



## PLANNING COMMITTEE

**DATE:** Tuesday, 14 July 2020

**TIME:** 6.00 pm

**VENUE:** Meeting will be held remotely in accordance with SI 2020/392. Link to the live stream is found here:  
<https://www.tendringdc.gov.uk/livemeetings>

### MEMBERSHIP:

Councillor White (Chairman)  
Councillor Bray (Vice-Chairman)  
Councillor Alexander  
Councillor Cawthron  
Councillor Casey

Councillor Codling  
Councillor Fowler  
Councillor Harris  
Councillor Placey

Most Council meetings are open to the public and press.

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

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

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

DATE OF PUBLICATION: Tuesday, 7 July 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 - 12)**

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

### **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 19-01706-OUT - LAND SOUTH WEST OF HORSLEY CROSS ROUNDABOUT (Pages 13 - 50)**

Outline planning application for employment development, comprising Phase 1 for 15,350 sqm of B2 development rising to a maximum building height of 21.7m and Phase 2 for up to 18,117 sqm of B1c / B2 and B8 uses rising to a maximum building height of 12m, together with associated access, landscaping, parking and drainage pond.

### **6 A.2 PLANNING APPLICATION 20-00119-FUL - OAKLEIGH RESIDENTIAL PARK, WEELEY (Pages 51 - 72)**

Proposed change of use to create a retirement park by allowing the residential use of 143 caravans approved under planning permissions APP/P1560/W/17/3183981 and 19/00707/FUL.

### **7 A.3 PLANNING APPLICATION 20-00338-FUL - LAND TO THE WEST OF 45 HARWICH ROAD, LAW FORD CO11 2LS (Pages 73 - 92)**

Erection of two semi-detached dwellings.

### **8 A.4 PLANNING APPLICATION 20-00387-FUL - 64A LADYSMITH ROAD, BRIGHTLINGSEA CO7 0JD (Pages 93 - 98)**

Proposed first floor front extension.

**MEETING OVERRUN DATE**

**In the event that all business is not concluded, the meeting will reconvene on a date to be decided by the Chairman of the Committee to consider any remaining agenda items.**

**Date of the Next Scheduled Meeting**

*The meeting will be held remotely in accordance with the provisions of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meeting) at 6.00 pm on Tuesday, 11 August 2020.*

# Tendring District Council



## PLANNING COMMITTEE MEETINGS PUBLIC SPEAKING SCHEME May 2017

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

### TO WHICH MEETINGS DOES THIS SCHEME APPLY?

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

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

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

7. A member of the Council's Cabinet may also be permitted to speak on any application but only if the proposed development has a direct impact on the portfolio for which the Cabinet member is responsible. The Leader of the Council must approve the Cabinet Member making representations to the Planning Committee. A maximum of 3 minutes is allowed.

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

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

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

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

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

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

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

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

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

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

You can:-

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

## **OR**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,  
HELD ON TUESDAY, 16TH JUNE, 2020 AT 6.00 PM  
THE MEETING WAS 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](https://www.tendringdc.gov.uk/livemeetings)**

<b>Present:</b>	Councillors White (Chairman), Bray (Vice-Chairman), Alexander, Cawthron, Codling, Fowler, Harris, McWilliams and Placey
<b>In Attendance:</b>	Graham Nourse (Acting Assistant Director (Planning)), Lisa Hastings (Assistant Director (Governance) & Monitoring Officer), Keith Simmons (Head of Democratic Services and Elections), Trevor Faulkner (Temporary Planning Team Leader), Amy Lang (Planning Officer), Emma Haward (Leadership Support Assistant) and Hattie Dawson-Dragisic (Appentice (Democratic Services & Elections))

**10. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

**11. MINUTES OF THE LAST MEETING**

The minutes of the meeting of the Committee, held on Tuesday 19 May 2020, were agreed by the Chairman of the Committee. Proposed as a correct record by Councillor Bray and seconded by Councillor McWilliams.

**12. DECLARATIONS OF INTEREST**

Councillor Fowler declared a personal interest in Planning Application 20/00150-FUL – The Lawford Surgery, 2 Edgefield Road, Lawford CO11 2HD due to being the Ward Member.

Councillor Placey declared a non-pecuniary interest in Planning Application 19/01906/OUT – Land West of 70 Crome Road, Clacton-on-Sea CO16 8YG.

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

There were no questions on notice on this occasion.

**14. A.1 PLANNING APPLICATION 19-00188-FUL LOWER FARM EAST END GREEN BRIGHTLINGSEA CO7 0SX**

It was reported that this application had been referred to the Planning Committee as it represented a departure from the Local Plan. The development applied for related 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.

The Committee was informed that the application site was situated on the north-eastern edge of Brightlingsea on land to the north of Robinson Road. The site comprised approximately 81 acres of former gravel workings which established a low-level restoration profile. The site had been left to self-seed, which had created areas of open scrub, grassland and woodland around three former silt lagoons, which had formed five open lakes. The site was 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.

In respect of the tourism use, it was felt that the development of the Lower Farm Park site would offer the opportunity to deliver diversification from its current limited low-level use through its integrated connectivity into the local area. It would 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 had been designed to align themselves with the overarching objectives and policies of the emerging Local Plan and the Council's Tourism Strategy.

In terms of the private housing Members were made aware that this was proposed to, in part, finance the tourism use and trigger points were 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 was located on the edge of a smaller urban settlement with good access to local services/facilities and there was residential development on land directly to the south and south-west of the site. The site contained mature vegetation along its perimeters with Robinson Road. As a consequence there would be minimal landscape impact whilst sufficient spacing to existing residential properties was retained to safeguard amenity.

The Committee was aware that in the current situation the Council was unable to 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 applied. The mixed use development was considered to meet the economic, environmental and social strands of sustainability as outlined in the NPPF.

Therefore, 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 was considered by Officers to be acceptable with no material harm to visual or residential amenity, heritage assets, ecology interests or highway safety, and the application was therefore recommended for approval.

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, Councillor John White declared that this item was deferred to allow alterations to the original application.

**15. A.2 PLANNING APPLICATION 20-00150-FUL - THE LAWFORD SURGERY 2  
EDGEFIELD AVENUE LAWFORD CO11 2HD**

It was reported that this application had been referred to the Planning Committee at the request of Councillor Coley due to his 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.

Members were made aware that the application related 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 adjoined the rear of the newly constructed bungalows within Florence Gardens on the Summers Park development.

The Committee was advised that the application sought full planning permission for alterations and extensions to the roof of the building in order to allow for the creation of 2 administration/office rooms, a bathroom and kitchenette for staff within the roof space. The works included 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 had been subsequently amended to now incorporate the regularisation of the 1.8 metre fence that had been erected enclosing the car park and to include the formal laying out of the existing parking areas into bays.

It was considered that the raising of the roof and resulting roof pitch would 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 roof lights were 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 would occur. The dormer windows were in proportion with the overall scale of the building and resultant roof being acceptable in design terms. The distance to neighbouring properties opposite ensured no harmful overlooking would result from the dormer windows.

Members were informed that the site was located within a well built up residential area. Edgefield Avenue was characterised by bungalows and Colchester Road was characterised by 2 storey dwellings. The proposed development and resultant 1.5 storey appearance was not considered by Officers to be harmful in this mixed character area.

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 was therefore recommended for approval.

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 (AL) in respect of the application.

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

(1) 1 additional letter of objection received (from a previous objector). The points raised can be summarised and addressed as follows (officer response in italics);

- If approved, sets a precedent for all bungalows in the area wishing to add height to their properties, e.g. all of Edgefield Avenue and the bungalows in Florence Gardens.
- Could result in a significant change to the character of the area.

Liz Dunnett, a local resident, spoke against the application.

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

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

- Full obscured glazed windows together with rear roof lights at top level as agreed by the agent.
- Opening hours to remain for staff as to be agreed by surgery manager.

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.

**16. A.3 PLANNING APPLICATION 20-00202-FUL - BRICK BARN RESIDENTIAL CARE HOME 106 WALTON ROAD KIRBY LE SOKEN CO13 0DB**

It was reported that this application had been referred to the Planning Committee at the request of Councillor Knowles due to her concerns with the negative impact on neighbours and previous poor Care Quality Commission (CQC) reports.

The Committee was informed that the application related to Brick Barn Residential Care Home located at 106 Walton Road within the Parish of Kirby-le-Soken. The site lay 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 was 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).

Members were made aware that the application sought 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.

The Committee was advised that this application followed 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 that previous application, it had come to light that the proposal would involve internal alterations and the use would in fact fall under the definition of a Hostel and not a HMO as previously considered by Officers. The facility would be supported by 4 full time staff and 4 part time staff and therefore would not result in the loss of the employment use and would not require assessment under the provisions of Saved Policy ER3 of the adopted Tendring District Local Plan 2007.

It was felt that given the current shortage of affordable homes in the District, facilities such as this played a vital role in providing short term accommodation for sections of society, which is supported by national policy.

Members were advised that 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 were 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.

The proposed use would see a reduction in residents to 9, which would in turn reduce the number of associated movements and potential for any noise or disturbance to neighbouring properties.

Officers considered that the proposal would 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 recommended for approval subject to conditions.

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.

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

(1) Removed from Agenda by Planning Committee Chairman to seek additional information.

At the meeting, Councillor John White declared that this item was deferred, further information was required.

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

The Committee was reminded that this application was before it as the application was being made by Tendring District Council.

It was reported that the application related 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 and sought outline planning permission with all matters reserved for the erection of 2 detached dwellings.

Members were advised that on 18th January 2019 the Portfolio Holder for Corporate Finance and Governance had decided 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 formed part of the Council's land rationalisation project.

The Committee was informed that the site lay 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 was considered to be acceptable subject to the detailed considerations.

It was reported that the site was not safeguarded open space within either the adopted or emerging Local Plans and was surrounded by existing housing; the site had limited visual amenity value being devoid of any soft landscaping; and the site had limited recreational value lacking any street furniture. The amenity and recreational value of the land was therefore limited and its re-development for 2 dwellings was not considered to result in any significant harm.

Members were made aware that the plot size was 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.

The Committee was informed that the application had been 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.

Officers considered therefore that sufficient space is was 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 was therefore recommended for approval.

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 (AL) in respect of the application.

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

(1) Additional information was received from Tendring District Council Assets Team in relation to the decision to dispose of the land and how this contributed to the Council's corporate objectives and met Local Plan Policies. This additional information formed part of the application and is available to view online through Public Access.

Andrew Cartwright, a local resident, spoke against the application.

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

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.

10) 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.

- Application returning for detail under reserved matters.

18. **A.5 PLANNING APPLICATION 20-00160-FUL - NORTHBOURNE DEPOT VISTA ROAD CLACTON ON SEA CO15 6AY**

The Committee was aware that this application had been referred as the applicant was Tendring District Council.

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

Members were informed that the site was not allocated as Employment Land nor safeguarded for employment use in the Employment Land Review. Policy ER3 of the Tendring District Local Plan (2007) sought to ensure that land in or allocated for employment use would normally be retained for that purpose. The use of the site would be retained for employment purposes. The principle of development is was therefore considered to be acceptable subject to the detailed consideration.

Officers considered that the proposal would not result in any material harm to residential amenity or highway safety and would result in a slight visual improvement.

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

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

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

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.

The meeting was declared closed at 9.00 pm

**Chairman**

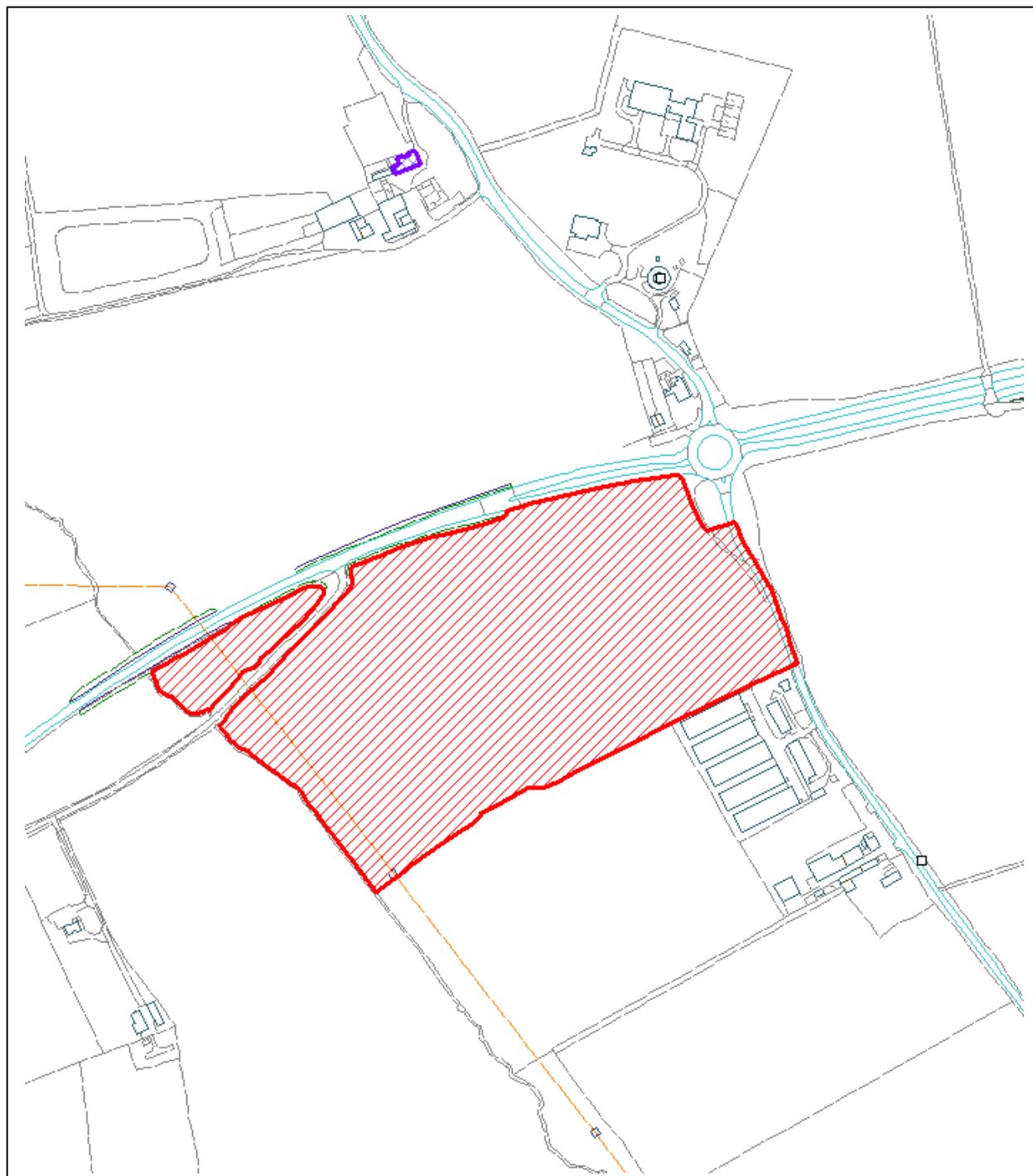
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## PLANNING COMMITTEE

