



## PLANNING COMMITTEE

**DATE:** Tuesday, 16 June 2020  
**TIME:** 6.00 pm  
**VENUE:** Meeting will be held remotely in accordance with the provisions of SI 2020/392. Link to live stream is found here:  
<https://www.tendringdc.gov.uk/livemeetings>

### MEMBERSHIP:

Councillor White (Chairman)	Councillor Fowler
Councillor Bray (Vice-Chairman)	Councillor Harris
Councillor Alexander	Councillor McWilliams
Councillor Cawthron	Councillor Placey
Councillor Codling	

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For further details and general enquiries about this meeting, contact Emma Haward or Ian Ford Telephone 01255686007 or 01255686584. Email [democraticservices@tendringdc.gov.uk](mailto:democraticservices@tendringdc.gov.uk)

This meeting is being held in accordance with the provisions of The Local Authorities and Police and Crime Panels (Coronavirus)(Flexibility of Local Authority and Police and Crime Panel Meetings)(England and Wales) Regulations 2020.

DATE OF PUBLICATION: Monday, 8 June, 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, 19 May 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 19-00188-FUL- LOWER FARM, EAST END GREEN, BRIGHTLINGSEA CO7 0SX (Pages 21 - 66)**

The development applied for relates to the construction of 104 holiday lodges and an associated function/club house building, 36 retirement apartments for over 60yr olds, 5 private dwellings along with ancillary landscaping/engineering works, a glamping area, toilet facilities, boating jetties and children's play area.

### **6 A.2 - PLANNING APPLICATION 20-00150-FUL - THE LAWFORD SURGERY, 2 EDGEFIELD AVENUE, LAWFORD CO11 2HD (Pages 67 - 80)**

The application seeks full planning permission for alterations and extensions to the roof of the building to allow for the creation of 2 administration/office rooms, a bathroom and kitchenette for staff within the roof space. The works include the raising of the overall roof height by just under 1.5 metres, the insertion of 4 no. high level roof lights to the rear, insertion of 1 no. end gable window overlooking the car park and the erection of 3 no. pitched roof dormer windows to the front elevation. The application has been amended to now incorporate the regularisation of the 1.8 metre fence that has been erected enclosing the car park and to include the formal laying out of the existing parking areas into bays.

### **7 A.3 - PLANNING APPLICATION 20-00202-FUL - BRICK BARN RESIDENTIAL CARE HOME, 106 WALTON ROAD, KIRBY-LE-SOKEN CO13 0DB (Pages 81 - 94)**

The application seeks full planning permission for the change of use of the existing Care Home (within use Class C2 of the Town and Country Planning (Use Classes) Order 1987 as amended) to a Hostel for the Homeless (a "sui generis" use) including internal alterations reducing the current accommodation from 15 bedrooms to 9.

**8**     **A.4 - PLANNING APPLICATION 19-01906-OUT - LAND WEST OF 70 CROME ROAD, CLACTON-ON-SEA CO16 8YG (Pages 95 - 110)**

The application seeks outline planning permission with all matters reserved for the erection of 2 detached dwellings.

**9**     **A.5 - PLANNING APPLICATION 20-00160-FUL - NORTHBOURNE DEPOT, VISTA ROAD, CLACTON-ON-SEA CO15 6AY (Pages 111 - 118)**

The application involves a proposed single storey extension to the existing storage building, extended compound and relocation of footpath.

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**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,  
HELD ON TUESDAY, 19TH MAY, 2020 AT 6.00 PM  
THE MEETING WAS HELD REMOTELY IN ACCORDANCE WITH THE PROVISIONS  
OF STATUTORY INSTRUMENT 2020/392. THE URL FOR THE LIVE STREAM IS  
[HTTPS://TINYURL.COM/Y7COY3JU](https://tinyurl.com/y7coy3ju)**

<b>Present:</b>	Councillors White (Chairman), Bray (Vice-Chairman), Alexander, Cawthron, Codling, Fowler (except item 7), Harris, McWilliams and Placey
<b>Also Present:</b>	Councillors Clifton and J Henderson
<b>In Attendance:</b>	Lisa Hastings (Assistant Director (Governance) & Monitoring Officer), Graham Nourse (Acting Assistant Director (Planning)), Keith Simmons (Head of Democratic Services and Elections), Trevor Faulkner (Temporary Planning Team Leader), Matthew Lang (Planning Officer), Debbie Bunce (Legal and Governance Administration Officer) and Emma Haward (Leadership Support Assistant)

**1. CHAIRMAN'S OPENING REMARKS**

The Chairman (Councillor John White) introduced and welcomed Members, Officers and members of the public to the meeting/livestream. He stated that as items A.1, A.2 and A.3 of the agenda were deferred items, there would be no public speaking on those items. He would however allow public speaking on item A.4.

**2. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

**3. MINUTES OF THE LAST MEETING**

It was proposed by Councillor Alexander, and seconded by Councillor Bray and:-

**RESOLVED** that the minutes of the meeting of the Committee, held on Tuesday 10 March 2020, be agreed as a correct record and be signed by the Chairman of the Committee.

**4. DECLARATIONS OF INTEREST**

Councillor Fowler declared a personal interest in Planning Application 19/00917/OUT – Land to the South of Ramsey Road and East of Mayes Lane due to being a resident in Mayes Lane, Ramsey. She stated that she would withdraw from the meeting at the appropriate juncture and take no part in the consideration of this application or the voting thereon.

Councillor Fowler also declared a non-pecuniary interest in Planning Application 20/00136/FUL – 3 Frobisher Road, Dovercourt insofar as she was a Ward Member for Dovercourt All Saints.

Councillor Codling declared a non-pecuniary interest in Planning Applications 19/1605/FUL – Clacton County High School and 19/1606/FUL – Tendring Enterprise Centre, Clacton-on-Sea insofar as he was a Ward Member for Bluehouse.

Councillor John White declared an interest in Planning Application 19/00917/OUT – Land to the South of Ramsey Road and East of Mayes Lane due to being a former member of LEAP, an alms-house charity, which was an interested party in this application.

In response to a question asked by Councillor Alexander, the Assistant Director (Governance) & Monitoring Officer informed Members that they did not need to declare an interest in any application and not take part in proceedings just because they had been 'lobbied' by any interested party so long as they were still able to consider that application with an 'open mind'.

**5. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38**

There were no questions on notice on this occasion.

**6. A.1 PLANNING APPLICATION 19/00283/FUL - LAND EAST OF HALSTEAD ROAD, KIRBY CROSS**

Members were aware that this application had been referred to Planning Committee at the request of Councillor Clifton due to his concerns relating to the affordable housing provision, the design and street scene impact, poor layout and density, highway safety and parking. This application site formed part of a larger piece of land stretching from Halstead Road to Buxton Avenue on the northern side of Kirby Cross.

Members recalled that this application had been deferred at the January 2020 meeting of the Committee 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. Members had requested that those plots be pushed southwards and plots 1 and 2 reduced to bungalows. Members had also requested that a landscaping scheme be provided to the northern boundary of the site.

It was reported that to this end the applicant had submitted revised plans indicating that Plots 1 & 2 had been amended to 1 bed bungalows and plots 3 and four had been moved further southwards within the site. A 2.5m high screen fence had now been introduced along part of the northern boundary of the site and additional landscaping had been provided along the northern boundary in the form of hedging and trees. Furthermore, indicative plans demonstrated an affordable housing mix revised to 2 x 1 bed bungalows, 1 x 2 bed houses & 1 x 3 bed houses.

In addition, a revised Drainage Strategy and updated vehicle tracking drawings had also been submitted in order to coordinate with the revised layout however there had been no material change to the technical details.

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 in respect of the application.

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

a) Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):

- Financial Contribution towards RAMS
- Financial contribution towards Open Space
- Affordable housing contribution 4 dwellings

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) The development hereby permitted shall be carried out in accordance with the following approved Drawing Nos:

Drawing Lin22259-11c Amended landscaping proposals  
Amended appendix 2 - proposed drainage strategy  
Drawing P106 e Amended refuse strategy layout  
Drawing P122 A12 bungalow semi floor plans  
Drawing C102 d Amended coloured street scenes  
Amended design and access statement  
Drawing P101 l Amended site layout  
Drawing P102 e Amended whole site layout  
Drawing P103 e Amended buildings materials layout  
Drawing P104 e Amended boundary materials layout  
Drawing P107 e Amended garden size layout  
Drawing P114 c Amended hardwick-mountford elevations  
Drawing P121 e Amended illustrative street scenes  
Drawing P124 A12 bungalow semi elevations  
Drawing Lhe132-sk2 c Amended fire and refuse tracking  
Drawing P105 e Amended surface materials layout  
Report Lin22259mand Amended soft landscape management and maintenance plan  
Drawing P123 A12 bungalow semi elevations  
Drawing C101 d Amended coloured site layout

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 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 interests of visual amenity and the character of the area.

4) Prior to the first occupation of any of the proposed development hereby permitted the internal road and footway layout as shown on the approved plans shall be provided.

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

5) Prior to the commencement of above ground 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. The 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) The development shall not be occupied until such time as the car parking and turning areas as shown on the approved plans have 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.

7) No development 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 dwellings to which they relate being first occupied and thereafter be retained in the approved form.

Reason - To protect the amenities and privacy of occupiers of the adjoining property.

8) No development shall commence until details of a surface water drainage works shall have been submitted to and approved in writing by the local planning authority. The details shall accord with the principles contained in the Updated Flood Risk and Drainage Strategy (October 2015) and the Amended Drainage Strategy Report (September 2019).

The submitted details shall: a. measures to minimise the risk of flooding during the construction works; b. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; c. include a timetable for its implementation; and, d. provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other



arrangements to secure the operation of the scheme throughout its lifetime. No building shall be occupied until the works have been implemented in accordance with the approved details.

Reason - To ensure satisfactory provision of foul and surface water drainage in order to prevent the development from causing increased flood risk off site over the lifetime of the development.

9) No development shall take place before an Environmental Construction Management Plan for the construction of the development hereby approved has been submitted to, and approved in writing, by the Local Planning Authority. Works shall be carried out in accordance with the approved method statement. Details submitted in respect of the method statement, incorporated on a plan, shall provide for wheel cleaning facilities during the excavation, site preparation and construction stages of the development to prevent the deposition of mud or other debris onto the highway network/public areas. The method statement shall also include details of safe access to/from the site, the parking and turning of vehicles of site operatives and visitors, loading and unloading of plant and materials, delivery and construction working hours, dust suppression strategy, routing of delivery vehicles, measures to control noise and lighting, the provision of a means of storage and/or delivery for all plant, site huts, site facilities and materials, means of safeguarding the public right of way during construction, the erection and maintenance of security hoarding, a scheme for recycling/disposing of waste resulting from construction, and temporary traffic management/signage.

Reason - To ensure that development is carried out in a controlled manner in the interests of highway safety, while minimising impacts on the surrounding residential properties and the natural environment.

10) Prior to the commencement of any piling works which may be necessary, a full method statement - to include a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents – shall be submitted to and agreed in writing by the Local Planning Authority. Piling Works shall be carried out in accordance with the approved method statement.

Reason - To ensure that development is carried out in a controlled manner in the interests of highway safety, while minimising impacts on the surrounding residential properties and the natural environment.

7. **A.2 PLANNING APPLICATION 19/00917/OUT - LAND TO THE SOUTH OF RAMSEY ROAD AND EAST OF MAYES LANE, RAMSEY**

Councillor Fowler had earlier in the meeting declared a personal interest in relation to this application insofar as she was a resident of Mayes Lane, Ramsey. She thereupon withdrew from the meeting and took no part in the consideration of this application or the voting thereon.

Councillor White had earlier in the meeting declared an interest in relation to this application insofar as he was a former member of LEAP, an alms-house charity, which was an interested party in this application.

Members were aware that this application had been referred to the Planning Committee as the development site was situated outside of any settlement development boundary

(SDB), but it was adjacent to the SDB of Dovercourt. The development therefore represented a departure from the saved or emerging local plans.

Members recalled that this application had previously been deferred at their request in order to enable an organised Member site visit to take place or if that was not possible for the applicant to supply instead adequate video/photographic evidence of the site and surroundings. Additionally, further information in respect of the method of securing the affordable housing element and details of the alms houses had been requested by Members.

To this end a video showing a walkover of the site, the points of access and all internal boundaries had been provided for Members and the public to view via the Planning Portal on the Council's website. Furthermore, indicative plans of the proposed alms houses had been provided by the applicant.

It was reported that information had also been provided by the applicant confirming that the required legal agreement would provide the certainty with construction and conveyance of the 12 affordable housing units (10 alms houses and 2 dwellings). These would be provided prior to occupation of the 16th dwelling on the remainder of the site. No shared ownership was being proposed and the legal agreement would secure transfer to a Registered Social Landlord subject to a restriction on age of occupancy on the alms house element.

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

At the meeting, an oral presentation was made by the Council's Planning Officer (ML) in respect of the application, which included highlighting a suggested amendment to proposed planning condition no.25 in that electric car charging points would be required to be installed on all properties that would be built as a result of this planning application being approved.

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

a) Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):

- Financial Contribution towards RAMS
- 30% Affordable Housing Provision (12 units including 10 almshouses and 2 dwellings to be provided prior to the 16th occupation of the market housing)
- NHS contribution

b) the following planning conditions:

Conditions and Reasons:

1) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

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

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

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

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

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

4) The access road off Ramsey Road at its centre line shall provide clear to ground visibility splays with dimensions of 2.4 metres by 150 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction is first used by vehicular traffic and retained free of any obstruction at all times.

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

5) For the proposed access road off Mayes Lane, 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.

6) Vehicular parking and turning facilities in accordance with current policy standards 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.

7) No unbound material shall be used in the surface treatment of the vehicular accesses.

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

8) The vehicular access road off Ramsey Road shall be constructed at right angles to the highway boundary and to the existing carriageway and at reserved matters stage the following details shall be submitted to and approved in writing by the Local Planning Authority:

- Plans showing carriageways measuring no less than 5.5m in width.
- Plans showing 2x2m Footways on both sides of the access road.
- Plan showing appropriate pedestrian crossing facilities where the new road joins the existing highway.
- Plans showing kerb radii measuring 6m.
- Plans demonstrating the upgrade of the two existing bus stops located in the vicinity of the site access on either side of Ramsey Road and the relocation of the southern bus stop to include: open/cantilever shelter, raised kerbs, flag and timetable frame. The precise location to be agreed with the Highway Authority.
- Plans showing a new footway measuring no less than 2m in width either side of the junction with tactile paving either side off Ramsey Road extending to the relocated bus stop on the south side.
- Plans demonstrating that the vehicular access from Ramsey Road shall be for the sole use of vehicular traffic serving the 31 dwellings only and not for the proposed 10 almshouse type bungalows served by the new access off Mayes Lane.
- Plans showing areas within the site identified for the purpose of loading/unloading/reception and storage of building materials and manoeuvring clear of the highway and retained at all times for that sole purpose as approved in writing by the Local Planning Authority.

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

9) The vehicular access road off Mayes Lane shall be constructed at right angles to the highway boundary and to the existing carriageway and at reserved matters stage the following details shall be submitted to and approved in writing by the Local Planning Authority:

- Plans showing a combined pedestrian and vehicular surface of 6m.
- Plans showing a straight section of carriageway to be provided from the entrance junction for 10 metres.
- Plans showing priority for pedestrians and cyclists across junction.
- Plans demonstrating that the vehicular access shall be for the sole use of vehicular traffic serving the 10 almshouse type bungalows only and not for the proposed 31 dwellings served by the new access off Ramsey Road.
- Plans showing the combined pedestrian/cycle links to be provided between the two developments.

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

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

Reason – To promote the use of sustainable transport modes.

11) 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.

12) Prior to 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 roads/footways are constructed to an appropriate standard in the interests of highway safety.

13) No development shall commence, including any groundworks, until a Construction Method Statement has been 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;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of dust and dirt during 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.

14). Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), the dwellings at plots 2, 5 and 6 and the almshouses shall not exceed one storey in height and shall not contain any habitable rooms or windows above ground floor level. The dwellings on all other plots shall not exceed two-storeys in height and shall not contain any habitable rooms or windows above first floor level. The roofs shall not be extended, converted or otherwise altered to provide any habitable space.

Reason - To ensure that the development preserves the character of the area and does not adversely impact on neighbour amenities. In order to ensure that a suitable scale of

density is provided with consideration to a contextual analysis of the surrounding area, as well as to protect amenity of adjacent residents.

15) The garage accommodation forming part of the development shall be retained for parking motor vehicles at all times and shall not be adapted to be used for any other purpose, including other uses ancillary to the residential use, unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason - To retain adequate on-site parking provision in the interest of highway safety.

16) A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape/open space areas, other than small, privately owned, domestic gardens, shall be submitted to and approved, in writing, by the local planning authority prior to the first occupation of the development. The landscape management plan shall be carried out as approved in accordance with the details and timescales in the plan.

Reason - To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

17) No works shall take place until all trees, shrubs and other natural features not scheduled for removal on the approved plans have been safeguarded behind protective fencing to a standard that will have previously been submitted to and agreed, in writing, by the Local Planning Authority (see BS 5837). All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

Reason - To safeguard existing trees, shrubs and other natural features within and adjoining the site in the interest of amenity.

18) The occupation of the ten almshouses hereby approved shall be limited to persons over the age of 65 years only.

Reason – To secure the almshouses as accommodation for the elderly and to ensure compatibility with the layout proposed.

19) All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Appraisal (Liz Lord Ecology, December 2018) particularly Appendix 3, and Bat Survey Report (Liz Lord Ecology, September 2019) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

20) A Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within Section 6 of the Ecological Appraisal (Liz Lord Ecology, December 2018), shall be submitted to and approved in writing by the local planning authority.

The enhancement measures shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

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

21) 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 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).

22) 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:

- 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's storage 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.

23) 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.

24) No development shall take place on the site until a Written Scheme of Archaeological Investigation shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- a. The programme, including phasing, and methodology of site investigation and recording;
- b. The programme for post investigation assessment;
- c. The provision to be made for analysis of the site investigation and recording;
- d. The provision to be made for publication and dissemination of the analysis and records of the site investigation;
- e. The provision to be made for archive deposition of the analysis and records of site investigation; and
- f. The nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

Reason - To allow proper investigation and recording of the archaeological and historic significance of the site.

25) 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.

26) No works shall take place until a scheme for the phasing of construction work has been submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved phasing scheme.

Reason - To limit the local impact of construction work in the interests of the amenities of the surrounding area.

27) The development hereby permitted, in respect of access and scale parameters only, shall be carried out in accordance with the following approved plans: 3276:002 Rev A and the submitted Visibility Splay Plan.



Reason – For the avoidance of doubt.

c) that any subsequent 'Reserved Matters' application for this site be referred back to the Planning Committee for its determination.

8. **A.3 PLANNING APPLICATION 20/00136/FUL - 3 FROBISHER ROAD, DOVERCOURT**

Councillor Fowler had earlier in the meeting declared a non-pecuniary interest in this application insofar as she was a Ward Member for Dovercourt All Saints.

Members were aware that this application had been referred to the Planning Committee at the request of Councillor Jo Henderson due to her perceived concerns about the potential loss of this open, soft landscaped area resulting in a negative impact on the street scene, due to the poor layout and density of the development and the negative impact on neighbouring amenity that would result.

Members recalled that this application had previously been deferred at their request in order to enable an organised Member site visit to take place or if that was not possible for the applicant to supply instead adequate video/photographic evidence of the site and surroundings.

To this end a video showing a walkover of the site, the points of access and all internal boundaries had been provided for Members and the public to view via the Planning Portal on the Council's website.

The Committee was reminded that the proposed development required a financial contribution toward play space and recreational disturbance. Members were informed that a completed Unilateral Undertaking had now been received securing the required financial contributions.

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 in respect of the application.

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

(1) How the shared private driveway is to be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority (including dated photographs of the condition of the road prior to the commencement of development).

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

- 1) Paragraph 8 of the National Planning Policy Framework 2019 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment. Paragraph 127 of the NPPF states that planning decisions should ensure that developments add to the overall quality of the area and are sympathetic to local character and history, including the surrounding built environment. Policy QL9 and QL11 of the Tendring District Local Plan (2007) seek to ensure that all new development makes a positive contribution to the quality of the local environment and is of a suitable scale and nature appropriate to the locality. These sentiments are carried forward within Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The proposed development would be sited on an existing landscaped area, originally set aside as open space, to the frontage of dwellings in Frobisher Road. The site and adjacent landscaped area currently contribute positively to the spaciousness of this cul-de-sac and to the quality and character of the development overall. The introduction of a dwelling on the site will appear cramped due to the close proximity to neighbouring dwellings, close proximity to Low Road and the shallow front and rear garden. Overall, the proposal is considered to represent overdevelopment, eroding the pleasant and spacious character of the cul-de-sac. The development is inappropriate in this locality and fails to make a positive contribution to the quality of the local environment contrary to the aims of the above-mentioned national and local plan policies.

