Safety/Parking

- 6.13 The site contains no land for parking however it is located adjacent a public car park that has 22 unrestricted spaces and 2 spaces reserved for disabled drivers and within a sustainable location a short walk from the shops, pubs, services.
- 6.14 Due to the modest scale of the development, its level of parking is considered to be adequate, and no appreciable highway safety issues would arise as a result of the development and no objection is raised by the Highway Authority.

Impact on Residential Amenity

- 6.15 The NPPF, at paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.16 It is acknowledged that the application form does not contain details of hours of opening; however the application form also has space to indicate that the hours are unknown. Notwithstanding this the Local Planning Authority can impose conditions to control opening hours for the purposes of protecting residential amenity. It is considered that trading between the hours of 09:00 to 18:00 is appropriate when considering the effect of a café on neighbouring amenity over and above the effect of the general comings-and-goings of a park.
- 6.17 The site lies adjacent to a public car park, local services etc where a reasonably high level of existing noise would be expected. By virtue of the small size of the building the use proposed is going to be small scale. Only a small servery area is shown – though the exact amount of covers is not known.
- 6.18 The application form, in question 5, makes reference to the café offering teas, coffees, cold drinks, light food, snacks and ice cream. There is no suggestion that hot food that would generate odours are being prepared. It does not appear that extraction equipment will be required but a condition will be imposed to require approval of the details of any extraction equipment in the interests of residential amenity.

Other Material Considerations

The Provision of Public Toilets

- 6.19 The Public Health Act 1936 gives local authorities a power to provide public conveniences but it imposes no duty to do so. A comprehensive review of existing public conveniences was carried out by the Commercialisation Portfolio Holder working party in October 2016. The recommendations of this working party supported the Council's vision for community leadership and the proposed rationalisation of existing service provision will help secure future service improvements as outlined in the Public Convenience Strategy.
- 6.20 At the Cabinet Meeting of 16th June 2017 the decision was taken to close this particular public toilet provision in addition to a number of others around the District that typically had low usage and suffered from anti-social behaviour.

Recreational Open Space

- 6.21 The 'park' is designated as a Recreational Open Space on proposals maps. The broad term "recreational open space" includes all formal and informal recreational uses of land, from football pitches to children's playgrounds within town parks. Placing tables and chairs, which are of a temporary nature and within close proximity of the building, is considered to entirely respect the use of the Space as a recreational space.

7. Conclusion

Overall planning balance

- 7.1 The application proposal will bring back into productive use a local building that has remained empty and redundant for a couple of years. Proposed renovations will enhance the appearance of the building, and its general scale and character and visual impact within the informal park setting are preserved.
- 7.2 The proposed development will make a positive contribution to the local economy through the creation of a new café that will create jobs.

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:- un-numbered floor plans/elevation received 14th October 2019 and 20th December 2019.

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

- 3 The use hereby approved shall only take place between the hours of 09:00 and 18:00 Monday to Saturday and 09:00 to 16:00 on Sundays and Bank Holidays.

Reason: In the interest of local amenity.

- 4 No soil ventilation pipes, air extraction pipes, extractor/mechanical units boiler flues or ducting shall be installed without the proposed details having first been submitted to and approved in writing by the local planning authority.

Reason: In the interest of local amenity.

- 5 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.

8.3 Informatives

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.