14<sup>TH</sup> JULY 2020

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### **A.1 PLANNING APPLICATION – 19/01706/OUT – LAND SOUTH WEST OF HORSLEY CROSS ROUNDABOUT CLACTON ROAD HORSLEY CROSS CO11 2NZ**



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**Application:** 19/01706/OUT

**Town / Parish:** Mistley Parish Council

**Applicant:** Anglia Maltings (Holdings) and Robert Fairley Limited

**Address:** Land South West of Horsley Cross Roundabout Clacton Road Horsley Cross  
CO11 2NZ

**Development:** Outline planning application for employment development, comprising Phase 1 for 15,350 sqm of B2 development rising to a maximum building height of 21.7m and Phase 2 for up to 18,117 sqm of B1c / B2 and B8 uses rising to a maximum building height of 12m, together with associated access, landscaping, parking and drainage pond.

## 1. Executive Summary

- 1.1 The application site is approximately 11.2 ha and is presently open agricultural land, with part of the site having been used for weekly car boot sales during March to October. It is in a rural area in the centre of the District and to the immediate south west of the A120/B1035 roundabout at Horsley Cross. Colchester is about 8 miles to the west and Harwich is about 9 miles to the east.
- 1.2 An 'extant' consent for outline planning permission (13/00745/OUT) on the site was approved by the Council on 4 August 2014 (with subsequent approval of reserved matters and Certificate of Lawfulness applications to confirm commencement of works) for *"Development of site to provide a new industrial park with up to 28,280m<sup>2</sup> of floorspace for B2 and B8 uses, a bus depot and 30m high telecommunications mast. All with associated access, landscaping, parking and highway improvements"*.
- 1.3 The development of the land will result in harm to the character and appearance of the countryside. However, with sensitive design of the buildings and careful use of 'bundling' and soft landscaping the development could result in the creation of iconic structures in a prominent setting. The development layout shows the retention of boundary trees, they are not threatened by the development proposal and their physical protection during the construction phase of any development, that may be granted planning permission, can be secured by conditions.
- 1.4 With respect to ecology, provided the avoidance, mitigation, compensation and enhancement measures described in the submitted Ecology Assessment are implemented, then there will be no residual effects significant at a local level or above and the scheme should result in a net gain in biodiversity. The development proposals are unlikely to have any significant effect on statutory or non-statutory designated sites.
- 1.5 ECC Highways and Highways England raise no objections to the application subject to appropriate mitigation measures.
- 1.6 ECC Public Transportation Team are satisfied that with rigorous planning conditions to address the provision of a bespoke minibus service, alongside the provision of a workplace travel plan, that the scheme will deliver an appropriate level of sustainable transport measures to address the relatively isolated nature of the site from a public transportation perspective.
- 1.7 The lawful commencement of works on the existing consented scheme - which keeps that 'extant' - and the submission of this current application with a known end-user for the 'Phase 1' component of the site, indicates that there is now a realistic prospect of business

activity on the site and it is hoped that this will be the economic catalyst for 'Phase 2' which will bring new businesses into the Tendring area.

- 1.8 The proposal would result in no material harm to interests of acknowledged importance and would facilitate substantial economic development within the District. The application is recommended for approval.

**Recommendation:**

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

**2. Planning Policy**

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

*National Planning Policy Framework (NPPF)*

- 2.2 The NPPF sets out the Government's planning policies and how these are expected to be applied at the local level.

- 2.3 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'.

- 2.4 The NPPF defines 'sustainable development' as having three dimensions:

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

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

- 2.6 Paragraph 38 of the NPPF states "*Local Planning Authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.*"

*National Planning Practice Guidance (PPG)*

- 2.7 The PPG provides additional planning guidance from Central Government on a range of issues, including, but not limited to: Air Quality; Climate Change; Design, Flood Risk &

Coastal Change; Light Pollution; Natural Environment; Noise and Travel Plans; Transport Assessments and Statements.

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

- 2.8 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.
- 2.9 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.
- 2.10 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.
- 2.11 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.
- 2.12 The following Local Planning Policies are relevant to this planning application:

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

Relevant policies include:

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Relevant policies include:

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

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

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

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

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

CP1: Sustainable Transport and Accessibility – states that proposals for new development must be sustainable in terms of transport and accessibility and therefore should include and encourage opportunities for access to sustainable modes of transport, including walking, cycling and public transport.

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

*Supplementary Guidance*

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

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

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

06/00891/OUT	Use of agricultural land for employment purposes by formation of seven plots and the erection of buildings to enable relocation and expansion of existing businesses in North East Tendring District. (one in Colchester)	Called in by Secretary of State – Appeal Dismissed	29.03.2007 18.11.2008
13/00745/OUT	Development of site to provide a	Approved	04.08.2014

	new industrial park with up to 28,280m <sup>2</sup> of floorspace for B2 and B8 uses, a bus depot and 30m high telecommunications mast. All with associated access, landscaping, parking and highway improvements.		
14/01296/DETAIL	Erection of 30m telecommunications mast.	Approved	01.12.2014
17/01310/DETAIL	Submission of reserved matters pursuant to outline planning permission 13/00745/OUT with details pursuant to Conditions 1 (appearance, landscaping, layout and scale), 3 (Strategic Phasing Plan), 4 (Design Code), 5 (phasing arrangements), 6 (levels), in part 7 (external materials), in part 12 (roundabout), 15 (landscaping), 18 (loading, turning and parking) and in part Schedule 7 (details of an air quality monitoring programme) of Legal Agreement for the development of the site to provide a new industrial park for B2 and B8 uses.	Approved	04.05.2018
19/00002/EIASCR	Proposed construction of nine industrial, storage and distribution (Class B1(c), B2 and B8) buildings, together with associated access, car parking, landscaping and drainage pond.	Closed	14.01.2019
19/01706/OUT	Outline planning application for employment development, comprising Phase 1 for 15,350 sqm of B2 development rising to a maximum building height of 21.7m and Phase 2 for up to 18,117 sqm of B1c / B2 and B8 uses rising to a maximum building height of 12m, together with associated access, landscaping, parking and drainage pond.	Current	
19/01898/DISCON	Discharge of conditions 11 (wheel cleaning) and 21(dust management) for approved application 13/00745/OUT, and condition 2 (Construction Method Statement) for approved application 14/01296/DETAIL.	Approved	07.02.2020

19/01899/LUPROP	This certificate seeks to confirm that the outline planning permission granted on 4 August 2014 granted under reference 13/00745/OUT permitting the following development will be lawfully implemented by construction the base to a telecommunications mast in accordance with the approved drawings 66-2014-01P; 66-2014-02P and 66-2014-03P: Development of site to provide a new industrial park with up to 28,280 m2 of floorspace for B2 and B8 uses, a bus depot and 30m high telecommunications mast. All with associated access, landscaping, parking and highway improvements.	Approved	11.03.2020
20/00023/S106A	Formal application to modify a Section 106 Planning Obligation for planning permission 13/00745/OUT.	Agreed	
20/00538/LUPROP	Certificate of Lawfulness confirming that continued and future development of the site under the following planning permission would be lawful following its lawful implementation. Planning permission dated 4 August 2014, granted under reference 13/00745/OUT, involving "Development of site to provide a new industrial park with up to 28,280 m2 of floorspace for B2 and B8 uses, a bus depot and 30m high telecommunications mast. All with associated access, landscaping, parking and highway improvements".	Approved	15.06.2020
20/00556/LUPROP	The Application seeks a Certificate of Lawfulness confirming that continued and future development of the site under the following planning permission would be lawful following its lawful implementation. Planning permission dated 4 August 2014, granted under reference 13/00745/OUT, involving "Development of site to provide a new industrial park with up to 28,280 m2 of floorspace for B2 and	Withdrawn	08.06.2020

B8 uses, a bus depot and 30m high telecommunications mast. All with associated access, landscaping, parking and highway improvements".

#### 4. Consultations

Essex County Council Archaeology  
09.12.2019

The Tendring Historic Environment Characterisation Project identifies the archaeology of this area (HECZ 13.2) as being characterised by a high density of cropmarks with high potential for extensive below ground deposits. The below ground archaeology of the zone is highly sensitive to change.

The area of the proposed development includes a recorded site on the Essex Historic Environment Record (EHER 3094) which comprises a ring ditch and ditched field boundaries. The Heritage Appraisal that accompanies the application correctly identifies that there is the potential for associated, currently unrecorded prehistoric remains to survive below ground, within the proposed development site. These features are presently of unknown significance but the proposed development will lead to their loss or a reduction in their significance.

A geophysical survey has been completed which failed to identify the ring ditch and field boundaries recorded from aerial photographic evidence and the report concludes that the technique was only partially successful.

The cropmark features will need to be rectified from the original source prior to a trial trenching evaluation in order to establish the nature and significance of the features recorded from cropmark evidence in addition to those identified through the geophysical survey.

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

**RECOMMENDATION:** A Programme of Aerial rectification and Archaeological evaluation

1. No development or preliminary ground-works can commence until a programme of archaeological evaluation, following aerial rectification of cropmark features, has been secured and undertaken in accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the planning authority.

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

shall be submitted to the local planning authority.

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

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

Further Recommendations:

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

Essex Wildlife Trust

No comments received

Environment Agency

No comments received

Environmental Protection

No comments received

ECC Highways Dept  
17.06.2020

Essex County Council in their capacity as Highway Authority has thoroughly assessed the 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 in particular, the following aspects were considered: access and safety; capacity; the opportunities for sustainable transport; and highway mitigation measures. In addition, the site history has also been considered; the previous planning applications 13/0745/OUT and 17/01310/DETAIL were recommended for approval therefore 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:

Prior to commencement:

(1) No development shall take place until the following

have been provided or completed:

Construction Traffic Management Plan, which shall be adhered to during the construction phase of development, shall be submitted to and approved in writing by the Local Planning Authority.

The Plan should include details regarding any temporary traffic management/signage and wheel cleaning facilities for the duration of the construction phase to prevent the deposition of mud or other debris onto the highway network/public areas, turning and parking facilities for delivery/construction vehicles within the limits of the application site together with an adequate parking area for those employed in developing the site.

Reason: In the interests of highway safety and efficiency.

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

- The highway works as shown in principle on Proposed Highway layout plan drawing no. 3203 02 RA, dated 13 September 2019.

- A 2-metre wide footway on both sides of Clacton Road on the north side of the proposed roundabout including relocation/ replacement of electricity poles/ lighting, road signs, removal of redundant kerbing and replacement with upstand kerb, tactile paving and footway and any associated drainage works.

- 2x2m footway on the north side of the proposed roundabout as shown in principal on drawing no. 3203 02 RA.

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

Reason: To make adequate provision within the highway for the additional pedestrian traffic generated within the highway as a result of the proposed development.

(3) Prior to occupation of the proposed development the provision of bus stop infrastructure for the to new bus stops as shown in principal on drawing no. 3203 02 RA, to include but not restricted to bus stop cage markings, bus shelter (x2) Kassel Kerbs and bus timetable information.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

Note: Conditions 1 and 2 requires a Legal Agreement between the Applicant/Developer and the Highway Authority using the powers in Section 278 of the Highways Act, 1980.

(4) From first occupation of Phase 1 of the development

the occupier will provide a minibus/private taxi service for staff as follows:

- operating Monday to Friday at main shift changeover patterns;
- catchment will include but not restricted to towns/villages of Brantham, Manningtree, Mistley, and Lawford;
- pick up points will be flexible depending on the home location of staff using the service;
- the service will be free to staff for the first six months of occupation of Phase 1. Staff will then be charged to use the service but as a subsidised rate, no greater than the comparable local bus fare;
- the service will be operated from first occupation of Phase 1 for a period of up to five years after first occupation of Phase 1 on the subsidised basis;
- Staff will be made aware of the minibus provision as part of their relocation pack, which will include details of travelling by all active and sustainable modes. Further marketing will be needed on a regular basis to ensure any new starters to the company are also made aware;
- the service will be reviewed six months after occupation, with further monitoring occurring annually on the anniversary of site occupation for a period of five years. This review/monitoring is to be provided to Essex County Council as local highway authority as part of the Travel Plan monitoring;
- the service will continue if there is staff demand, however the service will then operate on a commercial basis with no subsidy at the end of the 5-year period.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

(5) From first occupation of Phase 2 of the development the occupier(s) will provide a minibus/private taxi service for staff as follows:

- operating Monday to Friday at main shift changeover patterns;
- catchment will include but not restricted to towns/villages of Brantham, Manningtree, Mistley, and Lawford;
- pick up points will be flexible depending on the home location of staff using the service;
- for the first six months of occupation of each respective building at Phase 2 the service would be free to staff of that building. Staff will then be charged to use the service but as a subsidised rate, no greater than the comparable local bus fare;
- the minibus provision will be regularly promoted to all employees on the whole site as part of their commitment to active and sustainable travel, via their company's individual travel plans;
- the extended service will be operated from first occupation of Phase 2 for a period of up to five years



after first occupation of Phase 2 on this subsidised basis;  
- the service will be reviewed six months after occupation of Phase 2, with further monitoring occurring annually on the anniversary of Phase 2 occupation for a period of five years. This review/monitoring is to be shared with Essex County Council as local highway authority as part of the Travel Plan monitoring.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

Note: The services will operate as above unless otherwise agreed with Essex County Council as local highway authority and Tendring District Council as local planning authority.