- 2) Paragraph 127 of the National Planning Policy Framework 2019 states that planning should always seek to secure a high standard of amenity for existing and future users. Policy QL11 of the adopted Tendring District Local Plan (2007) states that development will only be permitted if it 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.

In this instance the proposed dwelling would result in a materially harmful impact on the outlook from the windows of number 3 Frobisher Road directly opposite due to the close siting of the dwelling retaining only 9.2 metres between frontages. The close siting will appear dominant and oppressive and together with the loss of open space diminishes the outlook for both existing and future occupants contrary to the aims of the above-mentioned national and local plan policies.

9. **A.4 PLANNING APPLICATIONS - 19/01605/FUL - CLACTON COUNTY HIGH SCHOOL AND 19/01606/FUL TENDRING EDUCATION CENTRE, CLACTON-ON-SEA**

Councillor Codling had earlier in the meeting declared a non-pecuniary interest in application 19/01606 insofar as he was a Ward Member for Bluehouse.

The Committee was informed that these two planning applications were linked and were necessary in order to secure a school site of adequate size to allow for the expansion of Clacton High School Academy. Essex County Council required confirmation that a school site of adequate size could be created by increasing the size of the campus. The

applications were before the Planning Committee due to Tendring District Council's interest in the two parcels of land in question.

It was reported that the proposals included the following:

- Change of use of land at Clacton Leisure Centre from public open space to school playing fields in order to facilitate the creation of additional school playing fields at Clacton High School Academy, which would enable planned expansion of the school, and address deficiencies in school places (Planning Reference 19/01605/FUL); and as a land swap deal
- Change of use of school playing fields to public open space at Tendring Education College in order to facilitate the creation of replacement new public open space at Rush Green Playing fields, leaving adequate school grounds (19/01606/FUL).

Members were made aware that further mitigation measures included the following:

- A financial contribution by Essex County Council of approximately £910,000 for refurbishments and improvements to Clacton Leisure Centre and the recreation ground, including the refurbishment of the Artificial Grass Pitch and Cricket Nets and improvements to the Clacton Leisure Centre parking area; and
- A Joint User Agreement between Essex County Council and Tendring District Council (TDC) in order to ensure the area of land being disposed of would be available to the public for formal booking outside of school hours and also outlining TDC's commitment to allow the school to continue utilising the all-weather playing pitch at Clacton Leisure Centre.

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 recommendations of approval.

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

Mr Peter Biggs, the agent acting on behalf of the applicant, spoke in support of the applications.

Following discussion by the Committee, it was moved by Councillor Bray, seconded by Councillor Placey and unanimously **RESOLVED** that the Acting Assistant Director (Planning) (or equivalent authorised officer) be authorised to grant planning permission for the developments, subject to:

**19/01605/FUL - Clacton County High School Walton Road Clacton-On-Sea Essex CO15 6DZ**

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) The development hereby permitted shall be carried out in accordance with the following approved plans; L-1458, L1463, 70-001 P1, PS/CCHS/LP/101 and 4.2 Rev C.

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

3) The tree planting shown on the approved landscaping drawing no's. 70-001 P1 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 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 interests of visual amenity and the character of the area.

4) Following commencement of the development hereby permitted the site shown on the approved Site Plan (Drawing No: L1458) shall be laid out for a senior football pitch with dimensions of 100 x 64 metres for the duration of each football season unless otherwise agreed in writing with the Local Planning Authority after consultation with Sport England.

Reason - To ensure the satisfactory quantity, quality and accessibility of compensatory provision which secures a continuity of use and to accord with Development Plan Policy.

5) Within 3 months of commencement of development a schedule of playing field maintenance for the site shown on the approved Site Plan (Drawing No: L1458) including a programme for implementation shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. The approved schedule and implementation programme shall be complied with in full.

Reason - To ensure the satisfactory quantity, quality and accessibility of compensatory provision which secures a continuity of use and to accord with Development Plan Policy.

6) Within 6 months of commencement of development a community use agreement prepared in consultation with Sport England shall be submitted to and approved in writing by the Local Planning Authority and a copy of the completed approved agreement shall be provided to the Local Planning Authority. The agreement shall apply to the football pitch transferred to Clacton County High School as a minimum and include details of hours of use, access by non-educational establishment users, management responsibilities and a mechanism for review, and anything else which the Local Planning Authority in consultation with Sport England considers necessary in order to secure the effective community use of the facilities. The football pitch shall not be used at any time other than in strict compliance with the approved agreement.

Reason - To secure well managed safe community access to the football pitch and to accord with Development Plan Policy.

7) Within 12 months of commencement of development (unless otherwise agreed in writing with the Local Planning Authority after consultation with Sport England):

- a) A detailed assessment of ground conditions of the land proposed for the relocated cricket square (as shown on Drawing number 4.2 -12 December 2019) shall be undertaken (including drainage and topography) to identify constraints which could affect playing field quality; and
- b) Based on the results of this assessment to be carried out pursuant to (a) above of this condition, a detailed specification to ensure that the new cricket square will be provided to an acceptable quality; and
- c) A programme for the implementation of the detailed specification shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. The works shall be carried out in accordance with the approved specification and implementation programme.

Alternatively, subject to it being satisfactorily demonstrated to the Local Planning Authority after consultation with Sport England that there is insufficient demand for the relocated cricket square, within 12 months of commencement of development (unless otherwise agreed in writing with the Local Planning Authority after consultation with Sport England), details of the siting, design and layout of a non-turf cricket pitch on the land proposed for the relocated cricket square (as shown on Drawing number 4.2 -12 December 2019) shall be submitted to and approved in writing by the Local Planning Authority [after consultation with Sport England] together with a programme for the implementation of the non-turf cricket pitch. The non-turf cricket pitch shall not be constructed other than in accordance with the approved details and implementation programme.

Reason - To ensure that the development is fit for purpose and sustainable and that site surveys are undertaken for new or replacement playing fields and that any ground condition constraints can be and are mitigated to ensure provision of an adequate quality playing field and to accord with Development Plan Policy.

- 8) Within 3 months of commencement of development a schedule of playing field maintenance for the Primary Cricket Square outfield area (as shown on Drawing number 4.2 Rev C -12 December 2019) including a programme for implementation shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. The approved schedule and implementation programme shall be complied with in full.

Reason - To ensure the satisfactory quantity, quality and accessibility of compensatory provision which secures a continuity of use and to accord with Development Plan Policy.

- 9) Within 6 months of commencement of development, details of the siting, design and layout of the 3G artificial grass pitch proposed on the Clacton Leisure Centre site including a programme for implementation shall be submitted and approved, in consultation with Sport England, in accordance with the following specification:
  - Design and Layout: The 3G artificial grass pitch design and layout (including the surfacing, line marking, goal storage recesses, fencing and spectator areas) should accord with Football Association guidance contained in the FA's Guide to 3G Football Turf Pitch Design Principles and Layouts;
  - Dimensions: The overall area of the 3G artificial grass pitch shall be 106m x 70m and the football pitch line markings should be agreed with the Football Foundation and Essex County FA;

- FIFA Quality Accreditation: The pitch will need to be designed to meet the FIFA Quality standard <http://quality.fifa.com/en/Football-Turf/Install-Football-Turf/Certification/> and will need to be tested on completion;
- Floodlighting: The proposed floodlighting will need to meet BS 12193 Class 2 and have an average maintained lux reading of at least 200 to accord with recommendations for full size 3G artificial grass pitches. The floodlighting design will need to accord with the FA's Guide to Floodlighting. The 3G artificial grass pitch shall not be constructed other than in accordance with the approved siting, design and layout details and implementation programme.

Reason - To ensure the satisfactory quantity, quality and accessibility of compensatory provision within an acceptable timescale and to accord with Development Plan Policy.

10) Within 6 months of commencement of development, details of the siting, design and layout of the cricket practice net system proposed on the Vista Road Recreation Ground including a programme for implementation shall be submitted and approved, in consultation with Sport England, in accordance with the following specification:

- Design and Layout: The cricket practice net system should accord with England & Wales Cricket Board's Guidance Notes for the Provision and Installation of Non-Turf Cricket Pitches and Net Cage Facilities and with England & Wales Cricket Board's Performance Standards for Non-Turf Cricket Pitches Intended for Outdoor Use;
- Quantity: A minimum of 2 cricket practice pitches shall be provided;
- ECB Approved System: The cricket practice net system will need to be an ECB approved non-turf pitch system (details on the ECB's website <https://www.ecb.co.uk/be-involved/club-support/club-facility-management/surfacetypes>)
- Security Fencing: Details of security fencing to enclose the cricket practice net system will need to be provided. The cricket practice net system shall not be constructed other than in accordance with the approved siting, design and layout details and implementation programme.

Reason - To ensure the satisfactory quantity, quality and accessibility of compensatory provision within an acceptable timescale and to accord with Development Plan Policy.

**19/01606/FUL - Tendring Education Centre, Jaywick Lane, Clacton-On-Sea, Essex, CO16 8BE**

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) The development hereby permitted shall be carried out in accordance with the following approved plans;

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

3) The tree planting shown on the approved landscaping drawing no's. 70-001 P1 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 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 interests of visual amenity and the character of the area.

4) Within 3 months of commencement of development, a schedule of playing field maintenance, based on the maintenance works programme set out in section 5.1 of the approved Equivalent Quality Assessment Report (January 2020), for the site shown on Drawing number 3.2 Revision B -12 December 2019, including a programme for implementation shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. The approved schedule and implementation programme shall be complied with in full.

Reason - To ensure the satisfactory quantity, quality and accessibility of compensatory provision which secures a continuity of use and to accord with Development Plan Policy.

5) Within 3 months of commencement of development, a line marking plan for the artificial grass pitch on the Tendring Education Centre site together with an implementation programme shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. The approved line marking plan and implementation programme shall be complied with in full.

Reason - To ensure the satisfactory quantity, quality and accessibility of compensatory provision which secures a continuity of use and to accord with Development Plan Policy.

6) Within 6 months of commencement of development, the pedestrian access enhancement works shown on Drawing number 3.2 Revision B -12 December 2019, including the improved footpath, new steps and removed earth bund shall be implemented in full.

Reason - To ensure the satisfactory quantity, quality and accessibility of compensatory provision.

The meeting was declared closed at 9.02 p.m.

**Chairman**

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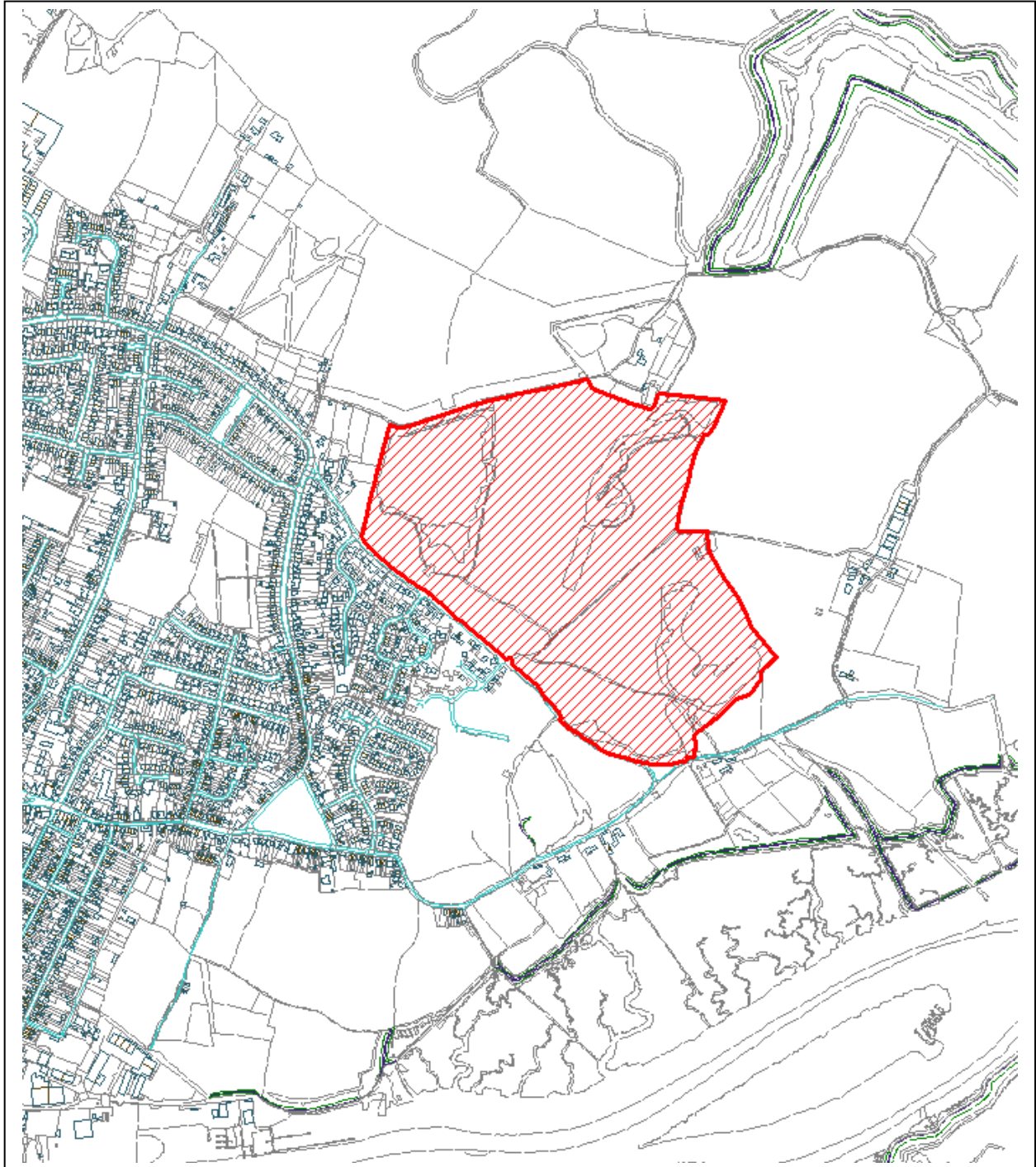


## PLANNING COMMITTEE

16 JUNE 2020

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### **A.1 PLANNING APPLICATION – 19/00188/FUL – LOWER FARM EAST END GREEN BRIGHTLINGSEA CO7 0SX**



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**Application:** 19/00188/FUL

**Town / Parish:** Brightlingsea Town Council

**Applicant:** Mr James Blyth

**Address:** Lower Farm East End Green Brightlingsea Colchester Essex CO7 0SX

**Development:** Mixed use tourist and residential scheme comprising enabling development of retirement living apartments (36 units), detached farmstead houses (5 units) and a lodge or club house serving a number of timber holiday lodges (104 units) and ancillary activities such as glamping, toilet facilities and play areas which will be the main focus of the development.

## 1. Executive Summary

- 1.1 This application is referred to planning committee as it represents a departure from the local plan. The development applied for relates to the construction of 104 holiday lodges and an associated function/club house building, 36 retirement apartments for over 60yr olds, 5 private dwellings along with ancillary landscaping/engineering works, a glamping area, toilet facilities, boating jetties and children's play area.
- 1.2 The application site is situated on the north-eastern edge of Brightlingsea on land to the north of Robinson Road. The site comprises approximately 81 acres of former gravel workings which established a low-level restoration profile. The site has been left to self-seed, which has created areas of open scrub, grassland and woodland around three former silt lagoons, which have formed five open lakes. The site is located outside of the defined settlement boundary for Brightlingsea in both the saved and emerging local plan and within a coastal protection belt within the saved plan only.
- 1.3 In respect of the tourism use, the development of the Lower Farm Park site will offer the opportunity to deliver diversification from its current limited low-level use through its integrated connectivity into the local area. It will offer: both direct and indirect employment opportunities within the local area; attract both national and international tourism; and, promote economic growth of the immediate and local areas. The mixed-use proposals across the site have been designed to align themselves with the overarching objectives and policies of the emerging Local Plan and Tendring District Council's Tourism Strategy.
- 1.4 In terms of the private housing this is proposed to, in part, finance the tourism use and trigger points are proposed accordingly to ensure an appropriate provision of tourism lodges prior to the occupation of the residential elements of the site. In terms of the merits of the residential aspects of the scheme, the site is located on the edge of a smaller urban settlement with good access to local services/facilities and there is residential development on land directly to the south and south-west of the site. The site contains mature vegetation along its perimeters with Robinson Road. As a consequence there would be minimal landscape impact whilst sufficient spacing to existing residential properties is retained to safeguard amenity.
- 1.5 In the current situation the Council cannot demonstrate a 5 year housing supply and therefore in accordance with the provisions of the National Planning Policy Framework (NPPF) the presumption in favour of sustainable development apply. The mixed use development is considered to meet the economic, environmental and social strands of sustainability as outlined in the NPPF.
- 1.6 Subject to the applicant entering into a Section 106 agreement to cover the provision of an affordable housing contribution and public open space/RAMS contributions, the proposal is

considered to be acceptable with no material harm to visual or residential amenity, heritage assets, ecology interests or highway safety, and 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) **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 Contribution**
  - **Open Space Contribution**
  - **Residential Occupation trigger points**
- 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.

National

NPPF National Planning Policy Framework February 2019  
National Planning Practice Guidance

Local

Tendring District Local Plan 2007

QL1	Spatial Strategy
QL2	Promoting Transport Choice
QL3	Minimising and Managing Flood Risk
QL7	Rural Regeneration
QL8	Mixed-Uses
QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
QL12	Planning Obligations
ER16	Tourism and Leisure Uses
ER18	Caravan and Chalet Parks
ER19A	Touring Caravans and Tents
ER20	Occupancy Timescales
EN1	Landscape Character
EN3	Coastal Protection Belt

EN6	Biodiversity
EN6A	Protected Species
EN6B	Habitat Creation
EN11A	Protection of International Sites European Sites and RAMSAR Sites
EN11B	Protection of National Sites SSSI's, National Nature Reserves, Nature Conservation Review Sites, Geological Conservation Review Sites
EN11C	Protection of Local Sites: Local Nature Reserves, County Wildlife Sites, Regionally Important Geological/Geomorphological Sites
EN13	Sustainable Drainage Systems
EN13A	Renewable Energy
EN23	Development within the Proximity of a Listed Building
EN29	Archaeology
TR1A	Development Affecting Highways
TR1	Transport Assessment
TR3A	Provision for Walking
TR4	Safeguarding and Improving Public Rights of Way
TR5	Provision for Cycling
TR7	Vehicle Parking at New Development
HG1	Housing Provision
HG3A	Mixed Communities
HG4	Affordable Housing in New Developments
HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
COM1	Access for All
COM4	New Community Facilities (Including Built Sports and Recreation Facilities)
COM6	Provision of Recreational Open Space for New Residential Development
COM20	Air Pollution/ Air Quality
COM21	Light Pollution
COM22	Noise Pollution
COM23	General Pollution
COM29	Utilities

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

SP1	Presumption in Favour of Sustainable Development
SPL1	Managing Growth
SPL3	Sustainable Design
HP1	Improving Health and Wellbeing
HP2	Community Facilities
HP3	Green Infrastructure
HP5	Open Space, Sports & Recreation Facilities
LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
LP5	Affordable and Council Housing
PP8	Tourism
PP10	Camping and Touring Caravan Sites
PP11	Holiday Parks
PP13	The Rural Economy
PPL1	Development and Flood Risk
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL7	Archaeology

PPL9	Listed Buildings
PPL10	Renewable Energy Generation
CP1	Sustainable Transport and Accessibility
CP2	Improving the Transport Network

### Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice  
 Good Practice Guide on Planning for Tourism

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

- 2.2 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.
- 2.3 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018, with further hearing sessions in January 2020. The Inspector issued his findings in respect of the legal compliance and soundness of the Section 1 Plan in May 2020. He confirmed that the plan was legally compliant and that the housing and employment targets for each of the North Essex Authorities, including Tendring, were sound. However, he has recommended that for the plan to proceed to adoption, modifications will be required – including the removal of two of the three 'Garden Communities' proposed along the A120 (to the West of Braintree and on the Colchester/Braintree Border) that were designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033.
- 2.4 The three North Essex Authorities are currently considering the Inspector's advice and the implications of such modifications with a view to agreeing a way forward for the Local Plan. With the Local Plan requiring modifications which, in due course, will be the subject of consultation in their own right, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications – increasing with each stage of the plan-making process.
- 2.5 The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will progress once modifications to the Section 1 have been consulted upon and agreed by the Inspector. 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.
- 2.6 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 (which applies until such time that the figures in the new Local Plan are adopted).