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

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

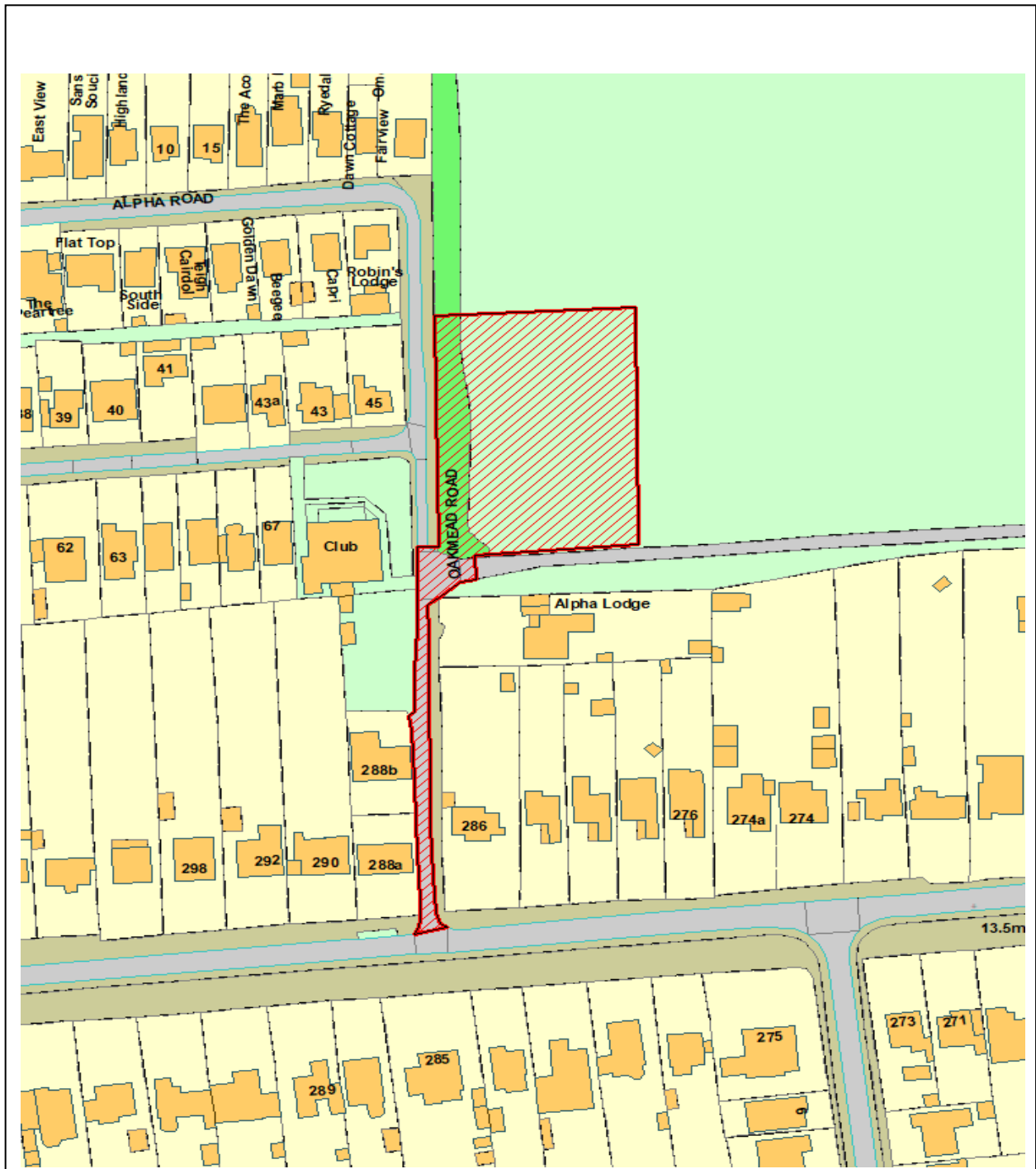
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PLANNING COMMITTEE

12 FEBRUARY 2020

REPORT OF THE HEAD OF PLANNING

A.5 PLANNING APPLICATION – 19/00610/FUL – LAND AT OAKMEAD ROAD ST OSYTH CO16 8NW



DO NOT SCALE

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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 and access road off existing drive.

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 detailed 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 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 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 detailed design and access arrangement 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 a new drive off the existing access serving 262 Point Clear Road.
- 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 in excess of 200 square metres. Landscaping for the development includes the retention and reinforcement of the existing front boundary hedgerow and new planting to the site perimeters and individual plot boundaries. Close boarded fence will divide the private garden areas.

- 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 use of the existing access to serve a further 4 dwellings (5 including 262 Point Clear Road) 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 levels. 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

COM6 Provision of Recreational Open Space for New Residential Development

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

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

03/00750/FUL	Variation of Condition 02 imposed upon planning permission 02/00105/FUL to allow recreational	Refused	06.06.2003
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	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
19/00610/FUL	Construction of 4 No detached houses and access road off existing drive.	Current	

4. Consultations

ECC Highways Dept.
AMENDED COMMENTS
(received 9th January 2020)

It is noted that Oakmead Road is classified on the s36 List of Streets as a 'Private Street' and whilst maintenance of the route is not undertaken by Essex County Council, a highway right exists over the route and as such Essex County Council has a duty to protect the rights of the highway user. This Authority has assessed the details of this application and having regard to the fact that this part of Oakmead Road is close to existing bus stops, 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 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; as shown in principal on drawing no. 835/10 Rev. E. 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; as shown in principal on drawing no. 835/10 Rev. E.

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 5.5 metres shall be retained at that width for 6 metres within the site, as shown in principal on drawing no. 835/10 Rev. E.

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. The existing gates at the private vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the footway / cycleway or where no provision of footway/cycleway is present, the carriageway.

Reason: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent footway/cycleway/carriageway in the interest of highway safety in accordance with policy DM1.