(6) The provision of 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.

(7) 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.

(8) 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) The submission of a workplace travel plan to the Local Planning Authority for approval in consultation with Essex County Council. Such approved travel plan shall be actively implemented for a minimum period of 5 years. It shall be accompanied by a monitoring fee of £6,000 (plus the relevant sustainable travel indexation) to be paid before occupation to cover the 5-year period.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

The above requirements should be imposed by way of negative planning conditions or a planning obligation and 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.

NOTES:

(i) Internal Layout - Full details of the internal roads and footways (including layout, levels, gradients, surfacing, and means of surface water drainage, construction details and any lighting requirements) will be agreed during the Reserved Matters application.

(ii) The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority.

Informative:

1: Prior to occupation, the development shall be served by a system of operational street lighting of design approved from the Highway Authority for the new roundabout, which shall thereafter be maintained in good repair.

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.

Highways England  
22.01.2020

Offer no objection

Highways England has reviewed the Transport Assessment (prepared by Peter Evans Partnership, dated October 2019) and the A120-B1035 roundabout junction capacity assessments (supplied separately) and has the following observations.

It is noted that the proposed vehicle access on the B1035 includes new footways linking the site to new bus stops. Whilst it is recognised that current bus services running along the B1035 are fairly infrequent, Highways England considers it essential that the bus stop facilities are provided given that the nearest existing stops are located to the north of the A120 and there is no safe means of walking between these stops and the proposed development which would involve crossing the A120.

The Framework Travel Plan put's forward a range of measures to encourage sustainable travel which Highways England welcomes. It is noted that for some employees cycling to/from the proposed development this may involve having to cross or cycle along the A120 which can experience fast-moving and heavy traffic flows. The Framework Travel Plan's recommendation for establishing a Bike User Group and Cycle Buddy Scheme is particularly welcomed, especially if it can promote the safe movement of cyclists along or across the A120.

The TA's trip generation, distribution and assignment calculations, traffic growth assumptions and junction capacity assessments of the A120-B1035 roundabout are considered reasonable.

It has been concluded on this basis that the proposed development is not expected to significantly impact the strategic road network.

ECC Schools Service  
20.02.2020

ECC's Developer Guide is currently being reviewed and the Council's current approach to assessing employment sites is likely to be amended. With that in mind, ECC will

not be pursuing a contribution toward EY&C provision for this development.

Waste Management  
17.12.2019

No comments.

Tree & Landscape Officer  
16.12.2019

The site is currently set to grass and is ostensibly in agricultural use, although in recent years the land has only been used for car boot sales. There are several small trees and sections of scrubby vegetation on some of the site boundaries. The site is otherwise open and clearly visible from the roads to the north and east of the application site.

In terms of the impact of the development proposal on the area the proposed changes to the consented scheme, primarily the increase in the height of the largest unit on the site, has the potential to increase the adverse impact of the development on the local landscape character. It also makes it more difficult to achieve a satisfactory level of soft landscaping to ensure that the development is assimilated into its setting.

In this regard the applicant has provided a summary of the Landscape and Visual Impact Assessment (LVIA) submitted in support of the consented scheme and set out indicative design features of the proposed building that aim to minimise harm to the local landscape character.

In essence the development of the land will result in harm to the character and appearance of the countryside however with sensitive design of the building and careful use of 'bundling' and soft landscaping the development could result in the creation of an iconic structure in a prominent setting. The correct selection of external cladding and finishing will be a key element of the successful integration and assimilation of the EDME building into its setting and will need to be carried forward into Phase 2 of the development.

Whilst at the Pre- application stage it was suggested that it would be necessary for the applicant to provide a tree survey and report to show the impact of the development proposal on the trees on the land. However the development layout shows the retention of boundary trees. Therefore the trees are not threatened by the development proposal and their physical protection during the construction phase of any development, that may be granted planning permission, can be secured as a reserved matter.

Sections 2.2 and 3.2 of the Design and Access Statement describe the soft landscaping strategy for the whole site and the area immediately around the EDME building. In principle the strategy sections of the Design

and Access Statement are acceptable and a detailed soft landscaping scheme should be secured as a reserved matter.

Anglian Water Services Ltd

No comments received.

Network Planner - UK Power Networks

No comments received.

Health and Safety Executive

No comments received.

Natural England  
20.12.2019

No objection

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

European sites

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development. To meet the requirements of the Habitats Regulations, we advise you to record your decision that a likely significant effect can be ruled out.

Sites of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development.

Arch. Liaison Off, Essex Police

No comments received.

Royal Society For The Protection of Birds

No comments received.

H M Explosives Inspectorate  
16.12.2019

HSE's Explosives Inspectorate has no comment to make on this application as it does not fall within the safeguarding zones of a HSE licensed explosives site.

Cadent Gas Limited

No comments received.

ECC SuDS

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, ECC do not object to the granting of planning permission subject to the following:

Condition 1

No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an

assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Limiting discharge rates to 6.6l/s for the entire site as shown in drawing number 0110, revision P04 for all storm events up to an including the 1 in 100 year rate plus 40% allowance for climate change. All relevant permissions to discharge from the site into any outfall should be demonstrated.
- 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. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA

#### Reason

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- To ensure the effective operation of SuDS features over the lifetime of the development.
- 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

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

### INFORMATIVES:

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

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

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

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

## 5. **Representations**

- 5.1 Mistley Parish Council - At the Parish Council's Planning Committee Meeting held on 5 December 2019 it was recommended that the application be approved as they would wish to encourage more employment in the area.
- 5.2 1 letter of objection has been received raising matters including: Impact on traffic as there is already a high flow of heavy traffic on the Horsely Cross roundabout/A120 which will have an impact on the surrounding roads and visitors via the Harwich ferry route. There are too many near miss accidents on the roundabout. Parking of proposed workers could have a

detrimental impact on local residents. Already we have too many people parking, leaving their cars and going for hours. We have a serious issue going in & out of our road and safety road markings have worn.

If these plans go ahead we are worried about the impact on the landscape. The landscape needs to be considered including Horsely Cross roundabout which is particularly messy and does not serve local people and visitors of our area. It has been poorly maintained. It would serve the area well if within the plans a consideration to improve the negative impact on landscaping in the area. If the applicants could consider the improvement to the area by planting many trees. We would like to see the improvement of quality of life for residents.

## 6. **Assessment**

### Site Context

- 6.1 The application site is approximately 11.2 ha and is presently open agricultural land, with part of the site having previously been used for weekly car boot sales during the months of March to October. It is in a rural area in the centre of the District and to the immediate south west of the A120/B1035 roundabout at Horsley Cross. Colchester is about 8 miles to the west and Harwich is about 9 miles to the east.
- 6.2 There is a small cluster of buildings, including The Cross Inn pub; a farm and some cottages to the north and to the south is Kelly's Poultry Farm, but most notable in terms of its visual impact is the nearby water tower. The A120 is dualled for a short section either side of the roundabout and the B1035 is a single carriageway road.
- 6.3 The surrounding landscape within the immediate vicinity of the site is characterised by large open fields, occasionally broken up by small groups of/or individual buildings. The site is near the top of a plateau and is roughly rectangular in shape. It has a northern boundary with the A120; a southern boundary to Kelly's Farm; the eastern boundary is shared with the B1035; and the western boundary to Holland Brook (this part of the site is crossed by electricity pylons). There is a fall of approximately 15 metres between the middle of the site and the western boundary.
- 6.4 The site is largely devoid of any significant vegetation, but there are some existing trees adjacent to the A120 roundabout and extending for a short distance down the B1035, in addition to where adjoining the A120 closer to the brook.

### Proposal

- 6.5 The proposals represent a revised version of extant planning permissions for an industrial park on this site, which as stated above was originally granted outline planning permission in 2014.
- 6.6 The application seeks outline planning permission for the following development proposals:  
  
*"Outline planning application for employment development, comprising Phase 1 for 15,350sqm of B2 development rising to a maximum building height of 21.7m and Phase 2 for up to 18,117sqm of B1c/B2 and B8 uses rising to a maximum building height of 12m, together with associated access, landscaping, parking and drainage pond."*
- 6.7 The 'Phase 1' development will involve delivering a building for EDME (Class B2), a successful food processing company, employing 55 staff on its existing site at any one time. EDME currently occupy a 1.4 hectare (3.5 acre) site in Mistley which is operating close to capacity and with certain constraints caused by the layout, age and upkeep requirements of



the existing buildings, which are all located in a Conservation Area and some of which are listed.

- 6.8 In terms of re-locating to Horsley Cross (which will keep EDME within Tendring) the applicant's Planning Statement states:

*"EDME must relocate in order to remain competitive and continue to grow a sustainable business. It is proposed to relocate to Horsley Cross, the only sustainable location that has been found in the local area. Horsley Cross lies in arguably the best cereal growing region of Britain which significantly contributes to minimising food-miles. The proposed site has the benefit of the existing permissions which permit an industrial led development....Relocating EDME to the Horsley Cross site has great advantages, due to its proximity to the existing EDME site. Staff could be easily relocated. The site is also well located for access to the strategic road network and ports."*

- 6.9 The planning statement also adds that:

*"Apart from the very clear business need for EDME to relocate to the site, this would also release the existing EDME site for residential led development in line with Policy LMM1 – Mistley Urban Regeneration Area in the 2007 Local Plan and Policy SAMU1 'Development at EDME Maltings, Mistley' of the Tendring District Council's emerging Local Plan."*

- 6.10 The 'Phase 2' development would involve a mixture of B1c (light industrial), B2 (industrial) and B8 (storage and distribution) uses as may be agreed through reserved matters up to a maximum floor space of 18,117sqm. It is proposed that no more than 25% of the overall site area will be for B8 uses.

- 6.11 In terms of **building heights**, the EDME building would be up to 17m high, with around 10% rising to a maximum height of 21.7m. This building height is required in order to accommodate the necessary food production equipment. There is a fall of approximately 15m between the entrance of the site (eastern boundary) and the western boundary and the EDME building has been positioned on the west side of the site, in order to minimise any visual impacts.

- 6.12 The proposed buildings located on the east side (Phase 2) will be up to 10m in height on the north side and up to 12m on the south side. This matches the heights proposed in the 'extant' planning permission for the site.

- 6.13 **Access** to the site would be gained from the B1035, located to the east of the site. Access would be via a new roundabout, similar to that proposed in the consented scheme.

- 6.14 In terms of Phase 1 of the development and to specifically meet the needs of EDME, HGV **parking** for 12 vehicles and 78 cars is proposed (including disabled provision). During pre-application discussions officers asked for a plan showing how the external areas around the EDME building could be re-worked in the event of EDME ever leaving the site and other B2 uses taking over this section of the site. This detail is included in the submitted Design & Access Statement and shows how parking could be provided in accordance with parking standards for B2 development. The car parking proposed is less than this, because it is based on the specific employee and visitor numbers for the EDME business.

- 6.15 In relation to Phase 2 of the development, car parking will be provided in accordance with the Council's car parking standards. The total parking provision will be dependent upon the overall mix of B1(c), B2 or B8 uses.

- 6.16 The **landscape strategy** for the site is set out in the submitted Design & Access Statement and in short this has four key elements as summarised below:

- The EDME building would be surrounded with landscaping, particularly to the outer boundaries to the north, west and south;
- The development as a whole would be screened by a landscaped bund along the boundary to the A120, as with the existing planning permission;
- The area to the far west of the site, near the overhead power lines, would be largely dedicated to a Sustainable Drainage pond and green areas; and
- Landscaping would also be included within the employment development as part of the outline proposals.

#### Principle of Development

- 6.17 The principle of development in the location proposed, as well as the access thereto, has already been established through the grant of outline planning permission (13/00745/OUT) and the approval of 'Reserved Matters' through planning application ref. 17/01310/DETAIL on 4 May 2018 (these approvals have subsequently been kept 'extant' through the discharging of planning conditions and submission of Lawful Development Certificate applications to both confirm that the base to a telecommunications mast (forming part of the outline approval) could lawfully be implemented (ref. 19/01899/LUPROP, approved 13 March 2020) and subsequently followed up by a Certificate of Lawfulness application to confirm that these works had been carried out and as such confirming that continued and future development of the site under planning approval 13/00745/OUT can be lawfully implemented (ref. 20/00538/LUPROP, approved 15 June 2020).
- 6.18 Whilst the grant of permission was a departure from the adopted Local Plan, the proposal was considered in a positive light, particularly bearing in mind the significant potential to deliver new employment opportunities on a site with good access to the A120. The report to Planning Committee on 4 February 2014 considered the following:
- National and Local Plan Policy;
  - Highways and transport issues and sustainability;
  - Design principles and landscape impact;
  - Nature conservation, flood risk and heritage issues; and
  - S106 planning obligations.
- 6.19 The site had been allocated in the 2012 draft of the emerging Local Plan in recognition of the need for employment and the limited supply of commercially attractive sites elsewhere in the District. These factors were considered to outweigh concerns raised at the time over the site's location in the open countryside, some distance from established centres of population. Although the promoters of the development at the time of the outline application had indicated that there had been significant business interest in the site, clearly the development has not been implemented to date.
- 6.20 The Council's evidence on employment land prepared in support of the new Local Plan, the 2016 Employment Land Review, recommended that the site should not be carried forward into the Local Plan because no transactions with businesses had progressed, the site remained unserviced and had a number of constraints, primarily in relation to sustainability and infrastructure that brought the viability of future development into question. The site no longer features therefore as an employment allocation in the emerging Local Plan.
- 6.21 However, the lawful commencement of works on the existing consented scheme - which keeps that 'extant' - and the submission of this current application with a known end-user for the 'Phase 1' component of the site, indicates that there is now a realistic prospect of business activity on the site and it is hoped that this will be the economic catalyst for 'Phase 2' which will bring new businesses into the Tendring area. Officers have therefore approached the application positively, working with the applicants to ensure that the

development can proceed smoothly and the economic and employment benefits of the development can be realised. This stance is supported by the NPPF which in paragraph 20 states that to help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.