In addition, the actual need for housing (as set out in the emerging Local Plan) 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, as recently endorsed by the Local Plan Inspector. Therefore, in weighing the benefits of residential development against the harm, the Inspector's endorsement of the lower housing requirement figure is a strong material consideration which tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing to address the perceived shortfall – given that, against the Local Plan housing requirement there is, in fact, a surplus of supply as opposed to a shortfall.

### 3. Relevant Planning History

89/02059/FUL	(Robinson Road, Brightlingsea) Restoration of sand and gravel workings - Renewal of permission TEN/1088/87	Approved	22.05.1990
02/01789/TELCOM	Installation of telecommunications mast and ancillary equipment.	Determined	07.11.2002
12/00127/LUEX	Certificate of existing lawful use for recreational fishing.	Approval	23.03.2012
19/00188/FUL	Mixed use tourist and residential scheme comprising enabling development of retirement living apartments (36 units), detached farmstead houses (5 units) and a lodge or club house serving a number of timber holiday lodges (104 units) and ancillary activities such as glamping, toilet facilities and play areas which will be the main focus of the development.	Current	

### 4. Consultations

Anglian Water Services Ltd

ASSETS

Assets Affected

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

WASTEWATER SERVICES

## Wastewater Treatment

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

## Used Water Network

Development may lead to an unacceptable risk of flooding downstream. Anglian Water will need to plan effectively for the proposed development, if permission is granted. We will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development. It is noted that the preliminary strategy is to discharge foul flows to a Package Treatment Plant, however there is mention of a backup proposal to discharge flows, via pumping station to the public foul water sewer. We require confirmation of the final foul strategy, including connection point and discharge rate should the final strategy include discharge to the public foul water sewer. We therefore request a condition requiring phasing plan and/or on-site drainage strategy.

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.

## Surface Water Disposal

The preferred method of surface water disposal would be 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. As such, we are unable to provide comments on the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board.

## Suggested Planning Conditions

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

## Used Water Sewerage Network

- 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.

NHS East Essex CCG

We are aware that we have already responded to other developments that impact the Practices concerned within the area and therefore as we are only able to allocate 5 mitigation requests for one project, we would not be in a position to request for the smaller developments. In addition, we have also considered that as the majority of potential patients relating to this development would be temporary due to the holiday lodges they would not have a major impact on the local GP practices.

ECC SuDS Consultee

Lead Local Flood Authority position

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

### Condition 1

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

- 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.
- Limiting discharge rates to 7.7l/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 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 Simple Index Approach within 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.

Condition 2

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

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.

Condition 3

No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is

responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

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

**Reason**

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

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

**Condition 4**

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

**Reason**

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

**Condition 5**

The development hereby permitted shall not be commenced until the pipes within the extent of the site, which will be used to convey surface water, are cleared of any blockage and are restored to a fully working condition.

**Reason**

To ensure that drainage system implemented at the site will adequately function and dispose of surface water from the site.

Environment Agency

No comments

Waste Management

Access roads to be constructed to a suitable standard to withstand weight and width of 26 tonne refuse collection vehicle.

Bulk bin storage areas for the retirement mews to be of adequate size to accommodate both bulk bins for residual waste collection on a fortnightly basis along with bulk bins for alternate weekly recycling on dry recyclables (paper/card and plastic bottles, tins and

cans) and positioned on flat hard standing floor with minimal bin moving distance between bin storage area and refuse collection vehicle.

#### Environmental Protection

I have reviewed the application and have the following comments to make;

I have reviewed the noise assessment report and lighting report, I have no adverse comment to make. The air quality and dust report mentions a dust management plan during the phases of construction.

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

Prior to the commencement of any construction works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Pollution and Environmental Control.

#### Noise Control

1) The use of barriers to mitigate the impact of noisy operations will be used where possible.

2) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency).

Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.

3) The selection and use of machinery to operate on site, and working practices to be adopted will as a minimum requirement, be compliant with the standards laid out in British Standard 5228:2014.

4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).

5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

6) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.

#### Emission Control

1) All waste arising from the ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning

Authority and other relevant agencies.

2) No materials produced as a result of the site development or clearance shall be burned on site. All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.

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

Historic England

Thank you for your letter of 1 March 2019 regarding the above application for planning permission. On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.

Essex Wildlife Trust

No comments

Natural England

Sites of Special Scientific Interest Impact Risk Zones

Colne Estuary Site of Special Scientific Interest

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the [data.gov.uk](http://data.gov.uk) website.

This development triggers the "Discharges" category in the Impact Risk Zones (IRZ) layer. Natural England advise that consideration is given to the management of surface water to prevent potential impacts to the interest features of the designated sites through the infiltration of poor quality water that subsequently provides ground and surface water feeds to the designated sites, and if necessary agreements through planning condition sought to ensure the long-term maintenance of these systems to prevent future impacts.

The IRZ also identified possible risks as a result of additional abstraction and water use due to potential impacts on water supply mechanisms to sites with a water dependency. The local water provider should be contacted to confirm that they are able to supply the

required amounts without the need for changes in abstraction licences.

## SUMMARY OF NATURAL ENGLAND'S ADVICE –

### European designated sites

It has been identified that this development falls within the 'Zone of Influence' (Zol) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS); see our recent advice to your authority on this issue (our ref: 244199, dated 16th August 2018) for further information.

In the context of your duty as competent authority under the provisions of the Habitats Regulations, it is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Tendring District Council, working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions.

We therefore advise that you consider, in line with our recent advice, whether this proposal falls within scope of the RAMS as 'relevant development'. Where it does, this scale of development would fall below that at which Natural England would offer bespoke advice on this issue. However, in such cases we advise that you must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation; you should not grant permission until such time as the HRA has been undertaken and the conclusions confirmed.

### UU Open Spaces

#### Current Position

There is currently a deficit of 13.68 hectares of play and formal open space in Brightlingsea. There are two play areas in Brightlingsea located at Western Promenade approximately 1.6 miles from the development and Bayard Rec Ground approximately 0.8 miles from the development.

#### Recommendation

Although the development includes an on-site play area it is likely that this is going to be for holiday guests only

and not available to local residents. A contribution towards improvement existing play facilities is both relevant and justified to this planning application. The contribution would be used to improve the facilities at the nearest play area located at Bayards Recreation Ground.

#### Housing Services

The proposed site is a mixed use tourist and residential site. The residential part of the site consists of 36 retirement apartments (24 x 1 bed and 12 x 2 bed) and 5 x4 bedroom houses.

As this is a mixed use site, it is extremely unlikely that a registered provider would want to take on affordable housing on site and the council would not want to either. In light of this, the council would prefer to see an off-site financial contribution instead of units being delivered on site for affordable housing.

If affordable housing was being sought on site, the council's preference would be for 11 x 1 bed flats and 1 x 4 bed house.

I have not taken the timber lodges mentioned in the application into account as there is nothing to indicate that they will be available for permanent residential use.

#### ECC Highways Dept

Essex County Council in their capacity as Highway Authority has thoroughly assessed the original and additional highways and transportation information submitted in support of the above planning application. The assessment of the application and Transport Assessment was undertaken with reference to the National Planning Policy Framework and in particular the following aspects were considered: access and safety; capacity; the opportunities for sustainable transport; and highway mitigation measures.

The Transport Assessment accompanying the planning application has been considered in detail and the Highway Authority is satisfied that, at peak times, the number of trips generated by the proposal will not have a severe impact and can be accommodated safely and efficiently on the local highway network.

The conclusions of the Highway Authority are as follows:

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 occupation of the development, the road junction / access at its centre line shall be provided with a visibility splay with dimensions of 2.4 metres by 90 metres in a south east direction and 2.4 metres by 120 metres in a north west direction, as measured from and

along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of obstruction above 600mm at all times.

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

2. Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason - To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

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

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

4. Prior to occupation of the development, the proposed road junction at its bell mouth junction with Robinson Road shall be constructed at right angles to the highway boundary and to the existing carriageway as shown on, drawing no. to a carriageway width of 5.5 metres with minimum radius kerbs of 6 metres based on and in principal with drawing no. IT1671/SK/01 Rev A; with a flanking single footway 2m. in width returned around the radius kerb only with tactile paving to provide a pedestrian link to the existing footway on the opposite side of Robinson Road.

Reason - To ensure that all vehicular traffic using the junction may do so in a controlled manner and to provide adequate segregated pedestrian access, in the interests of highway safety and in accordance with Policy DM1 and DM6.

5. Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the 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. There shall be no discharge of surface water onto the Highway.

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

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

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

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

8. The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning area shall always be retained in this form. 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 in accordance with Policy DM8.

9. 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.

10. Prior to occupation and until such time as the public



footpaths 161\_8 & 161\_27 (just beyond Marsh Farm) infrastructural improvements required for the upgrade of the natural surface by providing planings with timber edging; the extent to be agreed with the Highway Authority and has been provided entirely at the Developer's expense.

Reason - To make adequate provision within the highway for public footpath 8 and 27 (part) These areas currently have a natural surface so would benefit from an upgrade (a layer of planings with timber edging) due to the additional pedestrian traffic generated as a result of the proposed development.

This condition requires a Legal Agreement between the Applicant/Developer and the Highway Authority using the powers in Section 278 of the Highways Act, 1980.

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

Informative 1: The Public Right of Way network is protected by the Highways Act 1980. Any unauthorized interference with any route noted on the Definitive Map of PROW is a breach of this legislation. The public's rights and ease of passage over public footpaths 161\_8 & 161\_27 (Brightlingsea) shall always be maintained free and unobstructed to ensure the continued safe passage of the public on the definitive right of way.

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](mailto:development.management@essexhighways.org) or by post to:

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

Essex County Council Ecology

No objection subject to securing ecological mitigation and enhancement measures and a financial contribution for visitor management measures at the Colne Estuary SPA and Ramsar site.

Summary

Further to discussions between Place Services and the applicant's ecologist regarding the additional information needs for the above application, we have reviewed the recently submitted clarification letter to the LPA Reference No. 15-01-1501.250-5 (Honace, 25 June 2019).

#### England Coast Path - Salcott to Jaywick

The proposed link from the development site to the seawall and the England Coast Path (ECP) has now been removed from the application. Natural England officers working to deliver this national scheme have confirmed that a decision on the proposed route for the stretch from Salcott to Jaywick will not be announced by Natural England until 2020 and will be subject to a detailed assessment of the proposed coastal footpath route. This is necessary to comply with the UK Habitats Regulations 2017 and will include assessment of, likely impacts on the adjacent Colne Estuary Special Protection Area and Ramsar site in particular recreational disturbance to the internationally important populations of the birds and habitats protected by these designations, either alone or in combination with other plans and projects. We note that any future connection to the ECP from the site will trigger a project level Habitats Regulations Assessment (HRA) Appropriate Assessment at that time.

We welcome this clarification to the proposed development that the Lower Farm Park application will not create a public right of way onto the crest of the sea wall independently from Natural England ECP. This now provides certainty for the scope of the Habitats Regulations Assessment (HRA) to be prepared by the LPA for likely impacts particularly from recreational disturbance.

#### Essex Coast Recreational disturbance Avoidance & Mitigation Strategy (RAMS)

Natural England's formal advice to the LPA (16th Aug 2018) on its duty as a competent authority under the Habitats Regulations confirms that as the development includes a residential element, it is of a relevant type. Given its sensitive location the development lies within the Zone of Influence of the Essex Coast RAMS for assessment of likely impacts from recreational disturbance in combination with other plans and projects. Adverse impacts on European designated sites including the Colne Estuary SPA & Ramsar site cannot be avoided without mitigation.

In line with the recent Court judgement (CJEU People Over Wind v Coillte Teoranta C-323/17), mitigation

measures cannot be taken into account when carrying out a screening assessment to decide whether a development is likely to result in significant effects on a Natura 2000 site. Therefore, all proposals which are within the scope of the Essex Coast RAMS must proceed to HRA Stage 2 (Appropriate Assessment).

The LPA will therefore prepare an Appropriate Assessment to consider if, with mitigation, it is possible to conclude no adverse effect on integrity (AEOI) of European designated (Habitats) sites particularly in terms of recreational pressure either alone or in combination with other plans and projects eg ECP which will require its own mitigation measures to avoid AEOI of the Habitats sites of the Essex coast.

As mitigation is necessary to ensure that any consent is legally compliant, it is still therefore recommended that a proportionate financial contribution for any consented number of residential units in line with the Essex Coast RAMS should be offered to and secured by the LPA. This would help fund strategic 'off site' measures. In the interim period before the RAMS is adopted by the LPA, a financial contribution should be agreed with and collected from the developer, prior to commencement. This is on the basis that it should be used to fund strategic 'off site' measures (i.e. in and around the relevant European designated site(s)). These measures should be targeted towards increasing the relevant European site(s) resilience to recreational pressure and be in line with aspirations of the emerging Essex Coast RAMS.

Please note that the developer needs to provide a proportionate financial contribution in line with the Essex Coast RAMS towards visitor management measures to allow the LPA to avoid AEOI on Habitats sites in order to meet the requirements of the Habitats Regulations before any consent can be issued.

The HRA mitigation contribution will need to be secured by a legal agreement for provision prior to commencement of the residential element of the development to secure delivery of mitigation in perpetuity ahead of likely impacts.

Subject to Natural England's agreement with the conclusion of the LPA's Appropriate Assessment, it is considered that with sufficient mitigation measures in place that the development can avoid AEOI on the Colne Estuary SPA and Ramsar site.

#### Priority habitat within the development

We welcome the clarification that the Priority Lowland Acid Grassland habitat on site will be protected and enhanced as part of the development proposals. We

note that through removal of the scrub vegetation, the acid grassland area will be allowed to naturally extend over this area. The Proposed Master Site Plan A3 0-A000-LP-003 and Proposed Master Site Plan A3 Simple Line 0-A000-LP-010 drawings have been updated to indicate the retention and creation of the acid grassland feature within the site. It is recommended that the management of this Priority habitat is secured by a condition of any consent.

Following clarification, we acknowledge that the Lower Farm Park site has a mixture or mosaic of mature and semi-mature habitats but lacks the open ground or early successional areas needed to be classified as Previously Developed Open Mosaic Habitat. No further surveys or assessment are considered necessary prior to determination.

#### Protection of Invertebrate Habitat

We welcome the proposed protection of the south facing dry acid grassland bank which runs along Stoney Lane, which was the area of greatest interest for invertebrates. As this lies just outside the northern boundary of the Lower Farm Park site and landholding, to reduce and restrict public access a low-level gorse or hawthorn hedge or fencing should be established alongside this area of interest at the toe of the dry acid grassland bank at the landholding boundary. We agree that it is important that the development avoids or minimises impacts on this biodiversity feature. To maintain the dry acid grassland bank in good habitat condition for invertebrates, we note it is therefore also proposed that the bank should remain open and unshaded. Details of the management currently provided by rabbits to maintain areas of bare ground and early-successional conditions for invertebrates are proposed in section 3.2 of the Invertebrate report to conserve the invertebrate value of the dry grassland bank outside the site.

These measures should therefore be incorporated in an amended design of the masterplan for this development to be submitted to the LPA. We recommend that these mitigation measures are secured for implementation by a condition of any consent.

#### Ecological and Biodiversity Enhancements

We welcome the proposed ecological enhancements to the Lower Farm Park application. This will allow the LPA to demonstrate any decision will be in line with paragraph 175 of the NPPF 2019 and will contribute to net gain for biodiversity from the development.

We are therefore now satisfied that there is sufficient ecological information available for determination of this

application. The above additional information is required for the LPA to have certainty of impacts on designated sites, Protected and Priority species and habitats.

All of the above mitigation and enhancement measures are needed to enable the LPA to demonstrate its compliance with its statutory duties including the UK Habitats Regulations 2017 and its biodiversity duty under s40 NERC Act 2006.

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

Recommended conditions

#### 1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Assessment (Green Ecology, Nov 2017 updated Aug 2018) and Ecology Clarifications letter (Honace, 25 June 2019) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

#### 2. PRIOR TO SLAB LEVEL: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

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

All external lighting shall be installed in accordance with

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

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

### 3. PRIOR TO SLAB LEVEL: BIODIVERSITY ENHANCEMENT LAYOUT

"A Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Ecological Assessment (Green Ecology, Nov 2017 updated Aug 2018) and Ecology Clarifications letter (Honace, 25 June 2019), shall be submitted to and approved in writing by the local planning authority.

The enhancement measures shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter."

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

### 4. PRIOR TO OCCUPATION: LANDSCAPE AND ECOLOGICAL MANAGEMENT PLAN

"A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to occupation of the development.

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible

for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details."

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

## **5. Representations**

5.1 Brightlingsea Town Council supports this application, subject to detailed submissions on utilities, service provision, waste disposal, traffic and facilities.

5.2 69 representations of objection have been received and 14 comments of support. The content of these representations are outlined below;

### Objections

- Loss of important green space
- Development is too big for the area and town
- Too much traffic congestion along Robinson Road
- Areas for nature are being decreased
- Infrastructure of town cannot cope with the development
- Already too many holiday homes, care homes and housing in the town
- Boundaries of Flag Creek need to be protected
- More noise and pollution to local area
- Town too busy at peak times already and only one road in and one road out
- Destruction of abundant wildlife
- Land should be turned into a country park
- Site is located outside any development boundary
- Loss of treasured country lane
- Increased traffic congestion and carbon footprint
- Affordable housing should be provided
- Economic benefits to local area should be queried
- Appropriate assessment required to assess impacts on nearby designated sites (RAMSAR, SAC etc)
- No traffic stats for camping/glamping uses
- Extra burden on sewerage/drainage
- Adverse impact on local resident's amenity in terms of noise/light/privacy loss
- Light pollution impacts upon designated sites
- Development is a Trojan horse to create housing development in the future
- Too close to marshland and designated sites
- Long drawn out building programme
- No incentive after housing element is completed
- Development is not a large job creator
- Adverse impact on setting of listed building to the north
- No junction capacity assessments have been undertaken.

## Support

- Overriding demand for top quality holiday accommodation in Tendring area
- Development meets the needs of the tourism market
- Attracts more affluent tourists who are inclined to spend more money in the local area boosting the economy
- Site is located ideally in terms of access to good transport links
- Development suits all year round short break market which is increasing in popularity
- Boosts local economy and creates jobs
- Turns old quarry site into something good for town
- Regenerates unused land
- A great endorsement of the town and excellent use of space which is not heavily dependent on local infrastructure.

## **6. Assessment**

### Site Context

- 6.1 The application site is situated to the north-eastern edge of Brightlingsea on land to the north of Robinson Road. The site comprises approximately 81 acres of former gravel workings which established a low-level restoration profile. On the cessation of quarrying operations in the late 1980's the former quarry workings were backfilled with site sourced overburden and silt washings. Limited subsoil or topsoil was used to restore the site. The site has been left to self-seed, which has created areas of open scrub, grassland and woodland around three former silt lagoons, which have formed five open lakes with a total footprint of approximately 15 acres within the low-level landscape.
- 6.2 Access to the site is from the B1029 (which is defined as a B road of importance) and along Red Barn Road/Robinson Road. Direct access to the site is from the former quarry entrance along Robinson Road.
- 6.3 The site is bounded to the north by Marsh Farm (Grade II Listed) and arable fields that extend to Lower Farm to the east of the site. The southeast of the site is bounded by grassland and Freelands Road, which runs around to bound the south of the site as Robinson Road. The southwest and west of the site is bounded by Robinson Road and the residential fringes of Brightlingsea. Directly on the southern side of Robinson Road a housing development is under construction.
- 6.4 Topographical data provided shows that natural ground levels surrounding the site form a plateau of higher ground around the northern, western and south-western boundaries of the site. The ground levels within the site generally fall in a northerly and north-easterly direction. Across the eastern area of the site ground levels fall from the raised plateau in a south-easterly direction.

### Proposal

- 6.5 This application proposes the construction of a mixed-use tourist and residential scheme comprising retirement living apartments (36 units), detached farmstead houses (5 units) and a reception or club house (known as "The Barrow") to enable and serve a number of timber holiday lodges (104 units) and ancillary activities such as glamping, toilet facilities and play areas which will be the main focus of the development within the footprint of a former quarry.

Each element of the development is broken down as follows;

### The Barrow



- 6.6 'The Barrow' is designed as a working space which will provide the administrative centre for the tourism proposals, which is flexible in internal space to allow it to provide the tourist hub for the site, events and corporate training facilities during the off season. The building comprises a small site shop to supply essential basic goods to tourists. A small kitchen and flexible cafe space for providing teas, coffees and cake and light lunches. Chair store, cloak rooms and toilets are also included. An office space, information centre and flexible education areas are provided all with disability access throughout.
- 6.7 'The Barrow' is a single storey building designed to be hidden in the landscape, with a full double curved sedum or 'living' roof.