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

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

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

ECC Highways Dept.
AMENDED COMMENTS
(received 13th December 2019)

It is noted that Oakmead Road is classified on the s36 List of Streets as a 'Private Street' and whilst maintenance of the route is not undertaken by Essex County Council, a highway right exists over the route and as such Essex County Council has a duty to protect the rights of the highway user. This Authority has assessed the details of this application and having regard to the fact that this part of Oakmead Road is close to existing bus stops, 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 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; as shown in principal on drawing no. 835/10 Rev. D. 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; as shown in principal on drawing no. 835/10 Rev. D.

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 5.5 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. The existing gates at the private vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the footway / cycleway or where no provision of footway/cycleway is present, the carriageway.

Reason: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent footway/cycleway/carriageway in the interest of highway safety in accordance with policy DM1.

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

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

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

ECC Highways Dept.
ORIGINAL COMMENTS
(received 23rd May 2019)

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:

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Colchester Highways Depot,
653 The Crescent,
Colchester.
CO4 9YQ.

5. Representations

- 5.1 The application has been subject to various revised plans amending the detailed design of the dwellings; the access arrangement and landscaping and the red lined site area (which now includes Oakmead Road up to where it meets Point Clear Road).
- 5.2 St. Osyth Parish Council raise no objection to the revised plan which would see access to the development gained via 262 Point Clear Road, as per the original application (16/01611/OUT). However, the Parish Council is aware that the issue of access along Oakmead Road is of concern to some residents.
- 5.3 St. Osyth Parish Council strongly objected to the originally submitted application. For completeness (as some issues raised were not affected by the amended plans) the objections originally raised can be summarised and addressed as follows (officer response in bold text);
- 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.
The amended plans now propose to access the development from the existing access serving 262 Point Cleat Road. No new accesses are being created a part of the revised application.

- Removal of hedgerow.
The amended plans now include the retention and enhancement of the existing front boundary hedgerow.
 - 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.
- 5.4 35 letters of representation have been received in response to the original and amended proposal including a petition of 34 signatories and objections from Alpha Road Residents Association.

It is understood that there is a general consensus that the revised access is supported which would see access to the development gained via 262 Point Clear Road, as per the original application (16/01611/OUT).

For completeness all 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.
The access arrangement has been amended 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.
- ***The amended plans now include the retention and enhancement of the existing front boundary hedgerow. 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.
A refuse collection point is included on the proposed plans.
- 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, access arrangements and residential amenities, the application has been amended removing the garages, incorporating a gable feature and variation to the finish of the dwellings, an amendment to the side facing windows and removing the 2 new access points.
- 6.9 The dwellings are to be served by a new drive off the existing access serving 262 Point Clear Road including a turning head. 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 (approved on 30th March 2017). 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 and enhancement 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 and enhance the appearance within the street scene. The design of dwellings combine 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 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.
- 6.22 The application has been amended and the dwellings will now be served by the existing access serving 262 Point Clear Road with a shared driveway extending to the north along the frontage of the new dwellings together with a turning area.
- 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 amended 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. The amended plan removes the formerly proposed 2 new accesses which has overcome many objections raised.

- 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 and is a reduction in the approved scheme. The shared access can satisfactorily accommodate the traffic movements associated with an additional 4 dwellings without resulting in any material harm to highway safety.

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 As the application was originally made as a reserved matters application, drainage details have been provided to accord with conditions 14 and 15 of the outline consent that were requested by Members at the meeting on the 29th March 2017.
- 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 amended scheme ensures the retention of the front boundary hedgerow together with additional 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 E, Drawing 835/11 B, Drawing No. 835/12 A, Drawing No. 835/13 A and Drawing No. 01-19.19.001 - B, Drawing No. 01-19.19.002 - B, Drawing No. 01-19.19.003 – B received 2nd December 2019.

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 A 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 above ground works 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 The approved screen walls and fences shown on approved Drawing No. 835/13 A shall be erected prior to the dwellings to which they relate being first occupied and thereafter be retained in the approved form unless otherwise agreed in writing by the Local Planning Authority.

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

- 6 Prior to the occupation of the development, the communal bin/refuse collection point shown on approved Drawing No. 835/10 E shall be provided and thereafter 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 any 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 The approved Construction Method Statement reference 835 Method Statement 11/19 received on 2nd December 2019 shall be adhered to throughout the construction period.

Reason - To ensure that on-street parking of construction and delivery 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, amended Ecological Management Scheme 3651,EC/LTR001/LT,RF,KL/06-11-19/V3 Dated 6th November 2019 and Ecological Management Scheme Drawing ref. 3651,EC/001/Rev 2 Dated 5th November 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), other than those shown on approved Drawing No. 835/13 A, no provision of fences, walls or other enclosures, shall be erected on the perimeter of the site or forward of the dwellings hereby approved 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 occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 17 metres in both directions as measured from and along the nearside edge of the carriageway in accordance with approved Drawing No. 835/10 E. Such vehicular visibility splays shall be retained free of any obstruction at all times in perpetuity.