- 6.22 In support of the application, the applicant has indicated that the potential **job creation** across the site, based on the mix of uses proposed, could fall within the region of around 410 to 425 jobs (this is not dissimilar to the estimate provided in the 'extant' permission which estimated in the region of 300 to 500 jobs across that scheme). In terms of EDME, it is suggested that employment would rise from 55 at present to 93.

#### Highways & Access

- 6.23 Essex County Council in their capacity as Highway Authority has thoroughly assessed the highways and transportation information submitted in support of the application. The assessment of the application and Transport Assessment was undertaken with reference to the National Planning Policy Framework in particular, the following aspects were considered: access and safety; capacity; the opportunities for sustainable transport; and highway mitigation measures. In addition, the site history has also been considered; the previous planning applications 13/0745/OUT and 17/01310/DETAIL were recommended for approval therefore the conclusions of the Highway Authority are that from a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to appropriate mitigation and controls by way of a suite of highway specific conditions and informatives.
- 6.24 Highways England offer no objection to application on the basis that the proposed development is not expected to significantly impact the strategic road network (A120), including the Horsley Cross roundabout.

#### Sustainable Transportation

- 6.25 A principal consideration in approving the 'extant' outline planning permission on this relatively isolated green field site was the offer of a substantial package of sustainable transportation measures, including the provision of an on-site bus depot which would offer a range of new bus services to and from the site. That proposal also included the provision of a number of new bus stops along these new bus corridors.
- 6.26 The applicant and their transportation consultant have reviewed the previous sustainable transport measures and have held extensive discussions with ECC Highways & Public Transportation Team to advance an alternative bespoke offer for the site.
- 6.27 The key issue that EDME has raised (with respect to 'Phase 1') is that it is unlikely that staff would live along a bus route, resulting in a low public transport usage. However, the provision of a dedicated minibus service that could pick up and drop off at a range of locations, at set times specific to key shift patterns could be a viable sustainable measure for this site.
- 6.28 Therefore, a minibus service solely for EDME staff living in the main existing staff population areas has been considered as this would provide a much more rounded sustainable transport option compared to a public bus service. The minibus service could include some or all of following pick up points, with the option of staff to be picked up en-route as well, all depending on which staff are using the service on a given day:

Co-op, Birch Drive, Branham;  
Brantham Village Hall;

Maningtree Train Station;  
High Street, Manningtree;  
Anchor Inn, Mistley;  
Mistley Train Station;  
Lawford Surgery, Colchester Road; or  
Lawford Service Station.

- 6.29 The minibus service would be free to EDME staff for the first six months after relocation to Horsley Cross. However after this time staff would be charged to use the minibus service, albeit with the service partially subsidised by EDME. The minibus service as a whole would be reviewed on an annual basis along with other Travel Plan measures to determine if the service remains practical for the site and shift patterns in operation. The service would be operated up to a period of five years on a subsidised basis. However if demand remains, the service could continue with staff paying the full fare to use the service.
- 6.30 ECC Public Transportation Team are satisfied that with a rigorous planning condition (see proposed condition 19 below) to address the Phase 1 minibus service, alongside the provision of a workplace travel plan (condition 18), that the scheme will deliver an appropriate level of sustainable transport measures to address the relatively isolated nature of the site from a public transportation perspective.
- 6.31 With respect to 'Phase 2', the end occupiers are unknown at this stage however would be a mix of B1c/B2/B8 uses. This means that staffing levels could vary significantly and more generally the staff catchment is also likely to be wider than Phase 1 as it would be dependent on if businesses were relocating to the site, or if a new business in the area, attracting staff from around the area. Whether or not the area of coverage of the minibus would be the same as phase 1 would depend on the end occupiers of phase 2. Therefore as part of this outline application the applicant has committed to providing a minibus service for a period of up to 5 years after first occupation of phase 2, with the area of coverage and routes to be determined once end occupiers and staff catchment are known. As with Phase 1, a rigorous planning condition (see proposed condition 20 below) is recommended to address the minibus service for 'Phase 2', which again will be backed up by the requirement for a workplace travel plan.

#### Landscaping/Visual Impacts

- 6.32 With respect to landscape, the site is currently set to grass and is ostensibly in agricultural use, although in recent years the land has only been used for car boot sales. There are several small trees and sections of scrubby vegetation on some of the site boundaries. The site is otherwise open and clearly visible from the roads to the north and east of the application site.
- 6.33 In terms of the impact of the development proposal on the area the proposed changes to the currently consented scheme, primarily the increase in the height of the largest unit on the site, has the potential to increase the adverse impact of the development on the local landscape character. It also makes it more difficult to achieve a satisfactory level of soft landscaping to ensure that the development is assimilated into its setting.
- 6.34 In this regard the applicant has provided a summary of the Landscape and Visual Impact Assessment (LVIA) submitted in support of the consented scheme and set out indicative design features of the proposed building that aim to minimise harm to the local landscape character.
- 6.35 In essence, the development of the land will result in harm to the character and appearance of the countryside. However, with sensitive design of the building and careful use of

'bundling' and soft landscaping the development could result in the creation of an iconic structure in a prominent setting. The correct selection of external cladding and finishing will be a key element of the successful integration and assimilation of the EDME building into its setting and will need to be carried forward into Phase 2 of the development.

- 6.36 The development layout shows the retention of boundary trees. Therefore the trees are not threatened by the development proposal and their physical protection during the construction phase of any development, that may be granted planning permission, can be secured as a reserved matter.
- 6.37 The submitted Design and Access Statement describe the soft landscaping strategy for the whole site and the area immediately around the EDME building. In principle the strategy sections of the Design and Access Statement are acceptable and a detailed soft landscaping scheme should be secured as a reserved matter.

#### Ecology/Biodiversity

- 6.38 The planning application submission has included an Ecological Assessment which confirms that an extended phase 1 habitat survey of the site was carried out in late 2018 alongside dedicated protected species surveys (i.e. reptiles, wintering and breeding birds, bats, water vole and otter) that were carried out in 2019. Whilst the report confirms that the current proposals are unlikely to affect bats as boundary trees are to be retained, the proposal will affect habitat suitable for reptiles, birds and water vole. A triangular parcel of land to the north of the site consisting of improved grassland provides a potential receptor site for reptiles found on site whilst the creation of an attenuation basin and surrounding grassland is taking place. The creation of the basin and grassland will improve the on-site habitat for reptiles, as will the creation of a landscape bund along the northern boundary of the site. It will be possible to mitigate for one skylark territory on site with mitigation for the remaining four territories being provided through eight skylark plots created in off-site arable fields. A mitigation licence will be required from Natural England to allow for the installation of a headwall into the bank of the adjacent 'Holland Brook' (on the western boundary of the site) to be carried out lawfully.
- 6.39 Provided the avoidance, mitigation, compensation and enhancement measures described in the Ecology Assessment are implemented, then there will be no residual effects significant at a local level or above and the scheme should result in a net gain in biodiversity. The development proposals are unlikely to have any significant effect on statutory or non-statutory designated sites.
- 6.40 Natural England has raised no objections to the application based on the plans submitted, as they consider that the proposed development will not have any significant adverse impacts on statutorily protected nature conservation sites or landscapes.

#### Drainage

- 6.41 Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, ECC in their role as Lead Local Flood Authority (LLFA) do not object to the granting of planning permission subject to the imposition of a number of drainage conditions and informatives.

#### Archaeology

- 6.42 The area of the proposed development includes a recorded site on the Essex Historic Environment Record (EHER 3094) which comprises a ring ditch and ditched field boundaries. The Heritage Appraisal that accompanies the application correctly identifies

that there is the potential for associated, currently unrecorded prehistoric remains to survive below ground, within the proposed development site. These features are presently of unknown significance but the proposed development will lead to their loss or a reduction in their significance.

- 6.43 Accordingly, ECC Archaeology are recommending that a programme of aerial rectification and archaeological evaluation are carried out, including archaeological fieldwork, as per planning condition 35 below.

## **7. Conclusion**

- 7.1 The proposal would result in no material harm to interests of acknowledged importance and would facilitate substantial economic development within the District. The application is recommended for approval.

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

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

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

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

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

- i) Technical design details and timing of a temporary site access (if applicable) for the construction phases of the development;
- ii) Earthworks and changes in existing ground levels including details of the volumes of any materials that are to be exported from or imported to the site;
- iii) Strategic landscaping/planting belts;
- iv) Surface and foul water drainage strategy incorporating Sustainable Urban Drainage systems and attenuation methods;
- v) The provision of utilities;
- vi) Internal access ways; estate roads; parking and servicing areas; and communal areas;
- vii) Biodiversity enhancements and landscaping works; and
- viii) The order in which the phases are to be developed.

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

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

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

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

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

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

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

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

6. Details of the existing and proposed ground levels of each phase of the development (as approved within the Strategic Phasing Plan referred to in Condition 3) including the finished floor levels; eaves levels; and ridge heights and details of all

areas of cut and fill (including details of the importation and exportation of any materials) shall be submitted to the Local Planning Authority. No development within the phase that the details relate to shall begin until those details have been approved in writing by the Local Planning Authority. No building shall be occupied (whether in whole or in part) until all the works to implement the approved details have been fully completed.

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

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

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

8. No building on the Phase 1 site shall exceed 21.7 metres in height and no building on the Phase 2 site shall exceed 12 metres, as measured from the finished site levels immediately adjacent to the building to which it relates.

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

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

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

10. No street lighting, floodlighting, or other means of illuminating any part of the site outside any of the buildings hereby approved shall be erected or installed until written details of the illumination works have been submitted to and approved in writing by, the Local Planning Authority. The works concerned shall only be carried out in accordance with the approved details.

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

11. No part of the development shall be occupied until the roundabout on the B1035 to provide access to the proposal site has been completed to accord with the scheme illustrated by drawing no. HRC-ORM-00-ZZ-DR-A-12002 Revision P06 along with



any speed management measures required by the Highway Authority details of which shall have first been submitted to and approved in writing by the Local Planning Authority.

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

12. No development shall take place until the following have been provided or completed:

Construction Traffic Management Plan, which shall be adhered to during the construction phase of development, shall be submitted to and approved in writing by the Local Planning Authority.

The Plan should include details regarding any temporary traffic management/signage and wheel cleaning facilities for the duration of the construction phase to prevent the deposition of mud or other debris onto the highway network/public areas, turning and parking facilities for delivery/construction vehicles within the limits of the application site together with an adequate parking area for those employed in developing the site.

Reason - In the interests of highway safety and efficiency.

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

- The highway works as shown in principle on Proposed Highway layout plan drawing no. 3203 02 RA, dated 13 September 2019.
- A 2-metre wide footway on both sides of Clacton Road on the north side of the proposed roundabout including relocation/ replacement of electricity poles/ lighting, road signs, removal of redundant kerbing and replacement with upstand kerb, tactile paving and footway and any associated drainage works.
- 2x2m footway on the north side of the proposed roundabout as shown in principal on drawing no. 3203 02 RA.
- Any other reasonable items to ensure the access is in accordance with current policy standards.

Reason - To make adequate provision within the highway for the additional pedestrian traffic generated within the highway as a result of the proposed development.

14. Prior to occupation of the proposed development the provision of bus stop infrastructure for the two new bus stops as shown in principal on drawing no. 3203 02 RA, to include but not restricted to bus stop cage markings, bus shelter (x2) Kassel Kerbs and bus timetable information.

Reason - In the interests of reducing the need to travel by car and promoting sustainable development and transport.

15. The provision of 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.

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. No occupation of any phase of the development shall take place prior to the submission of a workplace travel plan to the Local Planning Authority for approval in consultation with Essex County Council. Such approved travel plan shall be actively implemented for a minimum period of 5 years. It shall be accompanied by a monitoring fee of £6,000 (plus the relevant sustainable travel indexation) to be paid before occupation to cover the 5-year period.

Reason – In the interests of reducing the need to travel by car and promoting sustainable development and transport.

18. From first occupation of Phase 1 of the development the occupier will provide a private transport service for employees using minibus private hire, taxi or other vehicles or services to transport staff to or from the development as follows:

- operating Monday to Friday at main shift changeover patterns and or at times when the maximum number of staff arrive at or leave the development site;
- the staff pick up drop off catchment will include but is not restricted to towns/villages of Brantham, Manningtree, Mistley, and Lawford;
- pick up and drop off points will be flexible depending on the home location of staff using the service;
- the service will be free to staff for the first six months of occupation of Phase 1. Staff may then be charged to use the service but as a subsidised rate, no greater than the comparable local bus fare;
- the service will be operated from first occupation of Phase 1 for a period of up to five years after first occupation of Phase 1 on the subsidised basis;
- Staff will be made aware of the private transport service as part of their relocation pack, which shall include details of travelling by all active and sustainable modes. Further marketing shall be carried out as required to ensure any new starters to the occupant company are also made aware of the service;
- the service will be first monitored six months after occupation, with further monitoring occurring annually on the anniversary of site occupation for a period of five years. This monitoring is to be provided to Essex County Council as local highway authority as part of the Travel Plan monitoring. The monitoring will provide relevant statistical information such as the number of staff using the service, reasons why staff who live in the catchment do not use the service, details of any issues with the provision of the service; and
- the service shall continue on a subsidised basis for a period of five years unless Essex County Council acting reasonably on the basis of the monitoring conclude there is insufficient staff demand for the service, the service will then operate on a commercial basis with no subsidy at the end of the 5-year period.