#### The Holiday Lodges

- 6.8 A total of 104 lodges of differing building forms and arrangements will be the main focus of the development, which will vary in size and number of bedrooms across the former quarry workings. A mixture of one (50%), two (40%), three (8%) and four (2%) bedroom lodges will be developed.
- 6.9 The proposed lodges will be timber built and arranged around the existing lakes and existing/proposed vegetation. The timber lodge accommodation is targeted at the tourism market for short term stays with an undertaking to not permit the sale or transfer of these for residential purposes or long term let.

#### Glamping Area

- 6.10 Tepees, yurts and other temporary accommodation are proposed within the glamping area to the eastern end of the site and will be used to enhance and extend the initial tourism development. Each glamping unit will be furnished with a toilet, kitchenette, cold running water, wood burning stove for heating and cooking, storage areas, cool chest, lounging and bedroom areas. The glamping area will be open throughout the summer season only.

#### Mixed Age Play Area

- 6.11 A mixed age playground is proposed for the north-west area of the site. The play area is bounded by woodland planting and provides safe area for mixed age play.

#### Retirement Apartments

- 6.12 The retirement units will consist of 36 apartments that are targeted at the over 60's. The apartments will have a mix of twelve two bedroomed and twenty-four one bedroomed apartments within a two-storey art-deco styled building.
- 6.13 The retirement apartments are to be located at the lower south western corner of the site adjacent to Robinson Road. The ground floor apartments will have access to smaller manageable gardens and balconies are proposed for those at first floor level. A shallow sedum or "living" roof garden that blends the roof space into the local landscape will be accessed via a rooftop observatory. Parking for residents, staff and visitors with disabled parking is proposed offering 48 spaces.

#### Private Housing (5 Houses)

- 6.14 Five x 4 bedroom dwellings are proposed adjacent to Robinson Road in the southern central section of the site. The properties would be served via a private drive and comprise of red brick and weatherboard clad elements. Each property would be served by a detached double garage and open parking bays.

- 6.15 Other structures and notable areas of development associated with the development comprise: Public Conveniences, Fishing and Boating Lakes and Boating Jetties. The lakes are to be utilised for fishing, rowing/canoeing only.

Principle of Development

Tourism Use

- 6.16 There are a number of national and local planning policies that have been established to support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.
- 6.17 Paragraph 83 of the National Planning Policy Framework (2019) states that Local Planning Authorities should provide support for sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, which respect the character of the countryside. This includes supporting the provision of tourist and visitor facilities located in appropriate locations.
- 6.18 Furthermore, Paragraph 84 of the National Planning Policy Framework (2019) states that planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.
- 6.19 Moreover, Tendring District Council's Tourism Strategy identifies four core objectives to develop tourism in Tendring: increase the amount of money visitors spend in Tendring; extend the length of time visitors stay in the District; attract higher spending visitors; and, improve the perception of Tendring as a tourism destination.
- 6.20 Within both the saved and emerging local plans there are policies which support tourism uses and policies which refer specifically to new holiday parks. Policy ER16 of the saved plan states that when considering applications material considerations include whether the park;
- occupies a prime site in the main tourist areas within an attractive location;
  - provides or could provide a range of recreational facilities;
  - provides the potential to provide a range of holiday accommodation.
- 6.21 Emerging Local Plan policy PP11 is more detailed and states, amongst other things, that subject to consideration against other relevant local plan policies, the Council will support proposals for;
- Improvements to the range and quality of attractions and facilities at safeguarded sites and other sites; and
  - New holiday parks that comprise well designed timber chalets set on plinths with pitched roofs, ideally located within a wooded or undulating landscape setting that incorporates water features and indoor and outdoor leisure facilities that would be appropriate in a countryside location.

- 6.22 In this instance the tourism element of the proposals would offer a significant contribution to the priorities identified in the Local Plans and National Planning Policy, in particular in providing potential employment opportunities and local business growth.
- 6.23 In addition, the site is located within one of the District's coastal towns on an undulating site that comprises of wooded areas and water features. The Council's emerging Local Plan specifically states that the Council is anxious to promote a more diverse range of visitor accommodation that comprises of timber chalets/lodges set within landscaped settings with ancillary leisure facilities. In this regard the development at Lower Farm Park will offer activities that promote good mental and physical health, fitness and wellbeing and it is proposed that membership and day tickets will be available for local residents too.
- 6.24 Consequently, the benefits of the tourism use to the local economy, the sustainable credentials of the site which is well related to an existing settlement with good access to local facilities and the intention to provide a high quality timber chalet style development set within a landscaped setting, would accord with the requirements of the saved and emerging policies outlined above. The tourism use is therefore considered to be acceptable in principle, but must be considered against the requirements of other Local Plan policies.

#### Housing/Retirement Apartments

- 6.25 The application also proposes private housing in the form of 5 dwellings and 36 retirement apartments to, in part, act as enabling development to facilitate the provision of the tourism use. However, the housing elements need to be considered against the requirements of the Local Plan policies and on their own merits.
- 6.26 As stated above, the application site is located outside of any defined settlement boundary but directly to the north of a recently constructed housing development within Robinson Road. Consequently, the site is situated adjacent to the emerging settlement development boundary of Brightlingsea on the edge of a settlement defined as smaller urban settlement under emerging policy SPL1. The supporting text for that policy states that these settlements provide a range of opportunities for the use of public transport, walking and cycling and because they have established town centres, employment areas and infrastructure, they provide locations where, with the right action, it is possible to create a significant number of additional new jobs and deliver sustainable housing growth on a large scale.
- 6.27 The location of the residential and retirement elements within the Lower Farm Park development are within walking distance of existing facilities in Brightlingsea Town Centre and regular public transport routes to further afield locations which indicate that the site is both a suitable and sustainable location to accommodate residential development, in accordance with the requirements of the local and national planning policies.
- 6.28 As stated above, the housing element of this development has been put forward to, in part, enable the tourism use. As a consequence it is important to include trigger points within the associated legal agreement to avoid the housing being built out and not the associated tourism use. In this context it has been agreed with the developer that no more than 60% of the residential element can be occupied until 50 holiday lodges, the glamping area and all landscaping/civil engineering works have been completed. This represents the first phase of the development. The second phase will see the construction of The Barrow (tourism function building) and further holiday lodges on the southern loop upon occupation of the remaining residential units.
- 6.29 Officers have reviewed this phasing of development and consider that the thresholds outlined above strike an appropriate balance between securing the construction of the tourism function against the occupation of the residential units whilst sufficiently

incentivising the developer to complete various sections of the mixed used development proposed.

- 6.30 Overall the combined tourism and residential proposals across Lower Farm Park are acceptable in principle will offer a significant contribution to the local environment and economy, which are compatible and sympathetic with surrounding land uses.

#### Landscape Impact

- 6.31 The application site is primarily unimproved grassland with established boundary vegetation. The main body of the land contains a few solitary trees and tree belts with understory hedgerows and scrubby growth. From outside the application site there are two clearly visible bodies of water that are the result of earlier mineral extraction. The information submitted by the applicant refers to 5 lakes although these are not visible from the perimeter of the site but become apparent when on the land. The site layout plan shows these within the centrally situated belts of vegetation. Relatively dense vegetation encloses all of the waterbodies that currently sit comfortably in their setting.
- 6.32 In order to show the potential impact of the development proposal on the existing trees and other vegetation on the land the applicant has provided a Tree Survey and Report containing an Arboricultural Implication Assessment (AIA). This shows the full extent of the constraint that the existing trees are on the development potential of the land and takes into account the significance of the existing vegetation, especially for its screening value. The information contained in the report is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction, Recommendations.
- 6.33 The site layout makes provision for the retention of most of the boundary vegetation and identifies planting locations for new trees and other soft landscaping by way of extensive blocks of planting.
- 6.34 With regard to the amenity value of the trees on the land it is not considered necessary to make a new tree preservation order as individual trees do not meet the criteria under which they merit formal protection and the scrubby planting does not fall within the scope of the legislation under which it could be protected as 'Woodland'. Nevertheless it is clear that the majority of the existing vegetation will be retained and strengthened by new planting.
- 6.35 In terms of the development proposal itself, the design of the holiday homes is such that they will fit well into the landscape and the single storey units will not be prominent features in their setting or in the wider landscape.
- 6.36 The positions and scale of the residential properties and the care home close to Robinson Road will not result in the removal of existing vegetation although the positions of both these elements of the application are such that they have the potential to be prominent features in the landscape.
- 6.37 With regard to the impact of the development proposal on the local landscape character '*The Tendring District Council Landscape Character*' defines the area within which the application sits as the Brightlingsea Peninsula Coastal Ridge Landscape Character Area (LCA). At the south western corner the application site creeps into the Brightlingsea Coastal Slopes LCA. The development proposal also has the potential to have a visual impact on the Brightlingsea Drained Marshes LCA and the Brightlingsea Creek Marshes LCA.
- 6.38 In order to show the likely impact of the development proposal on the existing landscape character the applicant has submitted a Landscape and Visual Impact Assessment (LVIA). The document describes the value of the existing landscape and its visual qualities and the sensitivity of the land to the impact of the development. It also describes the magnitude of

the effect on the character of the landscape and the way that it is perceived and enjoyed by the public.

- 6.39 The LVIA shows how the development of the lower lying land on the application site, combined with the retention and strengthening of boundary vegetation, will ensure that the development does not have an adverse impact on the visual qualities of the landscape. In the main the existing screening, on land under the control of the applicant, greatly reduces the visual harm to the local landscape character
- 6.40 It is acknowledged that the introduction of the built form into the countryside will contribute to the gradual erosion of the countryside albeit that much of the site will be subject to development comprising low level structures that will have a low impact on the character of the local environs.
- 6.41 It is also evident that the site is situated within a designated Coastal Protection Belt in the saved Local Plan, however this designation has fallen away in the emerging Local Plan as it is acknowledged the former use of the site as a quarry and its re-development would not adversely harm the coastal character. As such it is not considered that this designation can prevent the development in principle.
- 6.42 When viewed from the open countryside to the north-west, north and north-east it is considered that the holiday homes will not be visible and that the remaining elements of the built form will be seen against a backdrop of the existing development currently under construction to the south of Robinson Road. Additional soft landscaping will assist with the mitigation of potential visual harm caused by the residential homes and the care home.
- 6.43 In terms of the impact of the development proposal on the trees on the land and on the visual and landscape qualities of the countryside it is considered that the development proposal could be relatively well assimilated into its setting. Carefully designed landscaping will need to be in place for the whole site and especially for the residential element of the development. A detailed landscaping scheme and management plan for its maintenance will be secured via condition. Further conditions are included within the recommendation to secure the physical protection of the retained trees for the duration of the construction phase of the development.

#### Detailed Design/Layout

- 6.44 The proposed layout reflects the constraints of the site in respect of the siting of the various water features, vegetation and topography of the land. Following this approach the tourism uses and associated play area are located within the northern section of the site arranged around the lakes/ponds and interspersed amongst existing and proposed vegetation. The Barrow or function building is purposefully located to be the first building encountered as the site is entered for security and aesthetical reasons.
- 6.45 The private housing and retirements flats are segregated from the tourism uses and are accessed via private drives located either side of central access point. The housing/apartment buildings are located in flat well-screened areas of the site adjacent to the Robinson Road boundary.
- 6.46 Internal access roads meander through the site to serve the key tourist and residential areas. It is proposed that all roads within the site will remain private. The private interconnected access roads will comprise a flexible reinforced, sustainable pavement using gravel geocell construction techniques (or similar). Whilst the privately-owned internal roads within Lower Farm Park will not be adopted by the local authority, consideration has been made to their layout and general arrangement to establish safe access for all vehicles, including emergency services, site support and amenity services.

- 6.47 In terms of the detailed design of the various structures proposed it is evident that they have been designed to be sympathetic to the landscape character in terms of form, scale and materiality.
- 6.48 The Barrow (main function building) for example would take on a contemporary appearance and would be partly hidden within the landscape by earth mounds and a large curved living/sedum roof. The timber elements of the building, its shape and form, therefore reflect the trees and woodland in a softening response.
- 6.49 The tourism lodges are of timber construction, with grey windows and large bi-folding doors that provide views and connectivity to the external environment. Front decking and access will be provided, and some (larger lodges) will have secondary access. Curved sedum or living” roofs will again assist in softening and blending the building mass into the landscape. A low height of 3.5m combined with the use of sympathetic materials ensures that these structures would not be overly prominent in landscape views.
- 6.50 The glamping area will comprise of tepees, yurts and standard tents which due to their lightweight and temporary appearance would not detract from this section of the site. Associated public conveniences for the glamping plots would be of contemporary design featuring timber exteriors and curved thatched roofs.
- 6.51 The Retirement Mews promote a modern art deco style with a central glazed entrance element with 2 no. two storey wings projecting either side. The wings would be finished in a mixture of light render and timber boarding to provide a variety of finishes. The roof would again be finished in a sedum living surface and would be accessible to residents for amenity purposes. Each apartment would also be served by a balcony area or small garden area. 48 parking bays for residents, staff and visitors are located to the east of the building.
- 6.52 The 5 houses will comprise of four bedrooms each and will be more traditional in appearance consisting of red brick, tiled roof and timber fascia elements. Each property would be served by large driveways and detached timber clad garages.
- 6.53 Officers consider that the scale of the development has been sensitively set out within the confines of the footprint of the former quarry. The location, arrangement and interconnectivity of the various buildings within the site seeks to enhance the existing site setting by maintaining an open environment.
- 6.54 The positioning and space between the various buildings sets out a low density mixed use development that allows for the continued protection and enhancement of the site’s existing setting and habitat.

#### Highway Safety/Parking

- 6.55 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.
- 6.56 Saved 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.

- 6.57 In this respect the submitted Transport Assessment highlights that the proposed mixed-use development will not attract notable traffic levels during the weekday peak hours and confirms that the local road network has ample capacity for vehicles travelling to and from the site.
- 6.58 The main access into the Lower Farm Park site would be via the existing (but enhanced) entrance that formerly served the quarrying operations, and the assessment demonstrates that good and safe levels of visibility would be achieved at the junction with Robinson Road.
- 6.59 Additional information has been provided by the applicant's transport consultants in response to ECC-Highways initial comments concerning junction capacities in the vicinity of the site. The information provided takes into consideration proposed traffic flows from all aspects the development in conjunction with traffic flows emanating from the new housing development under construction on the southern side of Robinson Road.
- 6.60 In conclusion the transport report demonstrates that the proposal would be accessible by non-car modes being within walking and cycling distance of local facilities and existing housing and also within walking distance of local bus services. Furthermore, with reference to the TRICS database it has been demonstrated that the proposed development would not attract notable traffic levels during the weekday peak hours. Moreover, it is considered that given that all the local roads do have ample spare capacity, the development traffic levels should not be regarded as having an adverse impact on highway safety.
- 6.61 Essex County Council in their capacity as Highway Authority has thoroughly assessed the original and additional highways and transportation information submitted in support of the planning application. The assessment of the application and Transport Assessment was undertaken with reference to the National Planning Policy Framework and in particular the following aspects were considered: access and safety; capacity; the opportunities for sustainable transport; and highway mitigation measures. They conclude that they are satisfied that, at peak times, the number of trips generated by the proposal will not have a severe impact and can be accommodated safely and efficiently on the local highway network.
- 6.62 These comments are subject to a number of conditions being applied to secure the following; visibility splays to the access onto Robinson Road, vehicle turning facilities, the existing access to Robinson Road being upgraded/re-configured with flanking footways, the submission of a Construction Method Statement, the completion of parking areas prior to occupation and public right of way improvements in the vicinity of the site.
- 6.63 Parking provision as shown on the submitted layout plans is in accordance with current parking standards in terms of quantum and bay dimensions. The private housing will be provided comfortably in excess of the required 2 spaces per property and the 48 spaces proposed for the retirement flats is commensurate with the standard requirements. Each of the holiday lodges would be served by on-plot parking at a ratio dependent on the number of bedrooms the lodge accommodates.

#### Biodiversity/Ecology

- 6.64 Paragraph 170 of the NPPF requires Councils, when determining planning applications, to minimise impacts on and providing net gains for biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission. Saved policies EN6 of the adopted Local Plan and emerging policy PPL4 of the emerging Local Plan give special protection to designated

sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for.

6.65 In this respect a detailed ecological appraisal has been submitted. The appraisal concludes the following;

- The site has developed on former gravel workings. Limited subsoil or topsoil was used in restoration which has created a largely impoverished environment. The site had been left to self-seed, which created areas of open scrub, grassland and woodland around three former silt lagoons, which have formed five open lakes. The boundaries were mostly hedged or scrubby. The interior was dominated by poor quality grass and ruderal vegetation with some recent grass seeding; most water bodies were poor with little aquatic vegetation.
- A bank, just outside the Site's northern boundary had small areas of acid grassland, lichen heath and bare ground; a potentially regionally important assemblage of invertebrates was found in association with it. A small population of reptiles was recorded and badgers use the site, being resident nearby; no special importance for wintering birds was found. Great Crested Newts and Water Voles were scoped out.
- The scheme will retain and enhance the most significant features such as the water bodies and surrounding scrub as well as existing small tree areas. A mix of habitats will be retained on site. As the northern bank is not within the site it will not be touched as part of these proposals. Significant amounts of woodland planting are proposed. The scheme will retain most of the important habitats and create new ones on current poor agricultural land, thus diversifying the habitats and species potential.
- Where lighting is needed, the impact of lighting on bats should be kept to a minimum and should avoid the trees and water bodies. The development proposals for mixed residential and tourism uses at the Site are for a low key development, major or obtrusive lighting will not to be required. Any lights required within the Site will be sensitive to its location and use lights that will reduce impacts on bats and other wildlife.
- Reptiles can be accommodated on site, on retained peripheral habitats. A translocation programme from the development zones will be necessary to ensure that animals are not harmed during construction.
- To offer further protection to Badgers within the site, some thorn shrub planting will be established around any setts within the Site to offer further protection and mitigate interference.
- The bird species recorded using the Site in winter would be expected to continue to use the site throughout any construction, residential occupation and tourism operations. Curlew, which used the open new sown grassland in the centre of the site would be disturbed from this area; it is unclear whether they would use other, undeveloped, parts of the site or would move to other grass fields in the area. Skylark would similarly be disturbed but were only recorded once. The water bodies would remain available for birds in winter and summer. Given the legal protection offered to nest sites, all vegetation clearance (where it is possible that birds will be nesting) will be undertaken between the months of September and February, outside of the peak bird nesting season (March to August inclusive).
- The most significant feature for invertebrates is the open bank which runs directly adjacent to the Site's northern boundary alongside Stoney Lane. To maintain this



habitat feature in a good condition in the long term, several essential conditions must be met:

- a) *The bank must remain open and unshaded;*
- b) *The Rabbit population must remain intact, since the physical disturbance provided by their activities is of key importance in maintaining areas of bare ground and early-successional conditions;*
- c) *Nutrient enrichment resulting from dog walking must be minimised as far as possible. High levels of nitrogen inputs are detrimental to acid grassland; and*
- d) *The above conditions necessitate creation of a buffer zone around the embankment such that it remains unshaded, to reduce and discourage public access.*

- Ecological Enhancements - The provision of new woodland planting across the Lower Farm Park site will provide bird nesting opportunities and bat roost potential. If required whilst planting is maturing, boxes for birds and bats could be provided in retained trees. Boxes provided in association with the retirement living mews will be of benefit residents as well as wildlife. Some wildlife friendly grassland would also be delivered within the Site which will be beneficial for reptiles, invertebrates and other wildlife. Existing habitats such as the poor-quality water bodies (Local Wildlife Site) would be enhanced to encourage plant species-diversity which would have long term beneficial impacts for a variety of animals.

6.66 The ecological appraisal has been independently reviewed by the Place Services Ecology Team who have agreed with its conclusions. Originally the application proposed a footpath link through to the seawall independently from Natural England's proposed England Coastal Path. Due to concerns over increased recreational disturbance to local bird populations, this pedestrian link has now been removed. Place Services also comment as follows;

- As mitigation is necessary to ensure that any consent is legally compliant, it is still therefore recommended that a proportionate financial contribution for any consented number of residential units in line with the Essex Coast RAMS should be offered to and secured by the LPA, to avoid an adverse effect on integrity of European designated (Habitats) sites;
- We note that through removal of the scrub vegetation, the acid grassland area will be allowed to naturally extend over this area. The proposed site plan drawings have been updated to indicate the retention and creation of the acid grassland feature within the site. It is recommended that the management of this Priority habitat is secured by a condition of any consent.
- We acknowledge that the Lower Farm Park site has a mixture or mosaic of mature and semi-mature habitats but lacks the open ground or early successional areas needed to be classified as Previously Developed Open Mosaic Habitat. No further surveys or assessment are considered necessary prior to determination.
- We welcome the proposed protection of the south facing dry acid grassland bank which runs along Stoney Lane, which was the area of greatest interest for invertebrates. As this lies just outside the northern boundary of the Lower Farm Park site and landholding, will that to reduce and restrict public access, a low-level gorse or hawthorn hedge or fencing should be established alongside this area of interest at the toe of the dry acid grassland bank at the landholding boundary.
- To maintain the dry acid grassland bank in good habitat condition for invertebrates, we note it is therefore also proposed that the bank should remain open and unshaded. Details of the management currently provided by rabbits to maintain areas of bare ground and early-successional conditions for invertebrates are proposed in section 3.2

of the Invertebrate report to conserve the invertebrate value of the dry grassland bank outside the site.