Reason - To provide adequate inter-visibility between vehicles using the access 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 E 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 the first occupation of the development, the existing access gates shall be repositioned in accordance with approved Drawing No. 835/10 E retaining a minimum set back from the back edge of the footway of 6 metres and shall be inward opening only. The gates shall be retained in this approved form unless otherwise agreed in writing by the Local Planning Authority.

Reason - To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent footway/cycleway/carriageway in the interest of highway.

- 17 Prior to first occupation of the development, the vehicle parking shown on approved Drawing no. 835/10 E 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

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

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PLANNING COMMITTEE

12 FEBRUARY 2020

REPORT OF THE HEAD OF PLANNING

A.6 PLANNING APPLICATION - 19/01667/FUL - 45 HARWICH ROAD LAWFORD MANNINGTREE CO11 2LS



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Application: 19/01667/FUL

Town / Parish: Lawford Parish Council

Applicant: Mr and Mrs D Spurgin

Address: Land to The West of 45 Harwich Road Lawford Manningtree CO11 2LS

Development: Erection of two dwellings.

1. Executive Summary

- 1.1 The application is before Planning Committee at the request of Councillor Carlo Guglielmi, Councillor Val Guglielmi and Councillor Alan Coley due to the site being located outside of the village boundary; due to recent planning and appeal history rejecting similar nearby developments and due to the harmful precedent that would be set by allowing development in this unsustainable location.
- 1.2 The application relates to the land to the west of number 45 Harwich Road, Lawford. The site extends approximately 0.12 hectares in size and comprises an open grassed area of land between numbers 45 and 44 on the southern side of Harwich Road. On the boundary with the highway there is an established coniferous hedge. To the rear of the site are a range of glasshouses and commercial buildings accessed between the application site and number 45 Harwich Road. These buildings are mainly redundant or used as storage.
- 1.3 The site is located outside of the 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 being almost equidistant from the Ardleigh and Lawford settlements.
- 1.4 Of particular relevance in this instance is the appeal decision for number 43 Harwich Road located approximately 20 metres to the west of the application site (appeal reference APP/P1560/W/18/3218683 allowed on 3rd May 2019). Application 18/00649/FUL for the erection of 1 no. 1.5 storey dwelling was refused due to the location of the site being outside the defined development boundary and future occupants having to rely on their car to go about their everyday lives. However, the Inspector concluded that the location of bus stops in close proximity to the site and the frequency of bus service meant that sustainable travel other than by private car would be reasonably practicable in this location.
- 1.5 The application seeks full planning permission for the erection of 2 no. three bedroom, detached dwellings 1.5 storey in scale. The detailed design of the dwellings and layout has been amended to allow a better spaced development and to incorporate design features that are characteristic of the area, namely dormer windows. Each dwelling is served by parking and private amenity space that accords with policy and standards. The red line sited area has been amended to include access to the site from Harwich Road.
- 1.6 The principle of residential development in this locality has therefore been established by this recent appeal decision. The scale, height, design and appearance of the dwellings will not result in any material harm to the character and appearance of the area.
- 1.7 Therefore, given the above, the accessibility of services and facilities and the effect of development on the character of the countryside indicate that the site would provide an appropriate location for housing. There would be some intrinsic conflict with Saved Policy QL1 but this would not manifest itself into any harm in terms of its overall objectives or result in social, economic or environmental harm.

- 1.8 A legal agreement is required for this application to secure a financial contribution towards Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). At the time of writing this report, the legal agreement is not yet complete.
- 1.9 The principle of residential development in this location has been established by the recent appeal decision. The application provides a development that is acceptable in terms of design, access, residential amenity and visual impact and is recommended for approval subject to the necessary conditions and legal agreement requirements set out below.

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):**
- **Financial Contribution towards RAMS**
- b) Subject to the conditions stated in section 8.2
- 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 s106 planning obligation.

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

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

EN1 Landscape Character

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

COM6 Provision of Recreational Open Space for New Residential Development

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

LP3 Housing Density and Standards

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

SPL1 Managing Growth

SPL3 Sustainable Design

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

99/00722/FUL	Proposed rear addition to increase size of lounge	Approved	24.06.1999
19/01667/FUL	Erection of two dwellings.	Current	

4. Consultations

ECC Highways Dept.

A site visit has been undertaken and the information that was submitted in association with the application has been fully considered by the Highway Authority. The proposed dwellings will utilise the existing vehicular access for the host dwelling. and commercial use that will continue within the overall boundary of the site. Both properties will retain adequate off-street parking and turning, for the existing and proposed dwelling 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. 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 road junction / access is first used by vehicular traffic 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 in accordance with policy DM1.