Reason - In the interests of reducing the need to travel by car and promoting sustainable development and transport.

19. From first occupation of Phase 2 of the development the occupier(s) will provide a private transport service for employees using minibus private hire taxi or other vehicles or services to transport staff to or from the development as follows:

- operating Monday to Friday at main shift changeover patterns and or at times when the maximum number of staff arrive at or leave the development site;

- the staff pick up drop off catchment will include but is not restricted to towns/villages of Brantham, Manningtree, Mistley, and Lawford;
- pick up and drop of points will be flexible depending on the home location of staff using the service;
- for the first six months of occupation of each respective building at Phase 2 the service shall be free to staff based in that building. Staff may then be charged to use the service but as a subsidised rate, no greater than the comparable local bus fare;
- the private transport service provision shall be regularly promoted to all employees on the whole site as part of the occupants commitment to active and sustainable travel, via the occupants individual travel plans;
- the service shall continue on a subsidised basis for a period of five years unless Essex County Council acting reasonably on the basis of the monitoring conclude there is insufficient staff demand for the service, the service will then operate on a commercial basis with no subsidy at the end of the 5-year period; and
- the service will be first monitored six months after occupation, with further monitoring occurring annually on the anniversary of site occupation for a period of five years. This monitoring is to be provided to Essex County Council as local highway authority as part of the Travel Plan monitoring. The monitoring will provide relevant statistical information such as the number of staff using the service, reasons why staff who live in the catchment do not use the service, details of any issues with the provision of the service.

Reason - In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

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

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

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

Reason - To ensure satisfactory landscape treatment of the site which will enhance the character and appearance of the site and the area and to ensure protection

during construction works of trees, shrubs and hedgerows which are to be retained on or near the site in order to ensure that the character and amenity of the area are not impaired.

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

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

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

Reason - To protect highway efficiency of movement and safety.

24. Prior to implementation of each phase (as approved within the Strategic Phasing Plan referred to in Condition 3) full written details of the areas to be provided for the loading, unloading, turning and parking of vehicles (including adequate cycle and disabled parking spaces) for that phase shall be submitted to and approved by the Local Planning Authority. No building shall be occupied within that phase until the said areas to which it relates have been constructed in accordance with the details as so approved. The said areas shall be retained and kept available for use as such at all times thereafter.

Reason - To protect highway efficiency of movement and safety.

25. No goods, materials or containers shall be stored, stacked or deposited on the site outside the buildings hereby approved above a height of 3m as measured from the finished site level or outside of those areas of the site the details of which shall have previously been submitted to and approved in writing by the Local Planning Authority. No commercial or manufacturing activities or processes shall be carried on outside the buildings.

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

26. Full written details of areas for the storage of refuse and/or other waste for each phase of the development (as approved within the Strategic Phasing Plan referred to in Condition 3) shall be submitted to and approved by the Local Planning Authority prior to the implementation of the phase of the development to which the

details relate. The said areas and details as so approved shall be provided before the first occupation of each building within each phase and shall thereafter be retained as such at all times.

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

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

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

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

Reason - In order to ensure that the development is sustainable for its lifetime.

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

- Limiting discharge rates to 6.6l/s for the entire site as shown in drawing number 0110, revision P04 for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change. All relevant permissions to discharge from the site into any outfall should be demonstrated.
- 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. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA

Reason -

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- To ensure the effective operation of SuDS features over the lifetime of the development.
- 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.

30. 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.

31. 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.

32. No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No buildings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.

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

33. No development shall commence on site, until a scheme to minimise the potential impact of the development on wildlife present on site (including details of the timing of their implementation) has been submitted to and approved by the Local Planning Authority. The Scheme shall have regard to the Ecological Assessment prepared by MLM Consulting Engineers Limited (Revision C02 dated 4 October 2019) that form part of the planning application documents and shall include opportunities to enhance the wildlife value of the site. The scheme shall be fully implemented as so approved.

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

34. No development or preliminary ground-works can commence until a programme of archaeological evaluation, following aerial rectification of cropmark features, has been secured and undertaken in accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the planning authority.

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

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

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

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

### 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.

#### Other Informatives

1. Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to [suds@essex.gov.uk](mailto:suds@essex.gov.uk).
2. Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
3. Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
4. It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.
5. Conditions 13 and 14 requires a Legal Agreement between the Applicant/Developer and the Highway Authority using the powers in Section 278 of the Highways Act, 1980.

6. Prior to occupation, the development shall be served by a system of operational street lighting of design approved from the Highway Authority for the new roundabout, which shall thereafter be maintained in good repair.
7. 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

## **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/>.

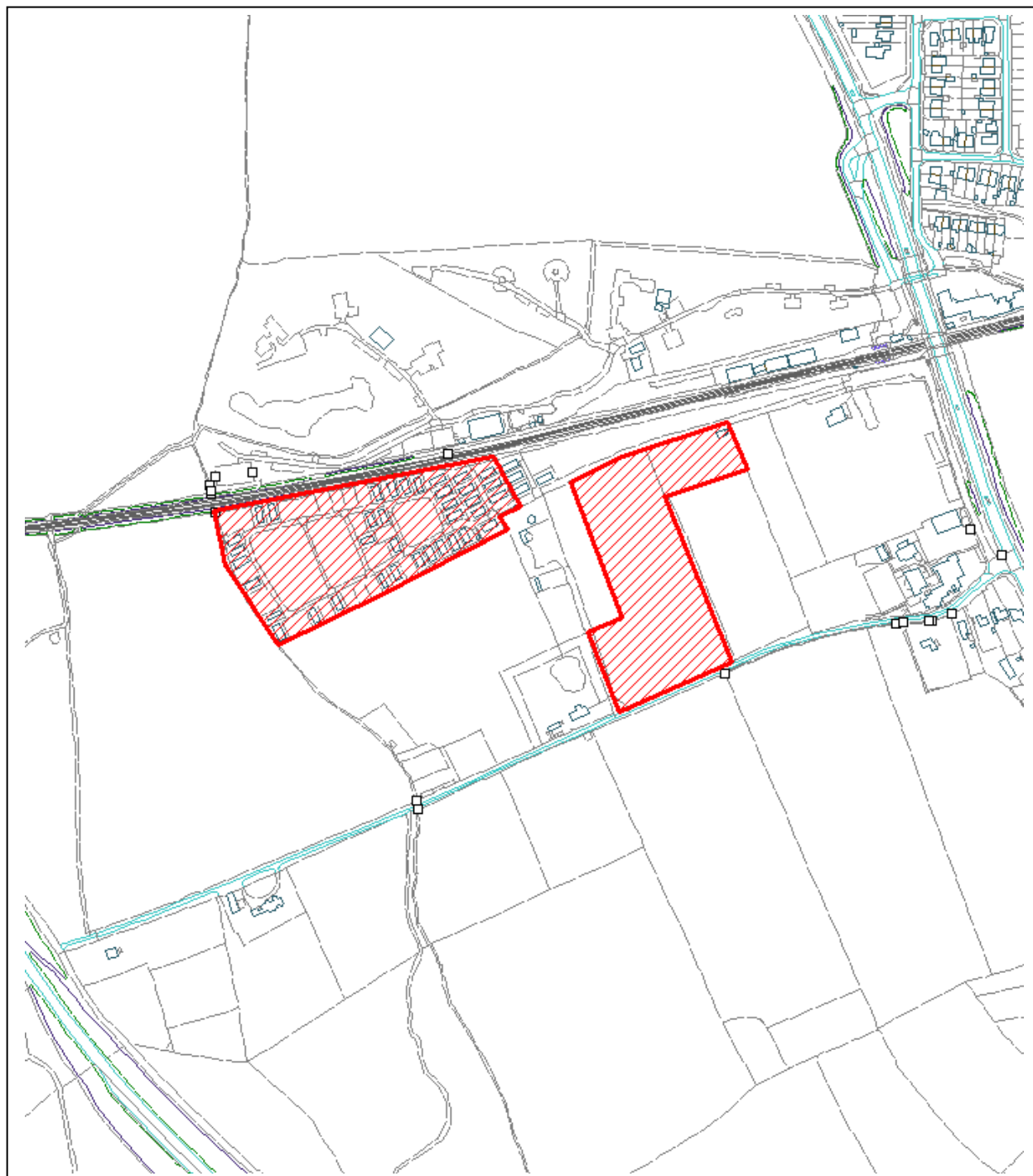
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## PLANNING COMMITTEE

14<sup>TH</sup> JULY 2020

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### **A.2 PLANNING APPLICATION – 20/00119/FUL – OAKLEIGH RESIDENTIAL PARK CLACTON ROAD WEELEY CO16 9DH**



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**Application:** 20/00119/FUL

**Town / Parish:** Weeley Parish Council

**Applicant:** Oakleigh Residential Park Ltd

**Address:** Oakleigh Residential Park Clacton Road Weeley CO16 9DH

**Development:** Proposed change of use to create a retirement park by allowing the residential use of 143 caravans approved under planning permissions APP/P1560/W/17/3183981 and 19/00707/FUL.

## 1. Executive Summary

- 1.1 This application has been referred to Planning Committee by Councillor Harris, following a request from Weeley Parish Council to do so, as per the material planning considerations set out in their consultation response (see comments below).
- 1.2 This application seeks permission to remove condition 5 of planning permission ref. APP/P1560/W/17/3183981 and condition 5 of planning permission ref. 19/00707/FUL which restrict the use of the approved caravans to holiday use only. It is proposed to create a retirement park which will allow for residential occupations but restricted to those over the age of 50.
- 1.3 Paragraph 47 of the NPPF requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The site lies outside of the Settlement Development Boundary of both Weeley and Weeley Heath in the Saved and Draft Local Plans and is not allocated for development.
- 1.4 In terms of applying the tilted balance to the planning merits of this case, given that the Council cannot currently demonstrate a 5 year housing land supply, there is a need to weigh up the following planning considerations put forward in support of the application; namely:
  - Although the permitted caravans may only be occupied for holiday use at present, the caravan units are the same whether they are made available for holiday or residential occupation. Each of the extant permissions allow for the caravans to remain in place all year round, and this proposal is not for any additional caravans or built development in addition to that which has already been permitted. In physical form, operational and land use terms (this is no longer a green field site), therefore, the development will not introduce any use of land or development that has not already been found to be acceptable, and the land would essential remain in use as a park home site. The only change will be the form of occupation;
  - The proposed development is considered to address the three pillars of 'sustainable development', namely economic, social and environmental sustainability. The proposed use will help contribute to the local economy; in environmental terms, the application does not propose any additional development and will retain the existing screening; and will be relatively socially sustainable, given that it has been accepted through previous approvals on this site that although it is outside the settlement boundary, there is suitable vehicular and public transport access to the site including local bus stops, and the adjacent railway station. In addition the site is within walking distance of a range of services and facilities;

- There are parallels in this case with a recent appeal decision (Appeal Ref. APP/P1560/W/17/3183981), issued on 22 November 2019, allowing the residential occupation of previously permitted holiday caravans at Sacketts Grove Caravan Park, Jaywick Lane, Clacton-on-Sea. In allowing the appeal the Inspector stated:

*“The delivery of 104 homes would be a benefit of the appeal scheme given the framework’s aim to make a more efficient use of land and significantly boost the supply of housing, which the Council are currently not doing due to the housing supply deficit. The supply of housing under the appeal proposal would be significant, and even were I to accept the level of housing need is as stated by the Council, the delivery of 104 homes affords significant weight in favour of the proposal”.*

The Inspector concluded that *“...the proposal would not create adverse impacts which would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the application of Paragraph 11 indicates that permission should be granted”.*

- The applicant’s aspiration is to deliver a ‘retirement village’ and as such they are proposing that, if approved, the park homes would be restricted to people aged 50 or over without children living at home. A Section 106 agreement is being drafted which will include provisions to address the age restrictive nature of the accommodation. Whilst not in itself a reason to justify the approval of this application, the provision of age-restricted park homes is something that fits with the Council’s emerging ‘Housing Strategy’ to cover the period 2020-2025. The draft strategy pinpoints the Council’s approach to delivering the housing necessary for the needs of the area, which includes meeting the particular needs for older people around Clacton. The Strategy confirms that the District has *“...the highest proportion of over 65’s in the UK and the prediction is for this age group to continue increasing. Addressing the housing and other needs of the elderly will be paramount over the coming years”.*

1.5 On balance, given the District’s current housing supply position; the relative sustainability of the site against the three pillars of ‘sustainable development’; the recent appeal decision at Sacketts Grove Clacton for a similar change of use from holiday use to permanent residential occupation; and the Council’s emerging support for meeting the needs of the elderly, it is considered that this application can be supported.