- We welcome the proposed ecological enhancements to the Lower Farm Park application. This will allow the LPA to demonstrate any decision will be in line with paragraph 175 of the NPPF 2019 and will contribute to net gain for biodiversity from the development.

6.67 Officers are now therefore satisfied that there is sufficient ecological information available for determination of this application. The information provided is sufficient to have certainty of impacts on designated sites, Protected and Priority species and habitats. All of the mitigation and enhancement measures are needed to enable the LPA to demonstrate its compliance with its statutory duties including the UK Habitats Regulations 2017 and its biodiversity duty under s40 NERC Act 2006. The mitigation and enhancement measures are secured via legal agreement or conditions outlined below in section 8.2 of this report.

#### Impact on Residential Amenity

6.68 The NPPF (2019) at paragraph 127 states that planning should secure developments with a high standard of amenity for existing and future users. Saved Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

6.69 The site will be developed within the footprint of a former quarry. The low-level restoration profile will assist in acoustically screening the site from nearby residential properties. To the south of the site the nearest residential properties are situated within a recently constructed housing development. At this end of the development the nearest development to these properties would be the proposed private dwellings and the retirement apartments which will be set behind the existing mature hedgerow that fronts onto Robinson Road. Consequently, the degree of separation between the existing/proposed properties on Robinson Road and the residential elements of the proposed development in conjunction with the mature vegetation on the site's southern boundary means that any impact upon resident's amenity would be minimal.

6.70 To the north of the site is an existing dwelling (Marsh Farm) which is situated approximately 85m from the nearest tourist lodge. The property is set in amongst mature landscaped grounds and with the planting of additional landscaping in this location any impact upon the existing residents in terms of noise or outlook would be minimal.

6.71 A noise assessment has been provided and reviewed by the Council's Environmental Protection Team. The noise assessment concludes;

- The acoustic environment is predominantly influenced by road traffic, aircraft, leaf rustle and birdsong. The surveys show that the sound levels across the development site are suitable to protect amenity of the residents.
- Noise levels during construction activities can be adequately controlled to protect residential amenity to comply with the most stringent guidance set out in the standards.
- Any mechanical plant required as part of the development will be selected, orientated and if required attenuated to achieve suitable sound levels at the sensitive on and offsite residential properties.
- Road traffic levels generated by the development will be relatively low and are unlikely to coincide with peak movements in the wider area and so are likely to be relatively acoustically insignificant.

- This assessment demonstrates that acoustic issues should be considered however the scope of any restrictions should be in proportion to the likelihood of impact which in this case is minimal.

- 6.72 An Air Quality Assessment and also been submitted and confirms that the impacts of dust on local air quality will be negligible. Continued implementation of existing procedures to monitor and mitigates against dust will be maintained in line with best practice. These measures along with construction arrangements will be secured through the use of a condition securing the submission of a detailed construction method statement.
- 6.73 Against the findings of these documents, the degree of separation between the proposed development and nearby residents and the well-screened nature of the site it is considered that the development would not adversely harm local resident's current level of amenity.

#### Heritage Impacts

- 6.74 Government policies relating to planning are given in the National Planning Policy Framework (NPPF). Section 12 (paragraphs 126 – 141) of the NPPF (Conserving and enhancing the historic environment) outlines policies relating to the historic environment and the key role it plays in the Government's definition of sustainable development, the principle which underpins the document.
- 6.75 The NPPF requires that local planning authorities 'should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment', recognising that 'heritage assets are an irreplaceable resource' and should be conserved 'in a manner appropriate to their significance'.
- 6.76 The NPPF requires that planning applicants should 'describe the significance of any heritage assets affected' by their application, 'including any contribution made by their setting'.

The following built heritage assets have been identified in the vicinity of the site;

- Marsh Farm Grade II Listed Building c.65m from the site boundary
- Pillbox World War II Pillbox recorded on the HER

- 6.77 In respect of Marsh Farm, this is a designated heritage asset (Grade II) situated to the north of the proposed development area. This heritage asset would, historically, have been functionally linked to its wider landscape as it would have been the operational centre of the surrounding farm. The current settling, established in the late 20th century, is of a different nature.
- 6.78 In this instance it is concluded that; the historic setting of Marsh Farm has already been subject to change through the loss of its functional relationship to its surrounding landscape and the mineral extraction in that landscape, none of the factors from which the asset derives its significance will be impacted and the listed building is well screened from the proposed development site by existing vegetation. As such it is considered that there would be no discernible change to the setting of the asset as pertains to its significance
- 6.79 Turning to the Pillbox, this is classified as a non-designated heritage asset as it is considered to be of local heritage and cultural heritage significance. Whilst the topographical position of the pillbox was of critical significance to the choice of its position the historic mineral extraction means that this setting is considerably different to that of 1940. Accordingly there is no longer a functional link between the monument and landscape, including that of the site proposed for re-development. Again it is therefore concluded that the impact on this asset would be minimal.

- 6.80 Historic England have reviewed the application proposals and have no additional comments to offer on the impacts of the proposals.

#### Drainage/SUDs

- 6.81 It is proposed that the surface water will be managed within the site through the use of a suite of source control Sustainable Urban Drainage System (SuDS) measures such as sedum roofs, soakaways, filter trenches, infiltration swales, permeable surfaces and paving, and a combined attenuation pond and infiltration basin.
- 6.82 The existing lakes will be retained and will continue to provide a combination of attenuation and infiltration for runoff from greenfield areas as per the current baseline site conditions. Lake water levels will be controlled by infiltration through the permeable side slopes, whilst the existing small diameter high level overflow arrangements will be maintained in order to regulate lake water levels during extreme events and release excess flows at controlled rates to local watercourses at existing outfall locations.
- 6.83 Based upon realistic desk-based infiltration rates for the site, surface water runoff can be entirely managed within the boundary of the site. ECC-SUDs Team have reviewed this information have no objections to the surface water drainage strategy subject to the inclusion of several conditions, which are outlined below in section 8.2.
- 6.84 In terms of foul drainage, the Residential units (Farmsteads), reception and café facilities (The Barrow) and the Retirement Mews will be served by mains sewerage, with an on-site package pumping station and rising main provided to discharge flows off-site to the public foul sewer network. Foul water discharge from all 104 lodges will be via septic tanks ('Klargester or similar) with associated drainage fields.
- 6.85 Anglian Water has confirmed that the foul drainage from this development is in the catchment of Brightlingsea, Church Rd Water Recycling Centre that will have available capacity for these flows. A condition securing full details of the foul drainage strategy is recommended and therefore included as part of the recommendation.

#### Legal Obligations

- 6.86 The following legal obligations are to be secured as part of this development;

#### Affordable Housing

- 6.87 The Council's Housing Team have confirmed the need for an off-site affordable housing contribution. A 30% affordable housing provision has been calculated to equate to £799,000. The legal agreement will be worded as such to secure 60% of this payment upon 60% occupation of the residential units and the remaining 40% upon 80% occupation.

#### RAMS

- 6.88 Legal advice has been sought to confirm 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 the European Designated Site. A payment of £125.58p per residential unit will be paid upon first occupation of the residential units.

## Open Space Improvements

- 6.89 The Council's Open Space Team have confirmed that a contribution towards improvements to existing play facilities is both relevant and justified to this planning application. The contribution would be used to improve the facilities at the nearest play area located at Bayards Recreation Ground.

## **7. Overall Planning Balance/Conclusions**

- 7.1 The overarching objective of the development proposals is to develop a middle to high end tourist and leisure complex which will offer a new resort appealing to existing and new customers.
- 7.2 It will offer: both direct and indirect employment opportunities within the local area; attract both national and international tourism; and, promote economic growth of the immediate and local areas.
- 7.3 The development mix and general arrangement of Lower Farm Park is designed to relate well to the local area and connect the site to its surroundings, particularly in relation to its siting, height, scale, massing, form, design and materials used within the buildings.
- 7.4 The mixed use development is therefore considered to represent sustainable development on the edge of one of the District's larger settlements that meets the three strands of sustainability namely; environmental, social and economic. As such the development is recommended for approval subject to the completion of a legal agreement outlining the various obligations listed below and the conditions listed at section 8.2 of 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:

<b>CATEGORY</b>	<b>TERMS</b>
Affordable Housing Provision	Offsite contribution - £799,000
Financial contribution towards RAMS.	£125.58p per permanent dwelling unit (excludes tourism lodges)
Open Space – Baynards Rec	Contribution based on the 5 x 4 bedroom properties
Over 60's Restriction to Apartments	
Residential Occupation – Trigger Points	No more than 60% occupation of Residential elements prior to 50 holiday lodges being constructed, the glamping area and all civil engineering (accesses/paths/landscaping) is installed)

## **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) 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 of all elements 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.

- 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) 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.

- 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.
  - Limiting discharge rates to 7.7l/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 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 Simple Index Approach within 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.

- 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 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.

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

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

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

- 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) The development hereby permitted shall not be commenced until the pipes within the extent of the site, which will be used to convey surface water, are cleared of any blockage and are restored to a fully working condition.

Reason - To ensure that drainage system implemented at the site will adequately function and dispose of surface water from the site.

11) No development shall commence, including any groundworks, until a Construction Method Statement has been 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;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction;
- a scheme for recycling/disposing of waste resulting from construction works;
- details of hours of deliveries relating to the construction of the site;
- details of hours of site clearance or construction;
- a scheme to control noise and vibration during the construction phase, including details of any piling operations

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

Reason - To ensure that on-street parking of construction vehicles and materials storage in the adjoining streets does not occur, in the interests of highway safety and to control delivery/working hours in the interests of residential amenity.

12) Prior to occupation of the development, the road junction/access at its centre line shall be provided with a visibility splay with dimensions of 2.4 metres by 90 metres in a south east direction and 2.4 metres by 120 metres in a north west direction, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction/access is first used by vehicular traffic and retained free of obstruction above 600mm at all times.

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

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

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

14) Prior to occupation of the development, the proposed road junction at its bell mouth junction with Robinson Road shall be constructed at right angles to the highway boundary and to the existing carriageway to a carriageway width of 5.5 metres with minimum radius kerbs of 6 metres based on and in principal with drawing no. IT1671/SK/01 Rev A; with a flanking single footway 2m in width returned around the radius kerb only with tactile paving to provide a pedestrian link to the existing footway on the opposite side of Robinson Road.

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.

15) Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the 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 carriageway in the interest of highway safety.

- 16) There shall be no discharge of surface water onto the Highway.

Reason - To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.

- 17) The proposed development shall not be occupied until such time as the relevant vehicle parking areas indicated on the approved plans, including any parking spaces for the mobility impaired, have been hard surfaced, sealed and marked out in parking bays. The vehicle parking areas and associated turning area shall always be retained in this form. 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.

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

Reason - To ensure appropriate cycle and powered two-wheeler parking is provided in the interest of highway safety and amenity.

- 19) No occupation shall take place until such time as the public footpaths 161\_8 & 161\_27 (just beyond Marsh Farm) have been the subject of infrastructural improvements required for the upgrade of the natural surface by providing planings with timber edging; the extent to be agreed with the Highway Authority and has been provided entirely at the Developer's expense.

Reason - To make adequate provision within the highway for public footpath 8 and 27 (part) These areas currently have a natural surface so would benefit from an upgrade (a layer of planings with timber edging) due to the additional pedestrian traffic generated as a result of the proposed development.

- 20) All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Assessment (Green Ecology, Nov 2017 updated Aug 2018) and Ecology Clarifications letter (Honace, 25 June 2019) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

- 21) 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).

- 22) A Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Ecological Assessment (Green Ecology, Nov 2017 updated Aug 2018) and Ecology Clarifications letter (Honace, 25 June 2019), shall be submitted to and approved in writing by the local planning authority.

The enhancement measures shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

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

- 23) A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to occupation of the development.

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

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).

- 24) The hereby approved tourist lodges shall be occupied for holiday purposes only and shall not be occupied as a person's sole or main place of residence. The

owners/operators of the site shall maintain an up to date register of the names of all owners/occupiers of holiday homes on site and of their main home addresses. The register shall be made available at all reasonable times for inspection by the local planning authority.

Reason - To safeguard the tourist use of the site and to prevent permanent residential use in this unsuitable location.

- 25) The development hereby approved shall comprise of a maximum of 104 holiday lodges and no touring caravans.

Reason - To ensure the number of units is compatible with the size and layout of the site.

- 26) Prior to its first construction full details of the play area shall be provided including scaled drawings of the various pieces of play equipment, surfacing and boundary treatments. The play area shall be constructed in accordance with the approved details.

Reason – In the interests of visual amenity.

- 27) Prior to the first occupation of the private housing and tourist accommodation a detailed electric vehicle charging point scheme shall be submitted to and approved, in writing, by the Local Planning Authority. The approved scheme shall be installed as approved prior to occupation and retained thereafter.

Reason – In the interests of sustainable transport.

- 28) No development shall commence until the applicant/developer has submitted to the Local Planning Authority, in writing, a Local Recruitment Strategy to include details of how the applicant/ developer shall use their reasonable endeavours to promote and encourage the recruitment of employees and other staff in the locality of the application site, for the construction of the development. The approved Local Recruitment Strategy shall be adhered to therein after.

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

- 29) Prior to the first occupation of the tourist accommodation a public access strategy that outlines details to enable local public access onto the site and use of the park facilities, shall be submitted to and approved, in writing, by the Local Planning Authority. The approved strategy shall be adhered to at all times thereafter.

Reason – To facilitate local public access into the site in the interests of promoting health and amenity benefits to local residents.

- 30) There shall be no use of motorboats or engine powered watercraft on the water features across the site at any time.

Reason – In the interests of amenity and ecological reasons.

- 31) The development hereby permitted shall be carried out in accordance with the following approved plans/documents

- IT1671/SK/01 Rev A
- 0/A000/LP/003 Rev A
- 0/A000/LP/010 Rev A

- 0/A000/PR/001
- 0/A000/LP/005
- 0/A000/LP/007
- 0/A000/LP/008
- 0/A000/LP/009
- 0/A100/PR/001 Rev B
- 0/A100/PR/004
- 0/A200/PR/001 Dwelling Elevations
- 0/A200/PR/001 Retirement Mews Elevations
- 0/A200/PR/002 The Barrow Elevations
- 0/A600/PR/002 Retirement Mews Section Plan
- 0/A600/PR/002 The Barrow Section Plan
- P130-02 Lower Farm Lighting Scheme
- TYP1 – 0/A200/PR/001
- TYP1 – 0/A600/PR/001
- TYP1 – 0/A600/PR/002
- TYP2 – 0/A200/PR/001
- TYP2 – 0/A600/PR/001
- TYP2 – 0/A600/PR/002
- TYP2 – 0/A600/PR/003
- TYP2 – 0/A600/PR/004
- TYP3 – 0/A200/PR/001
- TYP3 – 0/A600/PR/001
- TYP3 – 0/A600/PR/002
- TYP4 – 0/A200/PR/001
- TYP4 – 0/A600/PR/001
- TYP4 – 0/A600/PR/002
- TYP5 – 0/A200/PR/001 Rev A
- TYP5 – 0/A600/PR/002
- TYP5 – 0/A600/PR/003

Reason – For the avoidance of doubt.

### 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.

#### Highway Informatives

The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is a breach of this legislation. The public's rights and ease of passage over public footpaths 161\_8 & 161\_27 (Brightlingsea) shall always be maintained free and unobstructed to ensure the continued safe passage of the public on the definitive right of way.

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

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

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

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.

#### Legal Agreement 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.

### **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/>.



**Application:** 20/00150/FUL

**Town / Parish:** Lawford Parish Council

**Applicant:** Lawford Surgery

**Address:** The Lawford Surgery 2 Edgefield Avenue Lawford Manningtree CO11 2HD

**Development:** Proposed first floor extension to be used in conjunction with existing doctor's surgery and retention of 1.8 m close boarded fence enclosing the existing car park.

## 1. Executive Summary

- 1.1 The application has been referred to the Planning Committee at the request of Councillor Coley due to concerns with the alterations to the roof being out of character and impinging on the privacy and visual aspect of neighbouring properties; and due to the increase in staff numbers being unsupported by the existing car parking area.
- 1.2 The application relates to the long established Lawford Surgery located on the corner of Edgefield Avenue and Colchester Road within the Settlement Development Boundary of Lawford 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. The rear boundary of the site adjoins the rear of the newly constructed bungalows within Florence Gardens on the Summers Park development.
- 1.3 The application seeks full planning permission for alterations and extensions to the roof of the building to allow for the creation of 2 administration/office rooms, a bathroom and kitchenette for staff within the roof space. The works include the raising of the overall roof height by just under 1.5 metres, the insertion of 4 no. high level roof lights to the rear, insertion of 1 no. end gable window overlooking the car park and the erection of 3 no. pitched roof dormer windows to the front elevation. The application has been amended to now incorporate the regularisation of the 1.8 metre fence that has been erected enclosing the car park and to include the formal laying out of the existing parking areas into bays.
- 1.4 The raising of the roof and resulting roof pitch will not result in any material loss of sunlight, daylight or outlook to neighbouring properties due to the separation distance and minor scale of the alterations. The proposed rooflights are high level with the bottom windowsill being approximately 1.7 metres above the finished floor level meaning that no harmful overlooking or loss of privacy will occur. The dormer windows are in proportion with the overall scale of the building and resultant roof being acceptable in design terms. The distance to neighbouring properties opposite ensures no harmful overlooking will result from the dormer windows.
- 1.5 The site is located within a well built up residential area. Edgefield Avenue is characterised by bungalows and Colchester Road is characterised by 2 storey dwellings. The proposed development and resultant 1.5 storey appearance is not considered harmful in this mixed character area.
- 1.6 In the absence of any material harm and having regard to the benefits of the scheme for local residents from the improved medical facilities, the application is recommended for approval.

**Recommendation: Full approval**

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*

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

COM3 Protection of Existing Local Services and Facilities

TR7 Vehicle Parking at New Development

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

SPL3 Sustainable Design

HP2 Community Facilities

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

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

*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

98/01497/FUL	Alterations and extension	Approved	18.12.1998
03/00282/FUL	Alterations and extensions	Approved	03.04.2003
03/01547/FUL	Alterations and extensions	Approved	17.09.2003
09/00799/FUL	Single storey rear extension to existing doctors surgery.	Approved	25.09.2009

### 4. Consultations

ECC Highways Dept  
**ORIGINAL COMMENTS**

The information that was submitted in association with the application has been fully considered by the Highway Authority. It is noted from the information supplied that the existing vehicular access and parking provision is to remain the same and is unaffected by these proposals, therefore:

The Highway Authority does not object to the proposals as submitted.

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.

2: 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.

3: 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

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](mailto: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**

The information that was submitted in association with the application has been fully considered by the Highway Authority. It is noted from the information supplied that the existing vehicular access and parking provision is to remain the same and is unaffected by these proposals. It is noted that one additional consulting room will be created by this proposal and it is felt that this will have minimal impact on the current parking provisions on site, therefore:

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

1. Prior to occupation of the extended facility, the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, shall be 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 in accordance with Policy DM8.

2. 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.

3. 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: The Highway Authority has discussed the location with the North Essex Parking Partnership who have confirmed that a set of parking restrictions for the junction with Edgefield Avenue and Colchester Road have recently been advertised and should be introduced by the end of the year.

2: For the cycle parking provision, the minimum requirement for this site will be 1 space per 4 staff plus 1 space per consulting room.

3: 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.

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.

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

Cadent Gas Limited No written comments received (see main report for further detail).

NHS East Essex CCG No comments received.

## 5. **Representations**

5.1 Lawford Parish Council object to the application for the following reasons;

- Overdevelopment.
- Out of character.