2. No unbound materials shall be used in the surface treatment of the existing or new vehicular accesses throughout.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1.

3. Prior to the first occupation of the proposed dwellings, the existing vehicular access to the private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Carriageway / Footway / 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 in accordance with policy DM1.

4. All off-street car parking shall be in precise accord with the details contained within the current Parking Standards being provided within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8.

5. 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.

6. Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided 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: Steps should be taken to ensure that the Developer provides enough 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: It is not essential to have a speed hump shown at the start of the new private drive due to the length and number of dwellings proposed for this private/shared vehicular access as shown on amended proposed site plan, drawing: Ab102b.

Informative 3: 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 4: 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.

5. Representations

5.1 Lawford Parish Council object to the application on the following grounds;

- Over Development.
- Not in Keeping.

- Will set a precedent.
- This is Agricultural land - change of use will be required.

These objections are addressed within the main assessment.

5.2 A total of 9 representations have been received in relation to the original and amended plans; 4 in support, 4 in objection and 1 observation.

These are summarised below and addressed within the main assessment.

Representations objecting to the application can be summarised as follows;

- Will not allow right of access over driveway.
- A number of existing dwellings and businesses use the access amounting to approximately 30+ vehicles a day.
- Damage to driveway during construction.
- Unsuitable access and turning for large vehicles/emergency vehicles.
- No visitor turning or parking resulting in vehicles reversing over the shared driveway or into the highway.
- Unsuitable drainage/sewerage/water provision that cannot accommodate 2 further dwellings and would cause upheaval to existing dwellings.
- Forward of existing building line.
- Over development.
- Out of keeping with existing properties.
- Will set a precedent for further housing around the existing smallholdings.

Representations in support of the application can be summarised as follows;

- Adopted plan out of date and emerging plan not yet adopted.
- Council are unable to demonstrate 5 year housing land supply.
- High quality, affordable homes will benefit the area.
- Well-designed spacious plots in keeping with area.
- Nestled into their surroundings and will blend well.
- Suitable off road parking.
- Located on direct bus route to Colchester and Manningtree (with train stations).
- Much needed housing within an area that has sufficient infrastructure
- No harm to neighbouring amenities will occur.
- Good, clear visibility possible from access.
- Future occupants will help support small local business.

The 1 letter of observation sets out the current lawful use of the land as agriculture and that a change of use of land will be required.

6. Assessment

6.1 The main planning considerations are:

- Site Context;
- Proposal;
- Planning and Appeal History;
- Principle of Development (including Layout, Scale and Appearance);
- Access and Parking;
- Residential Amenities;
- Trees and Landscaping;

- Legal Obligations - Recreational Impact Mitigation;
- Legal Obligations - Open Space/Play Space Contribution; and,
- Other Matters.

Site Context

- 6.2 The application relates to the land to the west of number 45 Harwich Road, Lawford. The application site extends approximately 0.12 hectares in size and comprises an open grassed area of land between numbers 45 and 44 on the southern side of Harwich Road. The plot associated with number 45 extends some 400m in depth to the rear with a total overall site area in the region of 7 acres.
- 6.3 On the front boundary with the highway there is an established coniferous hedge. To the rear of the site are a range of glasshouses and commercial buildings accessed between the application site and number 45 Harwich Road.
- 6.4 Comments provided within the neighbour representations suggest that there are a number of businesses still in operation together with some separate units of living accommodation. Planning records do not show any evidence of planning permission for these uses or dwellings. Additional information provided by the Agent in response to the objections (received on 8th January 2020) states that the buildings to the rear associated with 45 Harwich Road are mainly redundant or used as storage in connection with the dwelling.
- 6.5 The site is located outside of the 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 being almost equidistant from the Arleigh and Lawford settlements.

Proposal

- 6.6 The application seeks full planning permission for the erection of 2 no. three bedroom, detached dwellings 1.5 storey in scale.
- 6.7 Following concerns with the design of the proposed dwellings, officers have negotiated amendments. The dwellings have been reduced from 4 bed to 3 bed properties allowing for a simplified front elevation incorporating design features that are characteristic of the area, namely dormer windows. The garages originally proposed have been removed and the layout amended to allow for a more spacious development with 2 parking spaces to the side of each dwelling.
- 6.8 The red line sited area has also been amended to include access to the site from Harwich Road and the appropriate notice served on the owners of number 46 Harwich Road.
- 6.9 The dwellings will be accessed via the existing shared access with the creation of a shared driveway to the frontage of the new dwellings positioned behind the front boundary conifer hedgerow.
- 6.10 As stated on the proposed plans, the dwellings are to be finished in red brickwork with a dark red brick plinth, cedar vertical cladding to the dormers and rear gable projection with a concrete pantile roof.