**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**
  - **Off-site Affordable Housing Contribution:**
  - **Age Restriction clauses**
  - **Open Space management and retention clauses**
- 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 Planning Practice Guidance*

*NPPF National Planning Policy Framework February 2019*

*Tendring District Local Plan 2007*

QL1 Spatial Strategy

QL2 Promoting Transport Choice

QL3 Minimising and Managing Flood Risk

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

QL12 Planning Obligations

HG1 Housing Provision

HG3A Mixed Communities

HG4 Affordable Housing in New Developments

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

COM1 Access for All

COM6 Provision of Recreational Open Space for New Residential Development

COM24 Health Care Provision

COM26 Contributions to Education Provision

COM30 Electricity Supply

COM31A Sewerage and Sewage Disposal

EN1 Landscape Character

EN6 Biodiversity

EN6A Protected Species

- TR1A Development Affecting Highways
- TR2 Travel Plans
- TR5 Provision for Cycling
- TR6 Provision for Public Transport Use
- TR7 Vehicle Parking at New Development

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

- SP1 Presumption in Favour of Sustainable Development
- SP2 Spatial Strategy for North Essex
- SP3 Meeting Housing Needs
- HP2 Community Facilities
- HP3 Green Infrastructure
- HP5 Open Space, Sports & Recreation Facilities
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- LP5 Affordable and Council Housing
- PPL1 Development and Flood Risk
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- CP1 Sustainable Transport and Accessibility
- CP3 Improving the Telecommunications Network

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

91/01160/FUL	Proposed domestic garage and part roof.	Approved	25.11.1991
92/00894/FUL	(Starena Lodge, Station Nurseries, Weeley) Retention of 3 caravans for personal use (renewal of permission TEN/1201/90)	Approved	17.09.1992
93/00456/FUL	(Starena, Station Road, Weeley) Use of land for 6 further car boot sales during year	Approved	22.06.1993
93/01407/FUL	(Starena, Station Road, Weeley) Use of land for holding 14 car boot sales	Approved	25.01.1994
95/00490/FUL	Car boot sales on 14 Saturdays in 1995, May 6, 13, 20, 27, August 5, 12, 19, 26, September 2, 9, 16, 23, 30 and October 7	Approved	06.06.1995
95/00696/FUL	(Starena Lodge, Station Nurseries, Weeley) Retention of three caravans for personal use (Renewal of Permission TEN/92/0894)	Approved	26.07.1995
95/00816/FUL	Car boot sales on Fridays from 28th July to 1st September 1995 inclusive (28th July, 4th, 11th, 18th, 25th August and 1st September)	Withdrawn	16.10.1995
96/00439/FUL	Car boot sales 4, 6, 11, 18, 25 and 27 May, 1, 8, 15, 22 and 29 June, 6, 13 and 20 July 1996	Approved	22.05.1996
97/00199/FUL	Car boot sales on 14 dates in 1997, March 8, 15, 22, 28,29, 31; April 5, 12, 19, 26; May 3, 10, 17, 24	Approved	16.04.1997
98/00667/LUEX	Use of four caravans for habitation and eight rooms in house for multiple occupation	Approved	07.07.1999
00/00051/LUPROP	Storage of caravans for scrapping and sale, also sale of "parts"/accessories/storage	Refused	25.08.2000

00/00557/FUL	Retention of six caravans for permanent human habitation	Refused	03.08.2000
03/00565/FUL	Proposed car boot sales every other Saturday from 7 June 2003 to 28 September 2003.	Approved	08.09.2003
10/00010/FUL	Stationing of four mobile homes, construction of a new access road, landscaping and septic tank.	Withdrawn	19.03.2010
10/00014/FUL	Replacement dwelling.	Withdrawn	19.03.2010
11/00897/FUL	Proposed 20 pitch static holiday caravan park with peripheral and supplemental landscape planting.	Refused	12.03.2012
12/00556/FUL	Construction of replacement dwelling and new garages (following demolition of existing house).	Approved	17.08.2012
12/01252/DISCON	Discharge of condition 03 (materials), condition 04 (screen walls and fences), condition 6 (landscaping) and condition 08 (foul water drainage) of planning permission 12/00556/FUL.	Approved	11.12.2012
16/00554/FUL	Removal of condition 4 of planning application 11/00897/FUL - To allow year round holiday use of caravans.	Approved	22.06.2016
16/01002/FUL	Variation of condition 2 and 9 of planning permission 16/00554/FUL to vary approved plans and vary the types of caravan units allowed at the site.	Approved	09.09.2016
16/01042/DISCON	Discharge of condition 5 (foul sewerage drainage), 6 (surface water drainage), 7 (landscaping), 13 (site layout) and 14 (site management scheme) of planning permission 16/00554/FUL.	Approved	24.10.2016
16/01564/FUL	Change of use of land to site 40 holiday lodge caravans.	Approved	11.01.2017
16/01956/FUL	Variation of condition 9 of 16/01002/FUL to amend to internal road layout and minor repositioning of the static caravans from the approved plan.	Approved	18.04.2017
17/00567/FUL	Change of use of land to site 67 holiday lodge caravans.	Refused	20.07.2017
		Allowed on Appeal	04.01.2018

17/02036/DISCON	Discharge of conditions 06 (foul sewage) 07 (surface water drainage) 08 (surface water run-off ) 09 (maintenance arrangements) 11(landscaping) 16 (site layout) 17 (site management scheme) 19 (reptile survey) 20 (vehicular turning facility) 22 (turning facility sign) of 16/01564/FUL	Approved	20.07.2018
18/00410/FUL	Removal of condition 3 to approved Planning Application 16/01956/FUL; Removal of condition 5 to approved Planning Application 16/01564/FUL; and Removal of condition 5 of planning permission APP/P1560/W/17/3183981. The condition on each application restricts the respective static caravan permissions to holiday use only. This application proposes the residential use of the approved caravans.	Refused	29.11.2018
19/00075/DISCON	Discharge of Condition 6 (Sewerage Drainage), Condition 7 (Surface Water Drainage), Condition 8 (Offsite flooding), Condition 9 (Maintenance Plan), Condition 11 (Landscaping), Condition 16 (Site Layout Scheme), Condition 17 (Site Management Scheme), Condition 19 (Vehicular Turning Facility) and Condition 21 (Method Of Advertising) of application 17/00567/FUL allowed on Appeal APP/P1560/W/17/3183981.	Approved	06.03.2019
19/00707/FUL	Proposed change of use of land to allow for the siting of 14no. additional holiday lodge caravans, new position for 2no. already permitted holiday lodge caravans, regularisation of layout of 58no. existing holiday lodge caravans and siting of 1no. lodge caravan for use as central clubhouse with visitor parking.	Approved	24.01.2020
20/00119/FUL	Proposed change of use to create a retirement park by allowing the residential use of 143 caravans approved under planning permissions APP/P1560/W/17/3183981 and 19/00707/FUL.	Current	

#### 4. Consultations

ECC Highways Dept

The information that was submitted in association with the application has been fully considered by the Highway Authority. It is noted that the site is close to other modes

of sustainable transport and is not reliant purely on motor vehicle journeys; it is located next door to Weeley Railway Station and the footway to the south of Gutteridge Hall Lane provides connectivity to existing bus stops along the Weeley Bypass (B1441 Clacton Road).

The application history for the site highlights that the rules and regulations of staying in the residential park include controls on the type and level of vehicles associated with each pitch. In this regard the traffic levels associated with the site is unlikely to change dramatically as a result of the proposed change from holiday accommodation to residential, therefore,

**As such this Authority does not raise any objection to the proposal as submitted.**

**Informative 1:** All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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

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

Natural England  
29.05.2020

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

The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Tendring, working together to mitigate the recreational impacts that may occur on the interest features of the coastal European designated sites in Essex as a result of new residential development within reach of them; the European designated sites scoped into the RAMS are notified for features which are considered sensitive to increased levels of recreation (e.g. walking, dog walking, water sports etc.) which can negatively impact on their condition (e.g. through disturbance birds, trampling of vegetation, erosion of habitats from boat wash etc.). For further information on these sites, please see the Conservation Objectives and Information Sheets on Ramsar Wetlands which explain how each site should be

restored and/or maintained

In the context of your duty as competent authority under the provisions of the Habitats Regulations, it is therefore anticipated that, without mitigation, new residential development in this location is 'likely to have a significant effect' on one or more European designated sites, through increased recreational pressure, either when considered 'alone' or 'in combination' with other plans and projects.

**NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED**

We understand that you have screened this proposed development and consider that it falls within scope of the Essex Coast RAMS, and that you have undertaken a Habitats Regulations Assessment (HRA) (Stage 2: Appropriate Assessment) in order to secure any necessary recreational disturbance mitigation, and note that you have recorded this decision within your planning documentation.

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of European designated sites within scope of the Essex Coast RAMS

We are satisfied that the mitigation described in your Appropriate Assessment is in line with our strategic-level advice (our ref: 244199, dated 16th August 2018 and summarised at Annex 1). The mitigation should rule out an 'adverse effect on the integrity' (AEOI) of the European designated sites that are included within the Essex Coast RAMS from increased recreational disturbance.

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

NHS East Essex CCG  
28.04.2020

The proposed development is likely to have an impact on the services of 1 GP practice operating within the vicinity of the application site. This GP practice does not have capacity for the additional growth resulting from this development.

The proposed development will be likely to have an impact on the NHS funding programme for the delivery of primary healthcare provision within this area and specifically within the health catchment of the development. As the commissioner of primary care

services, North East Essex CCG would therefore expect these impacts to be fully assessed and mitigated.

The planning application does not appear to include a Health Impact Assessment (HIA) or propose any mitigation of the healthcare impacts arising from the proposed development.

A Healthcare Impact Assessment (HIA) has been prepared by North East Essex CCG to provide the basis for a developer contribution towards capital funding to increase capacity within the GP Catchment Area.

The existing GP practice does not have capacity to accommodate the additional growth resulting from the proposed development. The development could generate approximately 214 residents and subsequently increase demand upon existing constrained services.

The development would have an impact on primary healthcare provision in the area and its implications, if unmitigated, would be unsustainable. The proposed development must therefore, in order to be considered under the 'presumption in favour of sustainable development' advocated in the National Planning Policy Framework, provide appropriate levels of mitigation.

The development would give rise to a need for improvements to capacity, in line with emerging STP Estates Strategy; by way of refurbishment, reconfiguration, extension, or potential relocation for the benefit of the patients of The Hollies Surgery or through other solutions that address capacity and increased demand. For this a proportion of the cost would need to be met by the developer.

A developer contribution will be required to mitigate the impacts of this proposal. North East Essex CCG calculates the level of contribution required, in this instance to be £56,802.24. Payment should be made before the development commences.

North East Essex CCG therefore requests that this sum be secured through a planning obligation linked to any grant of planning permission, in the form of a Section 106 planning obligation.

UU Open Spaces  
01.06.2020

As this development includes on-site open space a contribution towards improvements to the existing open space in Weeley is not required.

ECC SuDS Consultee  
05.03.2020

This application is for change of use of 19/00707/FUL. The application is not altering the previously approved drainage strategy as part of that application therefore our comments remain the same (no objection).

## 5. Representations

### 5.1 Weeley Parish Council objects to this application:

The application would appear to be a repeat of application 18/00410/FUL which was refused in 2018.

The site is outside the settlement boundary. Although it is permissible to grant planning permission for holiday use outside the settlement boundary, to allow permanent residential status on a site outside the established settlement boundary runs counter to established policy.

This scheme does not provide for an 'affordable' housing element; again, contrary to policy; nor is there any suggestion of an appropriate developer contribution to support facilities in the local area.

Finally, it is apparent that the five year housing supply numbers in Tendring are adequate and that, therefore, no additional sites are required.

### 5.2 **25 letters of support** for the application have been received from current holiday home users of Oakleigh Park. They state that the Park is in an accessible location to reach all amenities without having to travel miles; it is a safe gated community for those aged 50 years and above; it would help the Council receive Council Tax from everyone on the park; the residents are all or were hard working people that just want peace and quiet for the remainder of their lives; will give residents security and stability throughout their retirement years; regularly use all shops and pubs supporting the local economy; and being next to both buses and train stops affords easy access to Clacton-on-Sea town centre and seafront, and to Colchester town centre.

### 5.3 **2 letters of objection** to the application raising comments, including: in its refusal of Application Number 18/00410/FUL, which proposed the residential use of approved holiday caravans at Oakleigh Park, the Council explained why, in this case, creating a residential area on land outside the settlement development boundaries would be contrary to Policy QL1 of the adopted Local Plan, Policy SPL2 in the emerging Local Plan and the National Planning Policy Framework which advocates a plan-led system. Other detailed reasons were also quoted to maintain there was no justification for considering an exceptional departure from the relevant housing policies to accommodate this form of development, which would run contrary to a genuinely plan-led approach. Particularly as the Parish of Weeley has already been blighted by a disproportionate amount of unneeded and unwanted opportunistic residential development I can see no reason why the Council would now reject the vast majority of their previous arguments. Exacerbation of the problems that already exist along the slip road, which also serves the Village Hall, Primary and Nursery Schools, the recreation field including a children's play area and the Scouts' building should not be allowed to occur.

## 6 Assessment

### Site Context

### 6.1 The application site known as 'Oakleigh Residential Park' lies to the south west of Weeley immediately adjacent to the Clacton-Colchester railway line. Access to the site is via a slip road from Gutteridge Hall Lane, which is accessed from the B1441 Clacton Road. The slip road is the sole access to the application site. The access road also provides access to the Weeley village hall, the village recreation ground which includes children's play facilities, scout hut and former British Legion Hall. The village primary school lies at the junction of

the slip road with Gutteridge Hall Lane and the slip road is used for car parking especially during school term times to drop off and pick up children.

- 6.2 The application site currently has permission, by virtue of a number of incremental planning approvals, for the siting of 143 holiday lodge caravans (not all currently 'in situ') across what is known as 'Oakleigh Residential Park'.

#### Proposal

- 6.3 This application seeks permission to remove condition 5 of planning permission ref. APP/P1560/W/17/3183981 and condition 5 of planning permission ref. 19/00707/FUL which restrict the use of the approved caravans to holiday use only. It is proposed to create a retirement park which will allow for residential occupations but restricted to those over the age of 50.
- 6.4 Each of the extant permissions allow for the caravans to remain in place all year round, and this proposal is not for any additional caravans or built development in addition to that which has already been permitted.