5.2 7 letters of objection have been received (more than 1 from some residents in response to the original and amended information). The concerns raised can be summarised as follows;

- Out of character;
- Overdevelopment of the site;
- Overbearing and dominating appearance;
- Loss of outlook;
- Loss of light;
- Overlooking;
- Loss of privacy;
- Too close to neighbouring properties and gardens;
- Insufficient parking to accommodate larger facility;
- Housing development continues in the area and the surgery will soon outgrow the site again;
- Set a harmful precedent for first floor extensions to other bungalows.

***The appearance and impact of the development is assessed in the main report below.***

## **6. Assessment**

6.1 The main planning considerations are:

- Site Context;
- Proposal;
- Principle of Development;
- Layout, Scale and Appearance;
- Residential Amenities;
- Access and Parking; and,
- Other Matters.

### Site Context

6.2 The application relates to the long established Lawford Surgery located on the corner of Edgefield Avenue and Colchester Road within the Settlement Development Boundary of Lawford 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.

6.3 The surgery building is located on the northern side of Edgefield Avenue and comprises a converted bungalow which has been subject of single storey extensions to the front, side and rear. There is a car park serving the surgery located to the east of the building, accessed via Edgefield Avenue and enclosed by a 1.8 metre close boarded fence. There are also some further parking spaces to the front of the building.

6.4 The site is located within an established residential area. Edgefield Avenue is characterised by bungalows and Colchester Road is characterised by 2 storey dwellings. The rear boundary of the site adjoins the rear gardens of the newly constructed dwellings within Florence Gardens on the Summers Park development which again comprises both single storey and 2 storey dwellings.

### Proposal

6.5 The application seeks full planning permission for alterations and extensions to the roof of the building to allow for the creation of 2 administration/office rooms, a bathroom and kitchenette for staff within the roof space.

6.6 The works comprise the raising of the overall roof height by just under 1.5 metres, the insertion of 4 no. high level roof lights to the rear, insertion of 1 no. end gable window overlooking the car park and the erection of 3 no. pitched roof dormer windows to the front elevation. The application has been amended to now incorporate the regularisation of the 1.8 metre fence that has been erected enclosing the car park and to include the formal laying out of the existing parking areas into bays.

6.7 The application has been amended to now incorporate the regularisation of the 1.8 metre fence that has been erected enclosing the car park and include the formal laying out of the existing parking areas into marked bays.

6.8 At present the practice have been forced to use Consulting Room 1 to accommodate a secretary and administrative staff. The development will allow for the room to be returned to a consulting room once the administration staff have been relocated into the new first floor accommodation. The new first floor accommodation will also provide a separate kitchen area

for staff and a bathroom for use by staff and patients often required when dealing with complex or delicate medical cases.

#### Principle of Development

- 6.9 The proposal aims to cater for the increase in medical demands on the practice resulting from the local housing stock growth in the locality and improve the facilities for both staff and patients.
- 6.10 The principle of development is considered acceptable as the proposals simply seek to extend and improve an established use and facility. The main considerations are therefore the detailed design and impact matters set out below.

#### Scale, Design and Visual Impact

- 6.11 The site is located within an established residential area. In the immediate locality Edgefield Avenue is predominantly characterised by bungalows and Colchester Road is predominately characterised by 2 storey dwellings. Summers Park to the rear of the site is also characterised by both single and 2 storey dwellings directly adjacent to the site.
- 6.12 The Lawford Surgery occupies a former dwelling being single storey and residential in appearance which has been extended to the front, rear and side at single storey level. The proposed development will result in a chalet style appearance to the building with the raising of the ridge height and associated roof pitch, the insertion of 3 front facing dormer windows, an end gable window overlooking the car park and 4 high level rooflights to the rear roof slope.
- 6.13 The proposed roof lights and dormer windows are not excessive in number or size and sit comfortably within the roof plane. The minor scale and overall appearance of the resultant building will not dominate the plot or appear cramped. All materials to be used in the development would match those on the existing building with concrete roof tiles and a smooth rendered finish to the gable ends and dormers cheeks. The appearance of the development is therefore considered acceptable in design terms.
- 6.14 Although chalet style properties are not characteristic in the immediate locality, there is a clear mixture of residential styles, heights and materials and the character of the area is not uniform. Examples include single storey dwellings with gable ended roof arrangements, 2 storey dwellings with gable and hipped roof arrangements; red brick, buff brick, render and weather boarded finishes; and design features including pitched roof elements above first floor windows.
- 6.15 Due to the location of the building on this corner plot, the proposed works will be viewed in conjunction with all surrounding properties with their mixed heights, materials and design features. For example, when viewed on the approach from Colchester Road from the north east, the development will be seen alongside the 2 storey dwellings at 137 and 139 Colchester Road with their adjoining single storey garages with steep pitched roofs. The height and roof pitch of the proposed development will appear similar to the garage of 137 Colchester Road.
- 6.16 In this context, the alterations to the building will not dominate the street scene and cannot be considered materially harmful to visual amenity or the character of the area. The public benefit to residents resulting from the enlarged facility also weighs in favour of the development.
- 6.17 There is no suggestion that Lawford Surgery will require further expansion in the future. However, any future applications would be assessed on their own merits and approval of this

application is not considered to set a harmful precedent. Furthermore, should the residents of any neighbouring dwellings want to extend, any applications would again be assessed on their own merits at the time of application.

- 6.18 The fence erected along the perimeter of the car parking area is sited adjacent to the highway and exceeds 1 metre in height therefore requiring planning permission. This was not obtained prior to the works being carried out and has been added to the application. To soften the appearance of the fence a landscaping scheme has now been included which will be secured by means of a planning condition.

#### Residential Amenities

- 6.19 Paragraph 127 of the National Planning Policy Framework 2019 states that planning should always seek to secure a high standard of amenity for existing and future users. Policy QL11 of the adopted Tendring District Local Plan (2007) states that development will only be permitted if it 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.
- 6.20 The building is located on the northern side of Edgefield Avenue with its car park located to its east adjacent to Colchester Road. Immediate neighbouring dwellings include 4 Edgefield Avenue to the west, 26 Florence Gardens to the north-west and 28 Florence Gardens directly to the north. To the north-east is the frontage of nos. 139 and 137 Colchester Road, with their shared access road running alongside the close boarded fencing enclosing the surgery car park. Opposite the site is 153 Colchester Road which fronts Colchester Road.
- 6.21 Number 4 Edgefield Avenue and the surgery building sit almost directly alongside one another with approximately 3 metres between the eaves of the main roof of the surgery and the side elevation of number 4. There is a separation distance of 19 metres between the eaves of the surgery and the rear elevations of the dwellings in Florence Gardens, being 6 metres to the rear shared boundary.
- 6.22 The development does not involve an increase in eaves height. The alteration to the ridge height and roof pitch are not excessive. The development will not appear dominant from the garden area of 4 Edgefield Avenue and will not result in any material loss of daylight or sunlight. No windows are proposed in the west facing end elevation and therefore no overlooking will occur.
- 6.23 The alteration to the angle of the roof pitch will bring the built form slightly closer to the dwellings in Florence Gardens. However, at its highest point, the ridge of the resultant building will retain 10 metres to the shared boundary, being 23 metres from the rear elevation of these neighbouring dwellings. The proposed rooflights to the rear are high level with the bottom windowsill being approximately 1.7 metres above the finished floor level. No overlooking or loss of privacy can occur from angled windows at this high level position. The 2 central rooflights serve a stairwell and bathroom. The stairwell is for access only and the bathroom window will be obscure glazed. The rooflight at either end of the building will serve offices where staff will mostly be working at desk level positions. Any perception of overlooking is therefore further diminished.
- 6.24 Nos. 139 and 137 front the application site with over 10 metres retained to the boundary with the surgery car park. No views or harmful overlooking from the rooflights to facing windows will occur due to the distance and relationship of the surgery building with these dwellings.
- 6.25 The front dormer windows introduce views at first floor level toward the side of 153 Colchester Road and its rear garden area. A distance of over 20 metres will be retained minimising any overlooking, with views further obscured by the mature trees along the roadside grass verge.

Two windows will serve office areas either end of the building with a central window serving a kitchenette. On the basis that staff will be sitting at desks or sitting for a break in the kitchenette area, securing the installation of obscure glazing to the lower half of the dormer windows is considered reasonable in this instance. This will be controlled by condition and further mitigate the impact on residential amenities. Additionally, surgery opening times will further limit any impact on neighbouring amenities, i.e. no weekend opening.

- 6.26 For the reasons set out above, officers consider that the development will be acceptable in terms of its impact on neighbouring amenities.

#### Access and Parking

- 6.27 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 and the design and layout of the development provides safe and convenient access for people. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 6.28 The existing vehicular access and parking provision is to remain the same and is unaffected by the proposed build. The use is long established and currently accommodates parking areas to the front and side of the building amounting to 13 spaces. However, the car park is not formally laid out with marked bays.
- 6.29 The development will result in the reinstatement of 1 consulting room, not the creation of an additional room. It is intended that this will allow 1/2 additional clinical staff members (1 full time equivalent). No increase in administrative staff numbers are proposed as these functions are simply being relocated into the new first floor office area. With the nature of the use being on an appointment basis, the level of parking is considered sufficient. On this basis, officers consider that the proposal will have minimal impact on the current parking provisions on site and a refusal on this basis could not be justified
- 6.30 Essex County Council raise no objection to the development subject to conditions relating to the parking area being formally marked out into bays, cycle parking provision and the storage of building materials within the site during construction. The formal marking out of the car park would help maximise the use of the space for staff and patients including those with mobility problems. The provision of cycle storage would also improve accessibility to the site and promote alternative modes of transport. These suggested conditions are therefore considered reasonable in this instance. Due to the close proximity of the building to existing neighbours and limited space on site, a full Construction Method Statement is considered necessary as an alternative to the condition suggested by The Highway Authority.

#### Other Matters

- 6.31 The site contains a High Pressure Gas Pipeline Coxhill/ Green Lane (1XEO) Inner, Mid & Outer Zones (7m) which runs along the rear part of the site.
- 6.32 Cadent have not provided any formal written comments in this instance. It was confirmed during a telephone conversation with one of Cadent's representatives on 22<sup>nd</sup> April 2020 that no comments were provided due to the proposed works being to upper floors only with no increase in footprint and no groundworks being undertaken.



## 7. Conclusion

- 7.1 In the absence of any material harm resulting from the proposed development and the weight attributed to the benefits of the scheme, the application is recommended for approval subject to conditions.

## 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: 54-2019-04PA, 54-2019-03P and 54-2019-05PA.

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

- 3) Notwithstanding the details shown on the approved plans, the lower half of the 3 no. dormer windows on the south facing front elevation of the building shall be obscure glazed up to a mid-point of 0.5 metres. The obscure glazing shall be installed prior to occupation of the development and retained in this approved form in perpetuity.

Reason – In the interests of residential amenity.

- 4) 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 and 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 - 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.

- 5) Prior to occupation of the development, the vehicle parking area including any parking spaces for the mobility impaired, shall be marked out in parking bays in accordance with approved drawing number 54-2019-05PA. 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.

- 6) Prior to the occupation of the development, details of the siting and design of secure, convenient, covered Cycle / Powered Two-wheeler parking that accords with the Parking Standards shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained in its approved form unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure appropriate cycle / powered two-wheeler parking is provided in the interest of highway safety.

- 7) All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details drawing number 54-2019-05PA 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.

### 8.3 Informatives

#### Positive and Proactive Statement

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

#### Highways Informatives

1: The Highway Authority has discussed the location with the North Essex Parking Partnership who have confirmed that a set of parking restrictions for the junction with Edgefield Avenue and Colchester Road have recently been advertised and should be introduced by the end of the year.

2: For the cycle parking provision, the minimum requirement for this site will be 1 space per 4 staff plus 1 space per consulting room.

3: 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.

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.

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653 The Crescent  
Colchester  
CO4 9YQ

## **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**

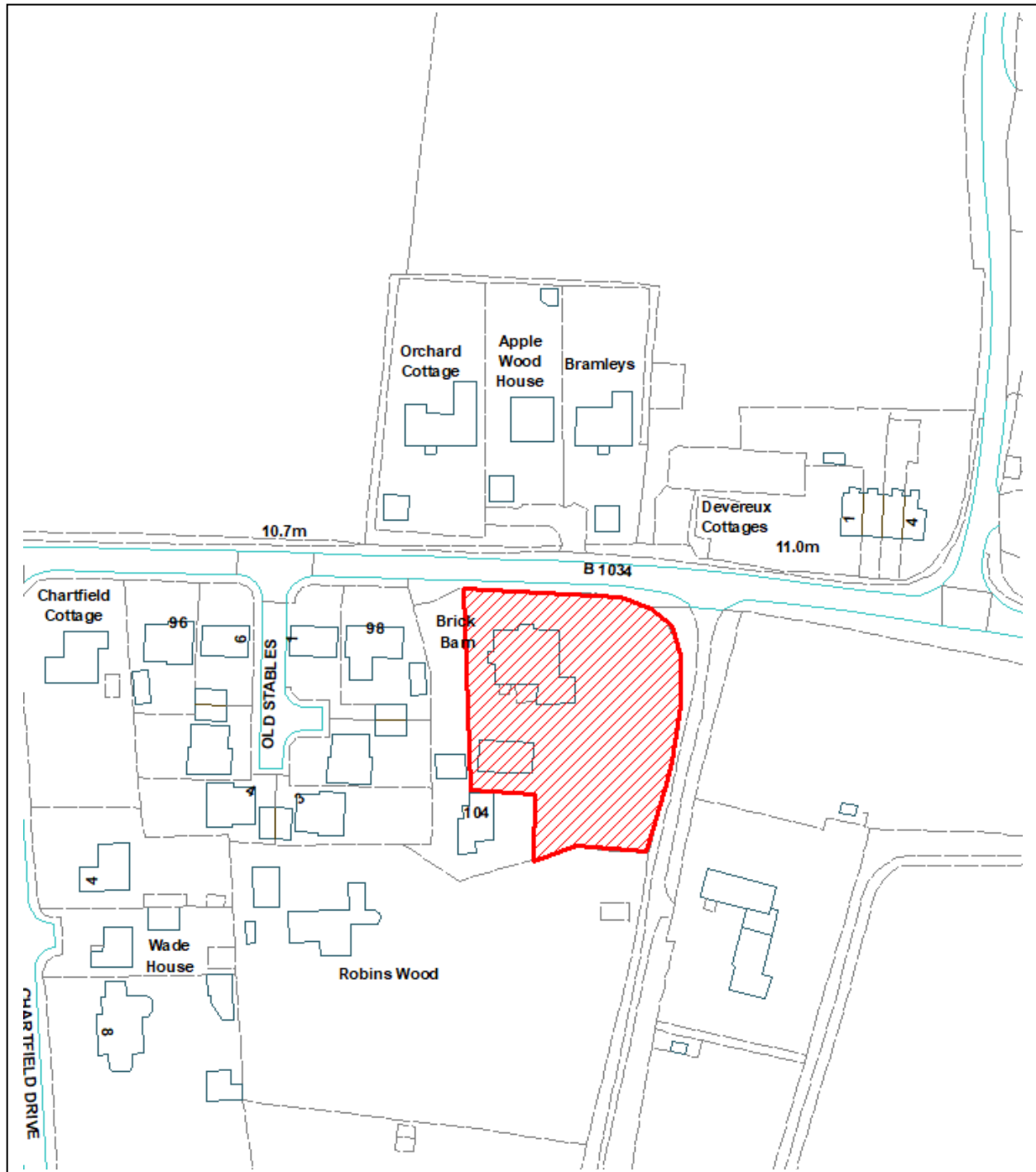
- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (referenced within the report where relevant) also form background papers. In this instance, this includes a site video and tour. 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/>.

## PLANNING COMMITTEE

16 JUNE 2020

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### **A.3 PLANNING APPLICATION – 20/00202/FUL – BRICK BARN RESIDENTIAL CARE HOME 106 WALTON ROAD KIRBY LE SOKEN FRINTON ON SEA CO13 0DB**



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**Application:** 20/00202/FUL

**Town / Parish:** Frinton & Walton Town Council

**Applicant:** Mrs Nikki Faber - Loyalty Project

**Address:** Brick Barn Residential Care Home 106 Walton Road Kirby Le Soken Frinton On Sea CO13 0DB

**Development:** Change of use from C2 Care Home to Sui Generis Hostel for the Homeless.

## 1. Executive Summary

- 1.1 The application has been referred to Planning Committee at the request of Councillor Knowles due to concerns with the negative impact on neighbours and previous poor Care Quality Commission (CQC) reports.
- 1.2 The application relates to Brick Barn Residential Care Home located at 106 Walton Road within the Parish of Kirby-le-Soken. The site lies a short distance from the edge of the Kirby-le-Soken Settlement Development Boundary as defined within the adopted Tendring District Local Plan 2007 but is within the extended Kirby-le-Soken Settlement Development Boundary as defined within the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 1.3 The application seeks full planning permission for the change of use of the existing Care Home (within use Class C2 of the Town and Country Planning (Use Classes) Order 1987 as amended) to a Hostel for the Homeless (a "sui generis" use) including internal alterations reducing the current accommodation from 15 bedrooms to 9.
- 1.4 This application follows a previously refused application under planning application reference 19/01532/FUL for the proposed change of use from care home to HMO (House in Multiple Occupation) with no alterations. Since this previous application, it has come to light that the proposal will involve internal alterations and the use will in fact fall under the definition of a Hostel and not a HMO as previously considered by officers. The facility will be supported by 4 full time staff and 4 part time staff and therefore does not result in the loss of the employment use and does not require assessment under the provisions of Saved Policy ER3 of the adopted Tendring District Local Plan 2007.
- 1.5 Given the current shortage of affordable homes in the district, facilities such as this play a vital role in providing short term accommodation for sections of society, which is supported by national policy.
- 1.6 The site is located within easy walking distance of the local convenience store and post office with other facilities and employment opportunities within the village. There are bus stops in close proximity to the site providing regular services to Walton, Frinton and Clacton, and also offering a service to Colchester. The sustainability of the site is reflected in the Council's inclusion of the site within the extended settlement development boundary in the emerging Local Plan.
- 1.7 The proposed use will see a reduction in residents to 9, which will in turn reduce the number of associated movements and potential for any noise or disturbance to neighbouring properties.
- 1.8 The proposal will ensure a vacant premises is brought back into use; facilitating new employment and providing a valuable contribution to the housing mix for the District in a

sustainable location recognised by National and Local Plan policies. The application is therefore recommendation for approval subject to conditions.

**Recommendation: Full Approval**

- 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*

COM6 Provision of Recreational Open Space for New Residential Development

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

ER3 Protection of Employment Land

HG3 Residential Development Within Defined Settlements

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG10 Conversion to Flats and Bedsits

HG14 Side Isolation

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

CP1 Sustainable Transport and Accessibility

HP5 Open Space, Sports & Recreation Facilities

- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- LP11 HMO and Bedsits
- PPL4 Biodiversity and Geodiversity
- SP1 Presumption in Favour of Sustainable Development
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- 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, with further hearing sessions in January 2020. The Inspector issued his findings in respect of the legal compliance and soundness of the Section 1 Plan in May 2020. He confirmed that the plan was legally compliant and that the housing and employment targets for each of the North Essex Authorities, including Tendring, were sound. However, he has recommended that for the plan to proceed to adoption, modifications will be required – including the removal of two of the three Garden Communities 'Garden Communities' proposed along the A120 (to the West of Braintree and on the Colchester/Braintree Border) that were designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033.
- 2.4 The three North Essex Authorities are currently considering the Inspector's advice and the implications of such modifications with a view to agreeing a way forward for the Local Plan. With the Local Plan requiring modifications which, in due course, will be the subject of consultation on their own right, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications – increasing with each stage of the plan-making process.
- 2.5 The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will progress once modifications to the Section 1 have been consulted upon and agreed by the Inspector. 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**

01/00118/FUL	Side and rear extension	Approved	25.06.2001
19/01532/FUL	Proposed change of use from care home to HMO.	Refused	09.12.2019

**4. Consultations**

ECC Highways Dept  
24.04.2020  
**ORIGINAL COMMENTS**

Further to our previous response dated 10 March, the information that was submitted in association with the application has been fully considered by the Highway Authority. The development has access to sustainable modes of transport including both public transport; walking and cycling therefore:

The Highway Authority does not object to the proposals as submitted.

Informative: 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  
10.03.2020  
**AMENDED COMMENTS**

The Highway Authority does not object to the proposals as submitted.

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

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

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

## 5. Representations

5.1 Frinton and Walton Town Council recommend refusal on the following grounds;

- No evidence that this type of facility is required in this location.
- Not in a suitable location in a village setting.
- Insufficient internal facilities i.e. kitchen.
- Poor transport links.
- Lack of supporting agencies.