Planning and Appeal History

- 6.11 Of particular relevance in this instance is the planning and appeal history for land adjacent number 43 Harwich Road located approximately 20 metres to the west of the application site. Application 18/00649/FUL for the erection of 1 no., 1.5 storey dwelling was refused due to

the location of the site being outside the defined development boundary and future occupants having to rely on their car to go about their everyday lives. The development was allowed under appeal reference APP/P1560/W/18/3218683 on 3rd May 2019 where the Inspector concluded that the location of bus stops in close proximity to the site and the frequency of bus service meant that sustainable travel other than by private car would be reasonably practicable in this location.

- 6.12 As a result of this appeal, outline planning permission (considering access) for the erection of 1 no. dwelling at number 56 Harwich Road (on the corner with Tile Barn Lane) was approved by officers under delegated powers on 2nd December 2019 under planning application reference number 19/01496/OUT.
- 6.13 The planning history at number 31 Harwich Road is also applicable to the consideration of this current application (as highlighted by the Member Referral). Application reference 19/01361/OUT sought outline planning permission with all matters reserved for the erection of 4 no. houses on land to the rear of number 31 Harwich Road and was refused by officers on 9th January 2020. This decision took into account the above-mentioned appeal decision and was refused due to the out of character backland nature of the development and not due to the location of the site being outside of the settlement development boundary. For these reasons, the site and proposed development considered under reference 19/01361/OUT is not directly comparable to application before Members.

Principle of Development

- 6.14 The principle of residential development in this location has been established by the above-mentioned appeal decision. For completeness, the principle of residential development in this locality will be assessed in full, referring to the appeal decision where relevant.
- 6.15 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.
- 6.16 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.
- 6.17 At the time of writing 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. 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. 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. The sustainability of the application site is therefore of particular importance.

Economic Objective

- 6.18 The proposal would create economic benefits during construction and through local spending by the new occupiers. This echoes the conclusions made by the Inspector within paragraph 14 of the appeal decision (Appeal Ref: APP/P1560/W/18/3218683).

Social Objective

- 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 8 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.
- 6.20 The site is almost equidistant from the Ardleigh and Lawford settlements. Ardleigh 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). Lawford is defined as a Town within the saved Policy QL1 of the adopted Tendring District Local Plan 2007 and is defined as a Smaller Urban Settlement in recognition of the large range of local services offered.
- 6.21 There are bus stops within approximately 0.4 miles of the appeal site with services to Ardleigh and Lawford. This distance is not particularly far and accessible by footways along Harwich Road (A137) which is the principal road linking Ardleigh, Manningtree, Mistley and Lawford with Colchester. It is served by three bus routes with a frequent service in each direction each day, from early in the morning to late at night. Therefore, a bus journey to Lawford to utilise the large range of services there would be relatively straight-forward. Sustainable travel other than by private car would be reasonably practicable in this case. For these reasons, there would be no harm caused through the location of the proposed dwellings. The proposal, being situated outside defined settlement development boundaries would be in conflict with Saved Policy QL1 of the adopted Tendring District Local Plan 2007 which sets out the spatial strategy for Tendring to 2011. However, this policy is several years beyond its defined period of implementation and out-of-date. There would also be no harm caused by reason of the proposal's location. Therefore, the proposal's conflict with this policy must be given very limited weight. This echoes the conclusions made by the Inspector within paragraph 14 of the appeal decision (Appeal Ref: APP/P1560/W/18/3218683).

Environmental Objective

- 6.22 As mentioned above, paragraph 8 of the 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 including making effective use of land. Paragraph 127 of the NPPF states that developments should function well, should add to the overall quality of the area, are visually attractive as a result of good architecture and layout and are sympathetic to local character. Saved Policies QL9, QL10 and QL11 of the adopted Tendring District Local Plan (2007) 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 Emerging Plan. Saved Policy HG14 requires a minimum of 1 metre side isolation between dwellings.