#### Planning History

- 6.5 The current permissions which apply to the proposal site are:
- 16/01956/FUL which allows 20 holiday caravans that are restricted to holiday use by Condition 3 attached to the permission;
  - 16/01564/FUL which allows 40 holiday caravans that are restricted to holiday use by Condition 5 attached to that permission;
  - 17/00567/FUL which allows 67 holiday caravans (allowed on appeal under ref. APP/P1560/W/17/3183981) that are restricted to holiday use by Condition 5 attached to that permission
  - 19/00707/FUL which allows for the siting of 14 no. additional holiday lodge caravans and the new position for 2no.already permitted holiday lodge caravans regularisation of layout of 58 no. existing holiday lodge caravans and siting of 1no. lodge caravan for use as central clubhouse with visitor parking that are restricted to holiday use by condition 5 attached to that permission.

#### Appraisal

##### Principle of Development

- 6.6 Paragraph 47 of the NPPF requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The site lies outside of the Settlement Development Boundary of both the Saved and Draft Local Plans and is not allocated for development.
- 6.7 Saved Policy QL1 of the Tendring District Local Plan (2007) sets out the spatial strategy and seeks to concentrate most development in the District's larger towns with limited development, consistent with local community needs, in smaller towns and villages. Weeley and Weeley Heath are defined as villages. The policy also seeks to concentrate development within settlement boundaries and states that development outside those boundaries will only be permitted where it is consistent with countryside policies. There is nothing to suggest that the proposals accord with the Plan's countryside policies. As such, they conflict with Policy QL1.
- 6.8 Although the Local Plan was intended to cover the period up to 2011 the policies within it have been saved and are therefore extant. Saved Policy QL1 is broadly consistent with the



NPPF in terms of seeking to protect the character and appearance of the countryside and surrounding area. Consequently, Policy QL1, and any conflict with it, can be afforded significant weight. As the site lies outside of the settlement development boundaries and is not allocated for development in either the adopted or emerging Local Plan, it is contrary to local policy. However, where Councils are short of identifying a five-year supply of deliverable housing sites, the National Planning Policy Framework's (NPPF) presumption in favour of sustainable development is engaged and applications must be considered on their merits.

- 6.9 Policy SPL1 of the Emerging Local Plan defines the Plan's settlement hierarchy which seeks to prioritise development in locations with access to the strategic road network, public transport and the widest range of services. Under this hierarchy Weeley is categorised as a third tier Rural Service Centre and Weeley Heath as a Smaller Rural Settlement. The latter are considered to be the least sustainable locations for growth, but can achieve a small scale increase in housing within flexibly drawn settlement boundaries. The supporting text presumes against developments of more than 10 dwellings in Smaller Rural Settlements unless they have local support.
- 6.10 Policy SPL2 defines settlement boundaries and states that development outside of those boundaries will be considered in relation to the settlement hierarchy and any other relevant policies within the plan. Given the size of the proposed housing development in relation to the scale of housing anticipated in Weeley Heath, it is considered that this element of the proposal conflicts with Policy SPL2.
- 6.11 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.
- 6.12 Officers consider that the emerging Local Plan is progressing well, the core planning principles under paragraph 15 of the National Planning Policy Framework (NPPF) that development should be genuinely plan-led apply and the Council should actively manage patterns of growth is therefore awarded significant weight. With this in mind, it is considered appropriate to seek to protect villages from unfair, disproportionate and potentially unlimited levels of new housing growth.
- 6.13 Major developments - which have planning permission and have recently been built-out or retain extant consents - in Weeley/Weeley Heath include:
- Land South of Thorpe Road, Weeley - 280 dwellings
  - Land at Willow Farm, Mill Lane, Weeley Heath - 46 dwellings
  - Kidbys Nurseries, Weeley Heath - 22 dwellings
- 6.14 These 348 dwellings already represent a large increase in the housing stock contained within Weeley/Weeley Heath.
- 6.15 The application proposes the use of land for residential 'park homes' instead of caravans for holiday use, as per the extant planning permissions. In effect, this is a proposal to create residential dwellings and if added to the permissions already granted, a further 134 residential 'park homes' as proposed would increase this potential growth even further.
- 6.16 In terms of applying the tilted balance to the planning merits of this case, the cumulative impact of allowing the residential use of these permitted holiday caravans, needs to be

weighed against the following planning considerations put forward in support of the application; namely:

- Although the permitted caravans may only be occupied for holiday use at present, the caravan units are the same whether they are made available for holiday or residential occupation. Each of the extant permissions allow for the caravans to remain in place all year round, and this proposal is not for any additional caravans or built development in addition to that which has already been permitted. In physical form, operational and land use terms (this is no longer a green field site), therefore, the development will not introduce any use of land or development that has not already been found to be acceptable, and the land would essentially remain in use as a park home site. The only change will be the form of occupation;
- The proposed development is considered to address the three pillars of 'sustainable development', namely economic, social and environmental sustainability. The proposed use will help contribute to the local economy through resident's spending at local shops, pubs and local services. In environmental terms, the application does not propose any additional development and will retain the existing screening. It will also be relatively socially sustainable, given that it has been accepted through previous approvals on this site including the approval on appeal of the 67 pitch static holiday caravan park extension to the original site allowed on 4 January 2018 (Appeal Ref: APP/P1560/W/17/3183981) where the Inspector considered that although the proposal site was outside the settlement boundary, there was suitable vehicular and public transport access to the site including local bus stops, and the adjacent railway station. In addition the site was noted to be within walking distance of a range of services and facilities, and it was felt that the character of Gutteridge Hall Lane would not be altered;
- There are parallels in this case with a recent appeal decision (Appeal Ref. APP/P1560/W/17/3183981), issued on 22 November 2019, allowing the residential occupation of previously permitted holiday caravans at Sacketts Grove Caravan Park, Jaywick Lane, Clacton-on-Sea. In allowing the appeal the Inspector stated:

*"The delivery of 104 homes would be a benefit of the appeal scheme given the framework's aim to make a more efficient use of land and significantly boost the supply of housing, which the Council are currently not doing due to the housing supply deficit. The supply of housing under the appeal proposal would be significant, and even were I to accept the level of housing need is as stated by the Council, the delivery of 104 homes affords significant weight in favour of the proposal".*

*The Inspector concluded that "...the proposal would not create adverse impacts which would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the application of Paragraph 11 indicates that permission should be granted".*

- The applicant's aspiration is to deliver a 'retirement village' and as such they are proposing that, if approved, the park homes would be restricted to people aged 50 or over without children living at home. A Section 106 agreement is being drafted which will include provisions to address the age restrictive nature of the accommodation. Whilst not in itself a reason to justify the approval of this application, the provision of age-restricted park homes is something that fits with the Council's emerging 'Housing Strategy' to cover the period 2019-2014. The draft strategy pinpoints the Council's approach to delivering the housing necessary for the needs of the area, which includes meeting the particular needs for older people around Clacton. The Strategy confirms that the District has *"...the highest proportion of over 65's in the UK and the prediction is for this age group to continue increasing. Addressing the housing and other needs of the elderly will be paramount over the coming years"*.

- 6.17 On balance, therefore, given the District's current housing supply position; the relative sustainability of the site against the three pillars of 'sustainable development'; the recent appeal decision at Sacketts Grove Clacton; and the Council's emerging support for meeting the needs of the elderly, it is considered that this application can be supported.

#### Layout/Open Space

- 6.18 The site layout provides for ample open space provision to be provided on-site which meets with the requirements of saved policy COM6 of the adopted Local Plan which states that at least 10% of the site should be open green space.
- 6.19 Provisions with the S106 Agreement will ensure that this level of provision is retained and appropriately maintained.

#### Highways

- 6.20 ECC Highways have noted that the site is close to other modes of sustainable transport and is not reliant purely on motor vehicle journeys; it is located next door to Weeley Railway Station and the footway to the south of Gutteridge Hall Lane provides connectivity to existing bus stops along the Weeley Bypass (B1441 Clacton Road).
- 6.21 The application history for the site highlights that the rules and regulations of staying in the residential park include controls on the type and level of vehicles associated with each pitch. In this regard the traffic levels associated with the site is unlikely to change dramatically as a result of the proposed change from holiday accommodation to residential, therefore, ECC Highways does not raise any objection to the proposal as submitted.

#### Drainage/Flooding

- 6.22 ECC SuDS have confirmed that the previous surface water drainage measures incorporated into the Flood Risk Assessment (FRA) for recent planning approval ref. 19/00707/FUL have addressed all there requirements and as such they have no objections to this application.
- 6.23 This application is for change of use of 19/00707/FUL. The application is not altering the previously approved drainage strategy as part of that application therefore our comments remain the same (no objection).

#### Legal Obligations

#### Affordable Housing

- 6.24 Policy HG4 of the adopted Local Plan requires large residential developments (this change of use from holiday caravans to residential park homes qualifies as such) to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy LP5 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 30% of new dwellings on large sites to be made available for affordable or Council Housing and as drafted includes some flexibility allowing for onsite provision plus a financial contribution to facilitate off-site provision. However, on 29 October 2019 the Planning Policy and Local Plan Committee considered a report detailing delivery of affordable homes in the District and agreed amended policy wording to be suggested to the Local Plan Inspector. The amended wording requires 30% on-site provision rather than any alternative mechanisms.

6.25 In this case whilst the proposal meets the criteria in terms of size of development, 'park homes' would not meet the NPPF's definition of affordable housing as housing for sale or rent, for those whose needs are not met by the market. Accordingly, off-site provision secured through an appropriate financial contribution in lieu can be robustly justified in line with Paragraph 62 of the NPPF and this approach has been confirmed by the Council's Housing Team. This contribution has been calculated to be circa £424K (just under £3K per caravan) and will be secured through the Section 106 Agreement.

#### Healthcare

6.26 NHS East Essex CCG has confirmed that the proposed development is likely to have an impact on the services of 1 GP practice (The Hollies) operating within the vicinity of the application site. This GP practice does not have capacity for the additional growth resulting from this development.

6.27 The existing GP practice does not have capacity to accommodate the additional growth resulting from the proposed development. The development could generate approximately 214 residents and subsequently increase demand upon existing constrained services.

6.28 The development would have an impact on primary healthcare provision in the area and its implications, if unmitigated, would be unsustainable. The proposed development must therefore, in order to be considered under the 'presumption in favour of sustainable development' advocated in the National Planning Policy Framework, provide appropriate levels of mitigation.

6.29 The development would give rise to a need for improvements to capacity, in line with emerging STP Estates Strategy; by way of refurbishment, reconfiguration, extension, or potential relocation for the benefit of the patients of The Hollies Surgery or through other solutions that address capacity and increased demand. For this a proportion of the cost would need to be met by the developer.

6.30 A developer contribution will be required to mitigate the impacts of this proposal. North East Essex CCG calculates the level of contribution required, in this instance to be £56,802.24. Payment should be made before the development commences.

6.31 North East Essex CCG has therefore requested that this sum be secured through a planning obligation linked to any grant of planning permission, in the form of a Section 106 planning obligation. The applicant has confirmed that they will meet this requirement in full and this will be secured through the Section 106 Agreement.

#### Education

6.32 As the proposal is seeking an age-restricted residential use of the park homes there is not a requirement to meet local educational requirements.

#### RAMS

6.33 Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Area and Special Area of Conservation); within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings.

6.34 Legal advice has been sought in relation to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) which supports the view that Tendring District Council can seek financial contributions in accordance with the RAMS. A Habitat

Regulations Assessment has therefore been undertaken to confirm that the mitigation will be a proportionate financial contribution for off-site mitigation (as the scheme is for a net increase of over 100 units there is also a requirement in this case for on-site mitigation in terms of dog-off lead areas and links to circular walks in the local area – this has been confirmed by the applicant) as recommended by Natural England. It is therefore considered that the contribution is sufficient to mitigate against any adverse impact the proposal may have on European Designated Sites.

- 6.35 The RAMS contribution will be secured through the Section 106 Agreement, to ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

**7. Conclusion**

- 7.1 In weighing up the planning merits of this application, officers are of the opinion that, on balance, given the District’s current housing supply position; the relative sustainability of the site against the three pillars of ‘sustainable development’; the recent appeal decision at Sacketts Grove Clacton; and the Council’s emerging support for meeting the needs of the elderly, it is considered that this application can be supported.

**8. Recommendation**

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

<b>CATEGORY</b>	<b>TERMS</b>
Affordable Housing Provision	Off-site contribution of £ 2,967.08 per caravan (equivalent to £424,292.44)
NHS contribution	
Financial contribution towards RAMS.	£125.08 per caravan (equivalent to £17,886.44)
Open Space	Provision and maintenance
Age Restriction	Occupation by those 50 years of age and above

**8.2 Conditions and Reasons**

1. The development hereby permitted shall be carried out in accordance with the following approved plan, drawing number NC16.256-P-223 revision A (Site Wide Masterplan revised layout).

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

2. No more than 143 park homes as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended shall be stationed on the site at any time (as shown within the red lined application site area on drawing no. AY/02B607562/01).

Reason – To ensure compliance with the description of development hereby approved.

3. No touring caravans shall be sited or stored on the site at any time.

Reason – To ensure compliance with the description of development hereby approved and to ensure vehicular movements are consistent with those assessed as part of the planning application.

4. There shall be no external illumination of the site except in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority.

Reason – In the interests of residential amenity and the control of light pollution and disturbance.

5. Caravans shall only be delivered to or collected from the site on Saturdays or Sundays. There shall be no delivery or collection of caravans on Mondays to Fridays (inclusive).

Reason – To minimise the impact on traffic arising from the transportation of wide caravans on the highway network by restricting it to periods of lower usage.