5.2 14 individual letters of objection have been received together with a petition of 4 signatories. The concerns raised can be summarised as follows (officer response in italics);

- Unsustainable location.
- Lack of amenities and employment opportunities.  
*The site lies within the Kirby-le-Soken Settlement Development Boundary and has therefore previously been considered an acceptable location for development.*
- Will devalue property prices.  
*This is not a material planning consideration.*
- Examples of anti-social behaviour from the previous use.
- Was previously poorly run as a care home.
- Previous residents left to roam.
- Poor Care Quality Commission (CQC) reports.  
*There is no evidence of these issues, but in any case the proposal is to change the use of the site so it would not be reasonable to object to a proposed use on these grounds. Anti-social behaviour is a matter for the police. CQC is a separate body and is not a consideration under planning legislation.*
- Loss of employment.
- No evidence of need.
- Insufficient marketing.  
*The proposal does not result in the loss of employment. The National Planning Policy Framework 2019 supports mixed communities and there is not a requirement to demonstrate need. The proposal does not require assessment against marketing particulars.*
- Highway safety concerns.  
*The proposal seeks a reduction in residents and the Highway Authority do not raise an objection.*
- Property is in a poor state of repair.  
*There is no evidence to suggest this is the case. Upon undertaking a site visit the property does not appear to be in such a state of repair that it could not be capable of the proposed development which does involve some internal alterations.*

## 6. Assessment

6.1 The main planning considerations are:

- Site Context;
- Planning History;
- Description of Proposal;
- Principle of Development;
- Residential Amenities;

- Access and Parking; and,
- Financial Contribution – Recreational Disturbance.

### Site Context

- 6.2 The application relates to Brick Barn Residential Care Home located at 106 Walton Road within the Parish of Kirby-le-Soken (also known as Connemara). The site lies on the southern side of Walton Road and comprises a large, two storey property with outbuildings and garden area to the rear. The premises currently lies vacant and has done for some time.
- 6.3 The site is located on the eastern edge of the village with existing dwellings to the west and opposite. The land to north-east and south becomes more rural in character mostly comprising large areas of agricultural land and associated farm buildings. The eastern boundary of the site is enclosed by mature vegetation and trees screening the building as you enter the village.
- 6.4 The site lies a short distance from the edge of the Kirby-le-Soken Settlement Development Boundary as defined within the adopted Tendring District Local Plan 2007 but is within the extended Kirby-le-Soken Settlement Development Boundary as defined within the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.5 The accompanying Planning Statement suggests that the site was last registered as a four bedded care home (D1 Use) for people suffering from complex mental disorders and that the centre has since been deregistered and closed as a care home on the 14/05/2019. However, there are no planning records to confirm this and the lawful use of the building is considered to be a Care Home (C2 Use).

### Planning History

- 6.6 This application follows a previously refused application under planning application reference 19/01532/FUL for the proposed change of use from care home to HMO (House in Multiple Occupation) with no alterations. The application was considered contrary to Saved Policy ER3 of the adopted Tendring District Local Plan 2007. Policy ER3 of the adopted Tendring District Local Plan 2007 states that land in employment use will normally be retained for that purpose, and its change of use will only be permitted if the applicant can demonstrate that it is no longer viable or suitable for any form of employment use. Within this, the applicant should either submit evidence of a sustained but ultimately unsuccessful marketing exercise, undertaken at a realistic asking price or demonstrate that the land is inherently unsuitable and/or not viable or suitable for any form of employment use. The information supplied with the application failed to demonstrate that the site was no longer viable or suitable for any form of employment use.
- 6.7 Since this previous application, it has come to light that the proposal will involve internal alterations and the use will in fact fall under the definition of a Hostel and not a HMO as previously considered by officers.

### Description of Proposal

- 6.8 The description of the application has been amended to accurately reflect the proposed development. The application therefore seeks full planning permission for the change of use of the existing Care Home (within use Class C2 of the Town and Country Planning (Use Classes) Order 1987 as amended) to a Hostel for the Homeless (a “sui generis” use).
- 6.9 Hostels were excluded from Use Class C1 Hotels in 1994 and are sui generis, meaning they are in a Use Class of their own always requiring planning permission. There is no definition of a hostel in planning law but it can be understood as providing overnight or short term

accommodation which may be supervised, where people can usually stay free or cheaply. Hostels may provide board, although some may provide facilities for self-catering. The element of supervision should not be relied on as a determining factor to take into account in considering the use class of the premises. Occasionally hostels are used to provide longer-term accommodation, but a hostel is not a residential care home, irrespective of any supervision it may have.

6.10 The alterations to the internal accommodation and layout are summarised below;

<b>Floor Level</b>	<b>Existing (15 bedrooms)</b>	<b>Proposed (9 bedrooms, 1 spare)</b>
<b>Ground Floor Plan</b>	Lounge	<i>No change</i>
	TV Room	becomes Dining Room
	Dining Room	Split into 2 and becomes a Smoking area (off the dining room) and staff area (off the kitchen)
	Kitchen	<i>No change</i>
	Pantry	<i>No change</i>
	Laundry Room	becomes Store Room
	Wet-room	<i>No change</i>
	WC	<i>No change</i>
	Room 1 (including sink)	Combined to become Room 1 (sink to remain)
	Room 2	
	Room 3 (including sink and toilet)	becomes Room 2 (sink and toilet remain)
	Room 4	becomes Laundry Room
	Room 5 (including sink and toilet)	becomes Room 3 (sink and toilet to remain but moved)
Garden room (no internal connection)	<i>No change</i>	
<b>First Floor Plan</b>	Office	<i>No change</i>
	Laundry Room (including toilet)	becomes Bathroom
	Shower Room	<i>No change</i>
	Room 6 (including toilet)	Room 6 (toilet remains and sink added)
	Room 7 (including toilet)	becomes Room 5 (toilet remains and sink added)
	Room 8	Combined to become Room 4 (toilet and sink added to room, communal toilet and sink added with access from hallway)
	Room 9 (including toilet)	
	Room 10 (including toilet)	becomes Staff Room
	Room 11 (including sink)	becomes room 7 (toilet and sink)
	Room 12 (including sink)	becomes spare room (sink remains)
	Room 13 (including sink)	Becomes Room 9 (shower room added)
	Room 14 (including toilet)	becomes Room 8 (toilet and sink remain)
	Room 15 (including sink)	
Garden Room	No change	

- 6.11 As described within the Planning Statement accompanying the application, the premises will be managed on a 24/7 basis and will operate an onsite facility offering various life courses. The application form details that the facility will be supported by 4 full time staff and 4 part time staff.

#### Principle of Development

- 6.12 The National Planning Policy Framework 2019 (NPPF) states that housing applications should be considered in the context of the presumption in favour of sustainable development and that the Council should deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. It is important to help create mixed and inclusive communities, which offer a choice of housing and lifestyle. It does not accept that different types of housing and tenures make bad neighbours. As such local planning authorities should encourage the development of mixed and balanced communities: they should ensure that new housing developments help to secure a better social mix by avoiding the creation of large areas of housing of similar characteristics.
- 6.13 Given the current shortage of affordable homes in the District, facilities such as this play a vital role in providing short term accommodation for sections of society, which is supported by national policy.
- 6.14 The site is located within easy walking distance of the local convenience store and post office with other facilities and employment opportunities within the village including The Ship Public House, Walton Road Garage, Kirby-le-Soken Church as well as The Red Lion Public House and St. Michael's Church and community hall beyond. In addition, there are bus stops in close proximity to the site providing regular services to Walton, Frinton and Clacton, and also offering a service to Colchester. There is also a footpath on the opposite side of the road providing a link to Frinton and Walton. The sustainability of the site is reflected in the Council's inclusion of the site within the extended settlement development boundary in the emerging Local Plan.
- 6.15 As stated above, the facility will be supported by 4 full time staff and 4 part time staff and therefore does not result in the loss of the employment use and does not require assessment under the provisions of Saved Policy ER3 of the adopted Tendring District Local Plan 2007.

#### Residential Amenities

- 6.16 Paragraph 127 of the National Planning Policy Framework 2019 states that planning should always seek to secure a high standard of amenity for existing and future users. Policy QL11 of the adopted Tendring District Local Plan (2007) states that development will only be permitted if it 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.
- 6.17 The proposed internal alterations include enlarged rooms and the provision of wash facilities in each. The site is served by ample garden space to serve the 9 residents. The proposal is therefore considered to result in a good standard of amenity for its future occupants.
- 6.18 The site is located on the edge of the village with the majority of neighbouring dwellings being to the west of the site. There are no building works and the proposal will not result in any loss of outlook or light.
- 6.19 Regard must be had to the existing lawful use which allows accommodation for 15 residents and the associated comings and goings of visitors, staff and deliveries. The proposed use will see a reduction in residents to 9, which will in turn reduce the number associated movements and potential for any noise or disturbance to neighbouring properties. Through

an appropriately worded condition the number of residents will be restricted to a maximum of 9.

#### Access and Parking

- 6.20 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 and the design and layout of the development provides safe and convenient access for people. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 6.21 Access to the site is gained via an existing driveway. The site can accommodate 9 parking spaces and 1 disabled parking space together with two motorcycle spaces. The development will involve the installing of new bike racks on the site which will be secured by condition.
- 6.22 Essex County Council Highway Authority raise no objection to the proposal.

#### Financial Contributions – Recreational Disturbance

- 6.23 Under the Habitats Regulations, Where necessary, a proportionate financial contribution will be secured in line with the Essex Coast RAMS requirements to ensure that this proposal will not have an adverse effect on the integrity of the above European sites from recreational disturbance, when considered 'in combination' with other development.
- 6.24 This residential development lies within the Zone of Influence. The site is not within or directly adjacent to one of the European designated sites, but is approximately 600 metres from the Hamford Water SAC, SPA and Ramsar.
- 6.25 In this instance, the proposal will result in fewer residents than currently allowed within the existing care home. Therefore, the number of visitors to Hamford Water is likely to decrease as a result of the development and a proportionate financial contribution is not considered necessary in this instance.

### **7. Conclusion**

- 7.1 The proposal will ensure a vacant premises is brought back into use; facilitating new employment and providing a valuable contribution to the housing mix for the District in a sustainable location recognised by national and local plan policies.

### **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: Proposed Floor Plan MH-3596.

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

- 3) The use hereby approved shall only be occupied by a maximum of 9 residents at any one time.

Reason – In order to control the intensity of the use in the interests of residential amenities.

- 4) Prior to the occupation of the development, details of the siting and design of secure, convenient, covered Cycle parking that accords with the Parking Standards shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained in its approved form unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure appropriate cycle parking is provided in the interest of highway safety and to promote alternative sustainable modes of transport.

- 5) Prior to the occupation of the development, a detailed Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Management Plan shall provide for;

- Staffing hours and shift patterns;
- Responsibilities and duties of staff on site during each shift;
- Record management of residents and the duration of their stay; and,
- Full details of the operation times and details of courses being offered.

The use shall be carried out in strict accordance with the approved Management Plan unless otherwise agreed in writing by the Local Planning Authority.

Reason – To ensure the use is appropriate in this location as insufficient information has been provided with the application.

### 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.

## 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/>.

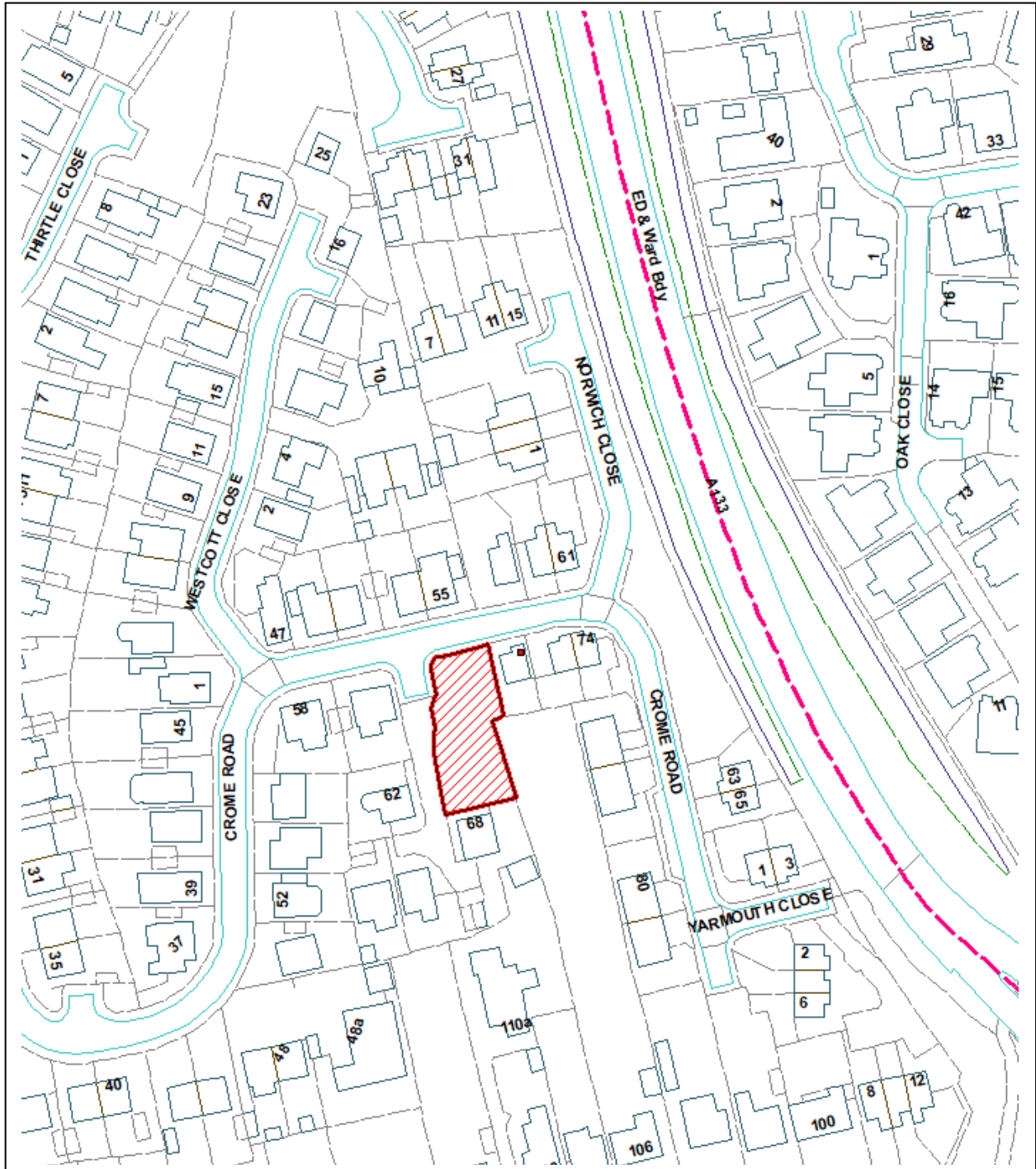
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## PLANNING COMMITTEE

16 JUNE 2020

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### **A.4 PLANNING APPLICATION – 19/01906/OUT – LAND WEST OF 70 CROME ROAD CLACTON ON SEA CO16 8YG**



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**Application:** 19/01906/OUT

**Town / Parish:** Clacton Non Parished

**Applicant:** Tendring District Council

**Address:** Land West of 70 Crome Road Clacton On Sea CO16 8YG

**Development:** Outline permission for 2 detached dwellings (all matters reserved).

## 1. Executive Summary

- 1.1 This application is before Members as the application is being made by Tendring District Council.
- 1.2 The application relates to a parcel of land approximately 0.06 hectares in size located to the west of 70 Crome Road within the Cann Hall estate, Clacton on Sea.
- 1.3 The application seeks outline planning permission with all matters reserved for the erection of 2 detached dwellings.
- 1.4 On the 18th January 2019 it was corporately agreed by the Portfolio Holder for Finance and Corporate Resources to initiate the process to dispose of the land and to explore the opportunity to develop the land asset for 2 dwellings in order to support local housing provision. This disposal is part of the Council's land rationalisation project.
- 1.5 The site lies within the Clacton on Sea 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. As such the principle of siting 2 dwellings on this land is acceptable subject to the detailed considerations.
- 1.6 The site is not safeguarded open space within either the adopted or emerging Local Plans and is surrounded by existing housing; the site has limited visual amenity value being devoid of any soft landscaping; and the site has limited recreational value lacking any street furniture. The amenity and recreational value of the land is therefore limited and its re-development for 2 dwellings is not considered to result in any significant harm.
- 1.7 The plot size is considered sufficient to accommodate 2 dwellings in a manner which would not result in a cramped development providing sufficient private amenity space and parking for both dwellings, as demonstrated by the accompanying indicative layout plan. The resultant density would appear in keeping with the existing pattern of development and would not result in any significant harm to the character of the area.
- 1.8 The application is accompanied by a completed unilateral undertaking securing the financial contribution toward recreational disturbance in accordance with the Essex coast Recreational disturbance Avoidance and Mitigation Strategy.
- 1.9 Officers consider that sufficient space is available on site to provide a development that, through the submission of a reserved matters application, could achieve a development that would not detract from the character of the area or harm residential amenities. The application is therefore recommended for approval.

## **Recommendation: Outline 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).

## **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

HG3 Residential Development Within Defined Settlements

HG9 Private Amenity Space

HG14 Side Isolation

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

COM6 Provision of Recreational Open Space for New Residential Development

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

*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

LP3 Housing Density and Standards

LP4 Housing Layout

CP1 Sustainable Transport and Accessibility

PPL4 Biodiversity and Geodiversity

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

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, with further hearing sessions in January 2020. The Inspector issued his findings in respect of the legal compliance and soundness of the Section 1 Plan in May 2020. He confirmed that the plan was legally compliant and that the housing and employment targets for each of the North Essex Authorities, including Tendring, were sound. However, he has recommended that for the plan to proceed to adoption, modifications will be required – including the removal of two of the three Garden Communities 'Garden Communities' proposed along the A120 (to the West of Braintree and on the Colchester/Braintree Border) that were designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033.
- 2.4 The three North Essex Authorities are currently considering the Inspector's advice and the implications of such modifications with a view to agreeing a way forward for the Local Plan. With the Local Plan requiring modifications which, in due course, will be the subject of consultation on their own right, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications – increasing with each stage of the plan-making process.
- 2.5 The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will progress once modifications to the Section 1 have been consulted upon and agreed by the Inspector. 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.
- 2.6 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 (which applies until such time that the figures in the new Local Plan are adopted).

In addition, the actual need for housing (as set out in the emerging Local Plan) 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, as recently endorsed by the Local Plan Inspector. Therefore, in weighing the benefits of residential development against the harm, the Inspector's endorsement of the lower housing requirement figure is a strong material consideration which tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing to address the perceived shortfall – given that, against the Local Plan housing requirement there is, in fact, a surplus of supply as opposed to a shortfall.

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

None relevant.

### **4. Consultations**

ECC Highways Dept  
05.02.2020

The information that was submitted in association with the application has been fully considered by the Highway Authority. The site is located within an existing residential area, the proposals make provision for off street parking in line with Development Management Policies as adopted as County Council Supplementary Guidance in February 2011 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 occupation of the development each vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be more than 3.6 metres (equivalent to 4 drop kerbs), shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.

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

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

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

3. The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, 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 in accordance with Policy DM8.

4. There shall be no discharge of surface water onto the Highway.

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

5. 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 in accordance with Policy DM8.

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

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

iv. wheel and underbody washing facilities Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM1.

7. No occupation of the dwellings shall take place until the following has been provided or completed:

The extension of the footway on the east side of proposed dwelling accessed from Crome Road; southwards to a



minimum width of 1.8 metres to the proposed driveway of the second dwelling.

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM1, DM9, DM10 and DM17.

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](mailto:development.management@essexhighways.org) or by post to:

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

3: 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 The site is located within the non-parished area of Clacton on Sea.
- 5.2 10 letters have been received objecting to the development. The concerns raised can be summarised and addressed as follows (officer response in italics);
  - Out of character – especially 2 storey dwellings.

- Cramped.
- Loss of light.
- Loss of privacy.

**Officers consider that sufficient space is available on site to provide a development that, through the submission of a reserved matters application, could achieve a development that would not detract from the character of the area or harm residential amenities.**

- Loss of open space / play space.

**This is addressed in the main report below.**

- On street parking problems.
- Harm to highway safety from increased traffic.
- Unsuitable single width access.
- Will lead to obstruction of emergency vehicles and waste collection vehicles.

**The development is for 2 dwellings only and the site can accommodate sufficient parking for the new dwellings. The Highway Authority raise no objection to the development subject to conditions including the requirement for the extension of the footpath in the interests of highway and pedestrian safety.**

- Noise, disturbance and obstruction from construction.

**This is an inevitable part of the building process but cannot form a reason for refusal. Noise and disturbance can be mitigated by the approval of a Construction Method Statement which will be secured by condition.**

- No right of way across private access.