- 6.23 The proposed dwellings would form part of a clearly-identifiable ribbon of development along Harwich Road with numerous residential dwellings and commercial buildings directly adjacent or near to the site. The development would not constitute isolated homes in the countryside, being viewed alongside existing dwellings and against a backdrop of built form. Furthermore, the front boundary hedgerow will provide some screening and softening of the proposed development.
- 6.24 The immediate character to this section of Harwich Road sees a number of semi-detached properties, each pair being spaciouly separated. Whilst the introduction of detached dwellings within this context would appear as a slight discrepancy, the separation distance between the proposed dwellings and its neighbours retains an appropriate level of spaciousness as to not appear cramped or wholly out of keeping with the existing pattern of development.
- 6.25 Due to the bend in the road, the proposed dwellings would be sited in line with number 44 Harwich Road but approximately 3 metres forward of number 45 Harwich Road. The siting of the dwellings would retain a set back from the highway edge of approximately 23 metres further screened by the existing front boundary hedge. The proposed dwellings would not appear prominent, nor would their somewhat unaligned siting appear harmful to the character of the area given the significant set back from the highway.
- 6.26 The 1.5 storey scale of the development is considered appropriate being no higher than the ridge heights of both neighbouring properties. Following concerns with the detailed design of the proposed dwellings, amendments have been secured reducing the dwellings from 4 bed to 3 bed properties, allowing for a simplified front elevation incorporating design features that are characteristic of the area, namely dormer windows. The garages originally proposed have been removed and the layout amended to allow for a more spacious development meeting the aims of Policy HG14 of the adopted Local Plan. The proposed materials are considered to be acceptable and will appear in keeping with the character of the area. However, precise details will need to be secured by condition.
- 6.27 The proposed development would deliver 2 additional homes which would be a benefit given the NPPFs aim to make a more efficient use of land and significantly boost the supply of housing, which the Council are currently not achieving due to failure to provide a 5-year supply.
- 6.28 On balance, the introduction of 2 dwellings on the site would not result in any significant visual harm in terms of the character of the area or result in any wider landscape impact. Therefore, the adverse impacts of the proposal would not significantly and demonstrably outweigh its benefits when assessed against the policies in the NPPF taken as a whole.
- 6.29 Objections have been received expressing concern that the proposal would constitute overdevelopment, does not following the existing building line, would be out of character and would set a precedent. However, the site is already part of an established ribbon development of residential and commercial properties along Harwich Road and the proposed dwellings would be sufficiently spaced from its neighbouring structures and retain a good set back from the highway. As such, it would not harm the character of the area or therefore set a harmful precedent. This echoes the conclusions made by the Inspector within paragraph 14 of the appeal decision (Appeal Ref: APP/P1560/W/18/3218683).

Access and Parking

- 6.30 Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. These objectives are supported by emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 6.31 The Council's current Adopted Parking Standards require that for dwellings with 3 bedrooms a minimum of 2 parking spaces be provided per unit. The preferred bay size for cars is 5.5 metres by 2.9 metres and the minimum bay size is 5 metres by 2.5 metres. Furthermore, 0.25 visitor parking spaces per dwelling should also be provided.
- 6.32 The development will be accessed via the existing access off Harwich Road which currently serves 45 and 46 Harwich Road with clear visibility possible in both directions. There is conflicting information in relation to the use of the buildings to the rear of the site and number of vehicles currently using the site or able to use the site in the future. Nonetheless, the additional traffic movements associated with 2 dwellings cannot be considered excessive or harmful to highway safety. The development provides parking, turning and visitor parking of an appropriate level to serve the proposed dwellings.
- 6.33 Essex County Council as the Highway Authority has been consulted on the application and raise no objection subject to conditions which will be imposed where necessary having regard to the scale of development.
- 6.34 Objections have been raised in relation to highway safety, land ownership and access rights. Land ownership and access rights are not a material planning consideration. These are legal matters between the relevant parties. In the absence of any objection from The Highway Authority, a refusal based on highway safety is not justified in this instance.
- 6.35 Objections have also been raised in relation to disturbance and obstruction during construction. This is an inevitable and short term impact of the development process and cannot constitute a reason for refusal. However, a condition securing the submission and approval of a Construction Method Statement (controlling construction times and deliveries) will minimise and mitigate the impacts on neighbouring properties.

Residential Amenities

- 6.36 Paragraph 127 of the NPPF states that planning should always seek to secure a good standard of amenity for all existing and future occupants. 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'. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives.
- 6.37 The proposed dwellings retain a decent separation distance of over 11 metres to the donor dwelling at number 45 Harwich Road and over 15 metres to the neighbouring property to the west at number 44 Harwich Road. The spacing between dwellings and presence of only one small side facing en-suite window will ensure that no material loss of outlook, loss of light or overlooking will occur to existing or future occupants.
- 6.38 Policy HG9 of the adopted Tendring Local Plan 2007 states that a 3 bedroom dwelling should be served by a minimum of 100 square metres of private amenity space. The amended plans

demonstrate that this level of amenity space can be achieved for both the new dwellings and donor dwelling.

Trees and Landscaping

- 6.39 The main body of the application site is set to grass and does not contain any trees or other significant vegetation. On the boundary with the highway there is an established coniferous hedge that provides a reasonable level of screening.
- 6.40 It would be desirable for the boundary hedge to be retained. If it were deemed necessary for it to be removed then replacement planting should be secured.
- 6.41 The retention of the existing hedgerow and further soft landscaping to soften, screen and enhance the appearance of the development can be secured by appropriately worded planning conditions.