**Right of access and ownership are a legal matter between the relevant parties and do not form material planning considerations.**

- Loss of view.

**This is not a material planning consideration.**

## **6. Assessment**

6.1 The main considerations are;

- Site Context;
- Description of Proposal;
- Site History;
- Principle of Development;
- Landscaping and Loss of Open Space;
- Scale, Layout and Appearance;
- Residential Amenities;
- Highway Safety and Parking;
- Legal Obligations - Recreational Impact Mitigation; and,
- Legal Obligations - Open Space/Play Space Contribution.

### Site Context

6.2 The application relates to a parcel of land approximately 0.06 hectares in size located to the west of 70 Crome Road within the Cann Hall estate, Clacton on Sea.

6.3 The site occupies a corner plot fronting Crome Road to the north with the west side bordering a turning head and a private access road to a small group of dwellings. The residential character is mixed comprising both single and two-storey dwellings. Bungalows dominate the street scene to the west and two-storey dwellings dominate the street scene to the east.

6.4 The site has an open frontage and comprises mowed grassland bounded by the rear and side boundaries of existing residential dwellings and their gardens.

#### Description of Proposal

6.5 The application seeks outline planning permission with all matters reserved for the erection of 2 detached dwellings.

6.6 Layout, scale, appearance, access and landscaping are all reserved for future consideration.

6.7 The application is accompanied by an indicative layout plan demonstrating how the site could be developed with one dwelling fronting Crome Road and the other fronting the turning head to the west. Each dwelling is served by a private garden area and 2 parking spaces.

#### Site History

6.8 The wider development around the Crome Road area was first planned in the 1980s on former farm land with the site in question shown as open space on the original plan. The plot was transferred to the Council in 1993 by the developer for a nominal fee together with similar small odd shaped greenspaces dotted in the neighbourhood.

6.9 The site did not form part of the Tendring Open Spaces Strategy carried out in 2007 as the site falls under 0.2 hectares. The plot does not form part of a green corridor and is too small to constitute as recreational open space on its own merit. Consequently, the site is not designated or protected open space within either the adopted or emerging Local Plans.

6.10 On the 18<sup>th</sup> January 2019 it was corporately agreed by the Portfolio Holder for Finance and Corporate Resources to initiate the process to dispose of the land and to explore the opportunity to develop the land asset for 2 dwellings in order to support local housing provision. This disposal is part of the Council's land rationalisation project.

#### Principle of Development

6.11 The site lies within the Clacton on Sea 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.

6.12 Saved Policy HG3 of the adopted Local Plan deals with residential development within defined settlements stating that, within the defined development boundaries of towns and villages, residential development will be permitted provided it satisfies amenity, design, density, environmental and highway safety as appropriate, and can take place without material harm to the character of the local area. Emerging Policy SPL2 states that within the Settlement Development Boundaries, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local plan policies.

6.13 As such the principle of siting 2 dwellings on this land is acceptable subject to the detailed considerations relevant to this proposal set out below.

#### Landscaping and Loss of Open Space

6.14 The site is set to grass and does not contain any trees or other significant vegetation. At the southern end of the eastern boundary there is a short section of coniferous hedge and a bank of brambles. None of the vegetation on the site merits retention or protection by means of a tree preservation order. The site is not safeguarded open space within either the adopted or emerging Local Plans.

- 6.15 In terms of the impact of the development on the local street scene, the loss of the open space would visually detract from the current 'open' character of the area to some extent. At the present time the open space does not appear to be well used but it does have the potential to provide recreational benefits for local residents.
- 6.16 However, a short distance from the application site is a generous strip of grassland bounded by mature vegetation running the length of Crome Road and Norwich Close screening the A133. Therefore, the openness of the character of the immediate locality would not be significantly altered or compromised by the development of this site.
- 6.17 Furthermore, the site is located within easy walking distance of safeguarded green spaces with the closest being 160 metres to the north located at the end of Westcott Close.
- 6.18 Details of soft landscaping would be secured at the reserved matters stage of the application softening and enhancing the development.
- 6.19 Whilst the benefits of the site in its current form are recognised, the site is not safeguarded open space within either the adopted or emerging Local Plans and is surrounded by housing; the site has limited visual amenity value being devoid of any soft landscaping; and the site has limited recreational value lacking of any street furniture. The amenity and recreational value of the land is therefore limited and its re-development for 2 dwellings is not considered to result in any significant harm that warrants refusal of planning permission on this basis.

#### Scale, Layout and Appearance

- 6.20 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.
- 6.21 The plot size is considered sufficient to accommodate 2 dwellings in a manner which would not result in a cramped development providing sufficient private amenity space and parking for both dwellings, as demonstrated by the accompanying indicative layout plan. The resultant density would appear in keeping with the existing pattern of development and would not result in any significant harm to the character of the area.

#### Residential Amenities

- 6.22 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 supports these objectives.
- 6.23 Although scale forms a reserved matter, due to the relationship of the site with the side and rear garden areas of existing dwellings and their windows, officers have concerns that two-

storey development in this location has the potential to result in a harmful impact upon the residential amenities of both existing and future occupants. This would be given full consideration at the time of the detailed application. However, an informative will be added to advise that single storey development is likely to be the most suitable.

- 6.24 Overall, officers consider that sufficient space is available on site to provide a development that, through the submission of a reserved matters application, could achieve internal layout and separation distances that would not significantly detract from the amenities of nearby properties or the future occupiers of the proposed dwellings; and could provide ample garden space in excess of the minimum standards set out within Saved Policy HG9 of the adopted Tendring District Local Plan (2007).

#### Highway Safety and Parking

- 6.25 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 and the design and layout of the development provides safe and convenient access for people. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 6.26 The Council's Adopted Parking Standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally.
- 6.27 The application is in outline form with all matters reserved. It is considered that the site is capable of accommodating the required level of parking and the submitted indicative plan demonstrates this. The additional traffic movements associated with 2 dwellings would not be excessive and therefore not harmful to highway safety.
- 6.28 Essex County Council as the Highway Authority has been consulted on the application and raise no objection to the development subject to conditions which will be imposed or added as informatives as required having regard to the access considerations forming a reserved matter.

#### Legal Obligations - Recreational Impact Mitigation

- 6.29 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.
- 6.30 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.
- 6.31 The application scheme proposes new dwellings on a site that lies within the Zone of Influence (ZoI) being approximately 5800 metres from the Colne Estuary SPA and Ramsar. New housing development within the ZoI would be likely to increase the number of recreational visitors to the 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.

- 6.32 A unilateral undertaking is required 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.
- 6.33 A completed unilateral undertaking has been received thus securing the required financial obligation.

#### Legal Obligations - Open Space/Play Space Contribution

- 6.34 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.
- 6.35 Due to the scale of development and the provision of open space and public space in the vicinity, no contribution is being requested from the Open Space Team on this occasion.

### **7. Conclusion**

- 7.1 The site is located within the settlement development boundary and is not designated as safeguarded open space. The development is considered to represent a sustainable form of development that accords with the aims of national and local plan policy.
- 7.2 Officers consider that sufficient space is available on site to provide a development that, through the submission of a reserved matters application, could achieve a development that would not detract from the character of the area or harm residential amenities. The application is therefore recommended for approval.

### **8. Recommendation**

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions, informatives and Section 106 legal agreement with the agreed Heads of Terms, as set out in the table below:

<b>CATEGORY</b>	<b>TERMS</b>
Financial contribution towards RAMS.	£125.58 per dwelling

#### **8.2 Conditions and Reasons**

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

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

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

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

- 3) No development shall be commenced until plans and particulars of "the Reserved Matters" referred to in the above conditions relating to the Access, Appearance, Landscaping, Layout and Scale have been submitted to and agreed in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

- 4) 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.

- 5) No above ground works shall take place until a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved by the Local Planning Authority. The approved boundary treatment shall be implemented before the dwellings hereby permitted are occupied and retained in this approved form unless otherwise agreed in writing by the Local Planning Authority.

Reason - In the interests of providing adequate privacy for occupiers of the development and neighbouring residential properties and in the interests of visual amenity.

- 6) 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 the dwelling or its roof, nor shall any buildings, enclosures, swimming or other pool be erected except in accordance with drawings showing the design and siting of such additions and/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 amenities.

- 7) All new parking areas and areas of hardstanding 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 within the site.

Reason - In the interests of sustainable development and to minimise the risk of surface water flooding.

- 8) Any tandem vehicular parking shall have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles. If bounded by walls or enclosures this shall be 3.4 metres x 11 metres.

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

- 9) No occupation of the dwellings shall take place until the following has been provided or completed:

- The extension of the footway on the east side of proposed dwelling accessed from Crome Road; southwards to a minimum width of 1.8 metres to the proposed driveway of the second dwelling.

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

### 8.3 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.

#### 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

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.



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](mailto:development.management@essexhighways.org) or by post to:

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

3: 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.

#### Scale of Development

To avoid neighbour amenity issues including loss of privacy, loss of outlook and loss of light, it is strongly advised that the scale of the development submitted at the reserved matters stages is for single storey properties only.

### **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**

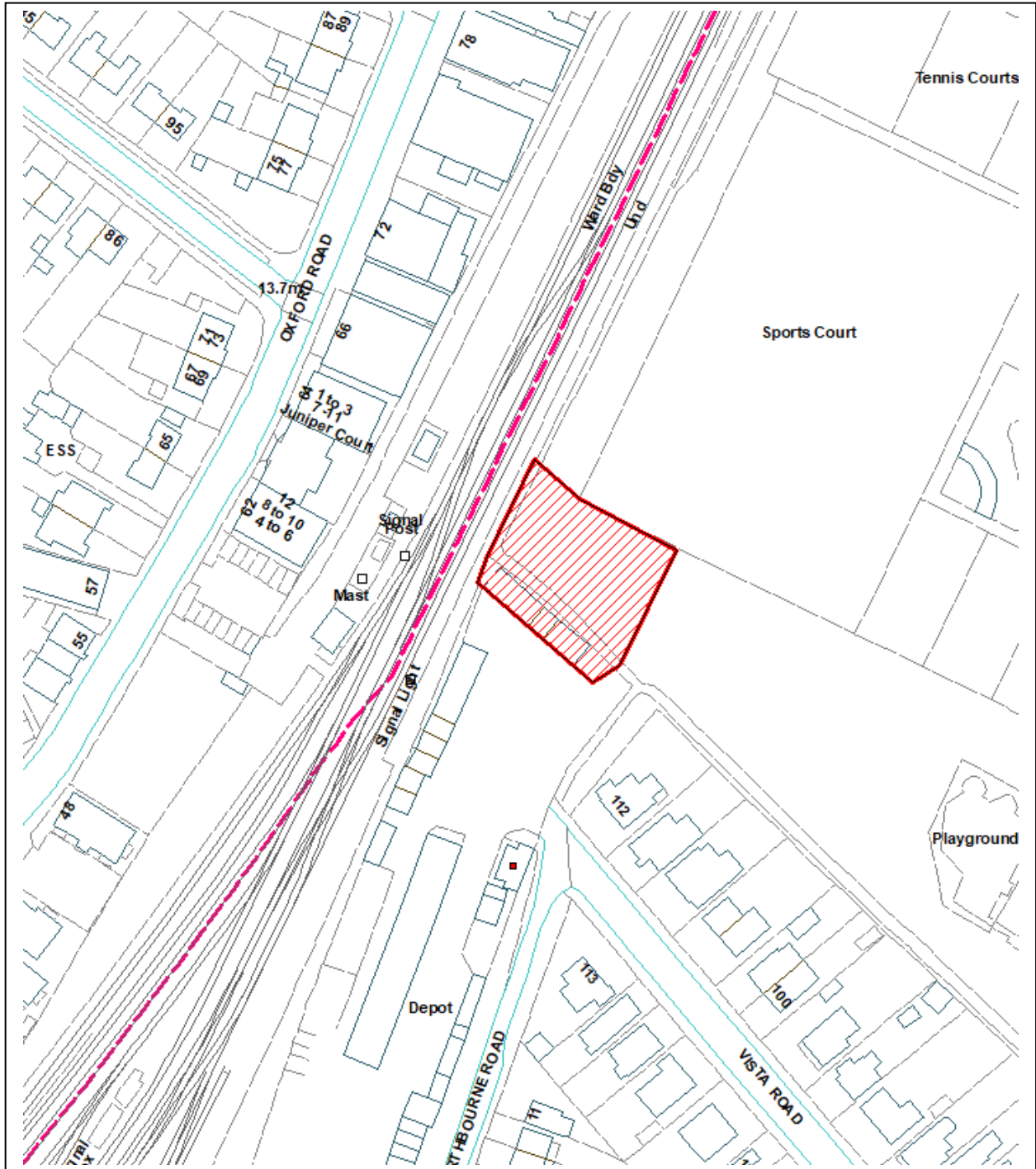
- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) 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/>.

## PLANNING COMMITTEE

16 JUNE 2020

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### **A.5 PLANNING APPLICATION – 20/00160/FUL – NORTHBOURNE DEPOT VISTA ROAD CLACTON ON SEA CO15 6AY**



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**Application:** 20/00160/FUL

**Town / Parish:** Clacton Non Parished

**Applicant:** Mr Andrew Nepean - Tendring District Council

**Address:** Northbourne Depot Vista Road Clacton On Sea CO15 6AY

**Development:** Proposed single storey extension to existing storage building, extended compound and relocation of footpath.

## 1. Executive Summary

- 1.1 This application is referred to the Planning Committee as the applicant is Tendring District Council.
- 1.2 The application involves a proposed single storey extension to the existing storage building, extended compound and relocation of footpath.
- 1.3 The site is not allocated as Employment Land nor safeguarded for employment use in the Employment Land Review. Policy ER3 of the Tendring District Local Plan (2007) seeks to ensure that land in or allocated for employment use will normally be retained for that purpose. The use of the site will be retained for employment purposes. The principle of development is acceptable subject to the detailed consideration below.
- 1.4 The proposal will not result in any material harm to residential amenity or highway safety and will result in a slight visual improvement.

### **Recommendation:**

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

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 Policy:

*NPPF National Planning Policy Framework February 2019*

*National Planning Practice Guidance*

### Local Policy:

*Tendring District Local Plan 2007*

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR4 Safeguarding and Improving Public Rights of Way

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

SPL3 Sustainable Design

PP6 Employment Sites

Local Planning Guidance:

*Essex Design Guide*

*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.

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

96/00223/FUL	(Northbourne Depot, Northbourne Road, Clacton on Sea) Proposed single storey flat roof structure for office use	Approved	29.03.1996
18/00111/FUL	Proposed change of use from storage facilities, B8 to new office accommodation, B1(a).	Approved	08.03.2018
19/01189/FUL	Proposed construction of a single storey building to house new dog	Withdrawn	12.03.2020

kennels.

20/00160/FUL Proposed single storey extension to existing storage building, extended compound and relocation of footpath. Current

#### 4. Consultations

ECC Highways Dept Highways acknowledge that a diversion application has been made and do not object; notwithstanding this - no obstruction of the current route can take place unless/until that diversion is successful.

Public Rights of Way In principal PROW are happy with this proposal.

#### 5. Representations

5.1 One letter was received in response to the public consultation process. The contents are summarised as:-

What will the compound be used for and is it appropriate to be screened from the recreation ground	The compound will be used as an extension to the existing storage facilities (sports equipment and sports pitch maintenance equipment) and the application is determined on the basis of the information submitted. This new extension is to replace a building located elsewhere which is being disposed of by the Council.
The site has raised areas and trees. Is it proposed to keep to these levels, what is proposed?	The raised areas of the site will be levelled to form the area of the extension, compound and relocated footpath. The trees were removed by the Council prior to the application.
Why is gated access to the recreation ground needed? Is an access track required, frequency of use please?	The compound gate access is required to access the tennis courts and all weather pitches for maintenance. This will have a very low use according to the applicant.

#### 6. Assessment

6.1 The main planning considerations are: the principle of development, visual amenity, impact on neighbouring amenities and the relocation of the public footpath.

##### Site Context

6.2 The application site is located to the west of Northbourne Road, Clacton. Having regard to both the Saved Tendring District Local Plan (2007) and Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017), the site lies within the defined Settlement Development Boundary of Clacton on Sea.

6.3 The site comprises of a number of office, storage buildings as well as parking facilities with access to the north eastern end of the site used by Tendring District Council. To the east of the site are residential properties in Northbourne Road and Vista Road, to the west of the site is the railway line and to the north lies Clacton Leisure Centre.

### Proposal

- 6.4 The application seeks planning permission for the erection of a single storey extension to an existing store, an extension to the existing compound area and the relocation of a public footpath.
- 6.5 The extension would be sited to the north-east (rear) elevation of the existing storage area; it would be 6.1m deep and have an overall width of 18m and be accessed through the creation of two new openings in the existing rear wall. As the extension is entirely contained behind the existing store there would be very little visible change to the existing views. The addition has a dual pitched roof with a ridge height around 3.9m; this is around 0.2m higher than the existing. Externally the walls would be finished in a facing brickwork to match the existing and contain one north-east facing roller-shutter door, the roof covering would be a corrugated sheeting.
- 6.6 The existing site layout does not have any provision for external storage as the rear boundary is tight against the rear elevation. The compound would follow alongside the (new) right hand wall of the new extension and continue in a north-easterly direction for around 17m, at which point it would turn 90 degrees and continue in a north-westerly direction for around 26.5m until it meets the existing site boundary – thereby enclosing approximately 300sqm of land. The perimeter of the compound would be delineated with a 2.4m high metal palisade fence to match existing boundary treatments.
- 6.7 The existing public footpath (Footpath No. 23 – Great Clacton) currently runs in a north-westerly direction behind the rear elevation of the existing store in a roughly ‘L’ shape. The realigned footpath would form a lazy ‘S’ shape, curving approximately 2m away from the south-easterly corner of the compound and, following a north-easterly direction would continue until re-joining the existing footpath just below the south-westerly boundary of the existing sports-field of Clacton Leisure Centre.

### Principle of development

- 6.8 The site is not allocated as Employment Land nor safeguarded for employment use in the Employment Land Review. Policy ER3 of the Tendring District Local Plan (2007) seeks to ensure that land in or allocated for employment use will normally be retained for that purpose. The use of the site will be retained for employment purpose and the extended store and new compound will not affect this use.
- 6.9 The principle of development is acceptable subject to the detailed consideration below.

### Visual Impact

- 6.10 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 suitable scale, mass and form.
- 6.11 The proposed extension and new perimeter fencing will not be visually prominent from Northbourne Road or Vista Road due to the extension being situated behind the existing storage building; for this reason it will not adversely impact upon the street scene. Whilst the development would be visible from the newly realigned public footpath the development is well designed, relates satisfactorily to its setting and is of suitable scale, mass and form and for these reasons would have limited visual impact for users of the realigned public footpath.

### Impact to Neighbouring Amenities

- 6.12 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).
- 6.13 The new extension and curtilage fencing would be sited no closer to the closest neighbour at 112 Vista Road than the existing structures; the realigned footpath is further to the north-west than the existing footpath. For these reasons, the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

### Parking and Highways

- 6.14 Essex County Council Highways have been consulted on this application and raise no objection.
- 6.15 The proposal neither generates nor decreases the existing parking provision at the site.
- 6.16 In regards to the diversion of the Public Right of Way; a separate application under Section 257 of the Town & Country Planning Act 1990 (the authorising of the diversion of any footpath) will be made once it is possible to comply with the requirements of the legislation. It is not currently possible to comply with the requirement of S.257 inasmuch as deposit copies of orders and order notices cannot be made available for the public to view at a local government office by virtue of the current pandemic.

## **7. Conclusion**

- 7.1 The construction of a single-storey rear extension, provision of a new compound with perimeter railings and the relocation of Public Footpath No. 23 are considered to be acceptable in principle. The proposals do not result in any material harm to visual amenity, impact upon neighbouring amenities or have any adverse impact on highway safety.

## **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:- 3447-PA-10, 3447-PA-11 and 3447-PA-12; received 5th February 2020.

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



- 3) Notwithstanding the requirement that the development hereby permitted shall be begun before the expiration of three years from the date of this permission; no obstruction of the current Public Footpath (Footpath No. 23) can take place unless/until the diversion under Section 257 of the Town & Country Planning Act 1990 (the authorising of the diversion of any footpath) is successful.

Reason - To ensure the continued safe passage of the public on the definitive right of way is maintained free and unobstructed at all times.

### 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.

A separate application under Section 257 of the Town & Country Planning Act 1990 (the authorising of the diversion of any footpath) must be made once it is possible to comply with the requirements of the legislation. Due to the current restrictions on non-essential movements of the general public, it is not currently possible to comply with the requirement of S.257 inasmuch as making deposit copies of orders and order notices available for the public to view in person at a local government office.

## 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/>.