Financial Contribution – Open Space and play Space

- 6.42 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.
- 6.43 In line with the requirements of saved Policy COM6 and emerging Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space.
- 6.44 No contribution is being requested from the Open Space Team on this occasion.

Financial Contribution – Recreational Disturbance

- 6.45 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.
- 6.46 The application scheme proposes a residential on a site that lies within the Zone of Influence (Zoi) being approximately 2400 metres from the Stour and Orwell Estuaries Ramsar and SPA. New housing development within the Zoi would be likely to increase the number of recreational visitors to the Stour and Orwell Estuaries 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.
- 6.47 A unilateral undertaking has been requested to secure this legal obligation and is currently being prepared. This will 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.

Other Matters

- 6.48 Objections have been raised in relation to the impact of 2 further dwellings on the existing sewerage and drainage provision and the need for a change of use of the land from agricultural to residential.

6.49 If Members resolve to approve the application then the use of land will become residential as part of the proposed development. A separate change of use application would not be required in this instance.

6.50 The application form submitted as part of this application states that the proposed dwellings will connect to the mains sewer and the existing drainage system, details of which are included on the accompanying plans. The precise drainage details will be dealt with at the building control stages of the development. Due to the minor scale of the application, there is no requirement to consult with the local water authority.

7. **Conclusion**

7.1 The principle of residential development in this locality has been established through the recent appeal decision and subsequent delegated approval. Having regard to the accessibility of services and facilities and the effect of the development on the character of the area, the site would provide an appropriate location for housing. There would be some basic conflict with Saved Policy QL1 but this would not manifest itself into any harm in terms of its overall objectives or result in social, economic or environmental harm.

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 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

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: PMA/516 AB100b, PMA/516 AB102d, PMA/516 AB103b and PMA/516 AB104b.

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

3 Prior to the commencement of any above ground works, precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction of the development have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.

Reason - The development is publicly visible and therefore sympathetic materials are a visually essential requirement and insufficient information has been provided within the application.

- 4 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 - In the interests of visual amenity, the quality of the development and the character of the area.

- 5 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 ensure the adequate retention and maintenance of the approved landscaping scheme for a period of five years in the interests of visual amenity, the quality of the development and the character of the area.

- 6 No above ground level works shall take place until precise details of the provision, siting, design and materials of screen walls and fences 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 occupation of the development and thereafter be retained in the approved form unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure that the development is appropriate within its setting as insufficient details have been provided with the application.

- 7 Notwithstanding the provisions of Article 3, Schedule 2 Part 2 Class A 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), no provision of fences, walls or other means of enclosures shall be erected forward of the front elevation of the dwellings hereby approved.

Reason - In the interests of visual amenity.

- 8 Notwithstanding the provisions of Schedule 2 Part 1 Classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no extensions, additions, porches or alterations to the dwellings or their roofs shall be carried out and no outbuildings, enclosures, swimming or other pools shall be erected except in complete accordance with details which shall previously have been approved, in writing, by the Local Planning Authority following the submission of a planning application for such development.

Reason - To ensure that sufficient private amenity space for the dwelling is retained in the interests of residential amenities.

- 9 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 road junction / access is first used by vehicular traffic 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.

- 10 No unbound materials shall be used in the surface treatment of the existing or new vehicular accesses throughout.

Reason - To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

- 11 Prior to the first occupation of the proposed dwellings, the existing vehicular access to the 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.

- 12 Prior to the first occupation of the dwellings hereby approved the parking and turning areas as shown on approved drawings, shall be constructed and made ready for use. All parking and turning areas shall be retained in this approved form.

Reason - To ensure sufficient off-street parking provision is provided in the interests of highway safety.

- 13 Prior to the commencement of development, a Construction Method Statement shall be submitted to and approved in writing by the local planning authority. The Construction Method Statement shall provide for:

- 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;
- wheel washing facilities;
- measures to control the emission of dust and dirt during demolition and construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works;
- details of hours of deliveries relating to the demolition and construction of the development;
- details of hours of site clearance or construction;
- a scheme to control noise and vibration during the demolition and construction phase, including details of any piling operations.

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

Reason - In the interests of residential amenity and highway safety and to reduce the likelihood of complaints of statutory nuisance.

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.

Highways Informatives

Informative 1: Steps should be taken to ensure that the Developer provides enough 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: It is not essential to have a speed hump shown at the start of the new private drive due to the length and number of dwellings proposed for this private/ shared vehicular access as shown on amended proposed site plan, drawing: Ab102b.

Informative 3: 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 4: 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.

Informative 5: Areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided 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

10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.