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

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

7. The development hereby permitted shall be carried out in accordance with the drainage details contained in the Revised Surface Water Drainage Strategy dated November 2019 and Micro drainage model dated 17 December 2019 and on project no. 01B903343 drawing no. 04 (Existing and Proposed Sections of the Attenuation Pond) as approved under planning application ref. 19/00707/FUL.

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

### 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.

#### SUDS Informatives

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

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

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

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

Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.

## **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/>.

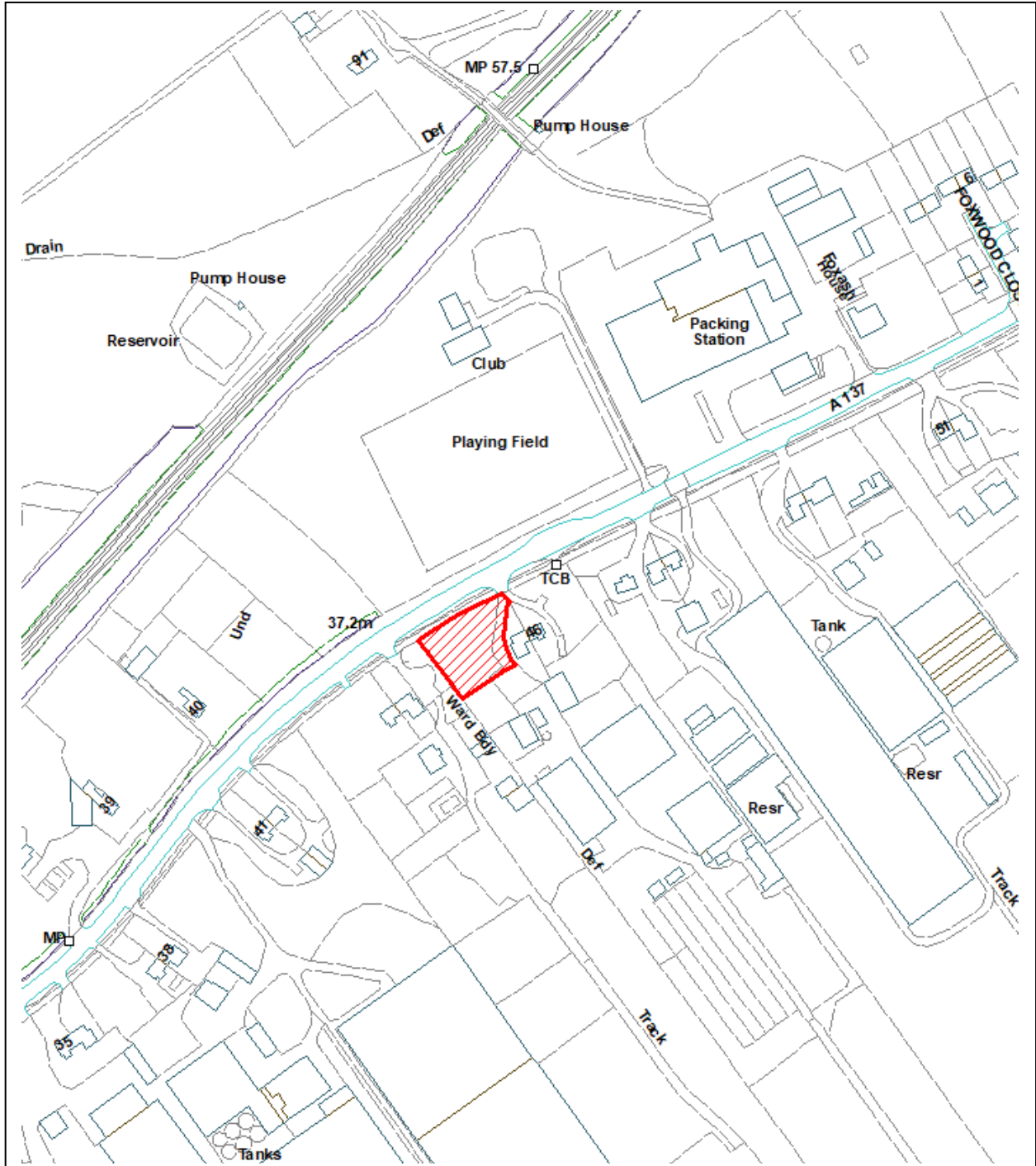


## PLANNING COMMITTEE

14<sup>TH</sup> JULY 2020

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### **A.3 PLANNING APPLICATION – 20/00338/FUL – LAND TO THE WEST OF 45 HARWICH ROAD LAWFORD MANNINGTREE CO11 2LS**



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**Application:** 20/00338/FUL

**Town / Parish:** Lawford Parish Council

**Applicant:** Mr and Mrs D Spurgin

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

**Development:** Erection of two semi-detached dwellings.

## 1. Executive Summary

- 1.1 This application follows a previous application refused by Members at their meeting of 12<sup>th</sup> February 2020 under planning application reference 16/01667/FUL. The application seeks full planning permission for the erection of 2 no. three bedroom, semi-detached dwellings 1.5 storey in scale. The previously refused application sought permission for 2 no. detached dwellings.
- 1.2 This application is before Planning Committee again at the request of Councillor Carlo Guglielmi, Councillor Val Guglielmi and Councillor Alan Coley on the grounds that the revised development is not in keeping with its surrounds; is considered overdevelopment of the site; will result in a negative Impact on neighbours; and the previous refusal on site is a material consideration that must be followed when determining this application.
- 1.3 The application relates to the land to the west of number 45 Harwich Road, Lawford. The site extends approximately 0.12 hectares in size and comprises an open grassed area of land between numbers 45 and 44 on the southern side of Harwich Road. On the boundary with the highway there is an established coniferous hedge. To the rear of the site are a range of glasshouses and commercial buildings accessed between the application site and number 45 Harwich Road. These buildings are mainly redundant or used as storage.
- 1.4 The site is located outside of the settlement development boundary as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 being almost equidistant from the Ardleigh and Lawford settlements.
- 1.5 Of particular relevance in this instance is the appeal decision for number 43 Harwich Road located approximately 20 metres to the west of the application site (appeal reference APP/P1560/W/18/3218683 allowed on 3<sup>rd</sup> May 2019). Application 18/00649/FUL for the erection of 1 no. 1.5 storey dwelling was refused due to the location of the site being outside the defined development boundary and future occupants having to rely on their car to go about their everyday lives. However, the Inspector concluded that the location of bus stops in close proximity to the site and the frequency of bus service meant that sustainable travel other than by private car would be reasonably practicable in this location.
- 1.6 The spacing around the dwellings, parking and garden provision in accordance with policy and standards demonstrates that the site would not be overdeveloped. The scale, height, design and appearance of the dwellings will not result in any material harm to the character and appearance of the area.
- 1.7 A legal agreement is required for this application to secure a financial contribution towards Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). A completed legal agreement to secure the required contribution was received on 1<sup>st</sup> July 2020.

- 1.8 The principle of residential development in this location has been established by the recent appeal decision. The application provides a development that is acceptable in terms of design, access, residential amenity and visual impact and is recommended for approval subject to the necessary conditions and legal agreement requirements set out below.

**Recommendation: Full 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

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

EN1 Landscape Character

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

COM6 Provision of Recreational Open Space for New Residential Development

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

SPL1 Managing Growth

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

Local Planning Guidance

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

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

- 2.2 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.
- 2.3 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018, 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**

99/00722/FUL	Proposed rear addition to increase size of lounge	Approved	24.06.1999
19/01667/FUL	Erection of two dwellings.	Refused	08.04.2020

**4. Consultations**

ECC Highways Dept  
14.05.2020

A site visit was undertaken previously for the original application 19/01667/FUL and the amended information that was submitted in association with this application has been fully considered by the Highway Authority. The proposed dwellings will utilise the existing vehicular access for the host dwelling. When compared with the former commercial use, the level of activity will be considerably reduced while the nature of vehicles will also change for the site. Both properties will retain adequate off-street parking and turning, for the host and proposed dwellings therefore:

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

1. There should be no obstruction above ground level within a 2.4 m wide parallel band visibility splay as measured from and

along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety in accordance with policy DM1.

2. Prior to the occupation of the proposed development the private drive, vehicular turning facility and access shall be provided in principal and accord with Drawing Number : Ds ab102 f Site Layout Plan.

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM1.

3. As indicated on amended proposed layout plan Ds ab102 f no unbound materials shall be used in the surface treatment of the new vehicular access throughout.

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

4. Prior to the first occupation of the proposed dwellings, as indicated on amended proposed layout plan Ds ab102 f, the existing vehicular access to the private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Carriageway / Footway / Highway Boundary.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety in accordance with policy DM1.

5. As indicated on amended proposed block plan Ds ab102 f all off-streetcar parking shall be in precise accord with the details contained within the current Parking Standards being provided within the site which shall be maintained free from obstruction and retained thereafter.

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

6. 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.

7. 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.

Informatives:

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

2: It is not essential to have a raised speed hump shown at the start of the new private drive due to the length and number of dwellings proposed for this private/ shared vehicular access as shown on amended proposed layout plan, drawing:  
Ds ab102 f and the 'speed hump' text should be removed.

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

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

5: 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 No comments have been received from Lawford Parish Council.

5.2 1 letter of objection has been received. The concerns raised are summarised below and addressed within the main assessment.

- Cramped.
- Lack of amenity space.
- Overdevelopment.
- Other approvals in the area for single dwellings only.
- Rear of the site already cluttered with existing uses and buildings.

5.3 5 representations in support of the application can be summarised as follows;

- Several other applications have been approved by officers and without committee.
- Sustainable location supported by the Planning Inspector.
- Will provide much needed family homes.
- Small self-build projects should be supported.
- These sites appear as natural small building plots.
- The proposed dwellings are of a design which is in keeping with the scale, character, and appearance of the area.
- All other dwellings on Harwich Road Lawford do not conform to any specific design or architectural discipline.
- This proposal would make excellent use of currently unused land.
- The proposed properties will not result in any harm to neighbours.
- Access allows good and visibility is clear.
- Access and good links between major towns including Colchester and Ipswich offering employment and shopping. Local pubs, community sport, village shops, post office, petrol stations, entertainment and alike all available locally within a few miles radius.
- Occupants will contribute to keeping local small businesses running.

## **6. Assessment**

6.1 The main planning considerations are:

- Site Context;
- Proposal;
- Planning and Appeal History;
- Principle of Development (including Layout, Scale and Appearance);
- Access and Parking;
- Residential Amenities;
- Trees and Landscaping;
- Legal Obligations - Open Space/Play Space Contribution; and,
- Legal Obligations - Recreational Impact Mitigation.

### Site Context

6.2 The application relates to the land to the west of number 45 Harwich Road, Lawford. The application site extends approximately 0.12 hectares in size and comprises an open grassed area of land between numbers 45 and 44 on the southern side of Harwich Road. The plot



associated with number 45 extends some 400m in depth to the rear with a total overall site area in the region of 7 acres.

- 6.3 On the front boundary with the highway there is an established coniferous hedge. To the rear of the site are a range of glasshouses and commercial buildings accessed between the application site and number 45 Harwich Road.
- 6.4 Comments provided within the neighbour representations suggest that there are a number of businesses still in operation together with some separate units of living accommodation. Planning records do not show any evidence of planning permission for these uses or dwellings. Information provided by the Agent states that the buildings to the rear are associated with 45 Harwich Road and are mainly redundant or used as storage in connection with the dwelling.
- 6.5 The site is located outside of the settlement development boundary as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 being almost equidistant from the Ardleigh and Lawford settlements.

#### Proposal

- 6.6 The application seeks full planning permission for the erection of 2 no. three bedroom, semi-detached dwellings 1.5 storey in scale with associated tandem parking to the side of each dwelling, private amenity space and cycle storage shed to the rear.
- 6.7 This amended application had been made in response to the comments made by Members during deliberations of the previous application at the meeting of 12<sup>th</sup> February 2020.
- 6.8 The dwellings will be accessed via the existing shared access with the creation of a shared driveway to the frontage of the new dwellings positioned behind the front boundary conifer hedgerow incorporating 2 visitor parking spaces.
- 6.9 As stated on the proposed plans, the dwellings are to be finished in red brickwork with a dark red brick plinth, cedar vertical cladding to the dormers and rear gable projection with a concrete pantile roof.

#### Planning and Appeal History

- 6.10 Of particular relevance in this instance is the planning and appeal history for land adjacent number 43 Harwich Road located approximately 20 metres to the west of the application site. Application 18/00649/FUL for the erection of 1 no., 1.5 storey dwelling was refused due to the location of the site being outside the defined development boundary and future occupants having to rely on their car to go about their everyday lives. The development was allowed under appeal reference APP/P1560/W/18/3218683 on 3rd May 2019 where the Inspector concluded that the location of bus stops in close proximity to the site and the frequency of bus service meant that sustainable travel other than by private car would be reasonably practicable in this location.
- 6.11 As a result of this appeal, outline planning permission (considering access) for the erection of 1 no. dwelling at number 56 Harwich Road (on the corner with Tile Barn Lane) was approved by officers under delegated powers on 2<sup>nd</sup> December 2019 under planning application reference number 19/01496/OUT.
- 6.12 The planning history at number 31 Harwich Road is also applicable to the consideration of this current application. Application reference 19/01361/OUT sought outline planning permission with all matters reserved for the erection of 4 no. houses on land to the rear of

number 31 Harwich Road and was refused by officers on 9th January 2020. This decision took into account the above-mentioned appeal decision and was refused due to the out of character backland nature of the development and not due to the location of the site being outside of the settlement development boundary. For these reasons, the site and proposed development considered under reference 19/01361/OUT is not directly comparable to application before Members. This development is subject of a current appeal in progress appeal reference APP/P1560/W/20/3248868.

#### Principle of Development

- 6.13 The principle of residential development in this location has been established by the above-mentioned appeal decision. For completeness, the principle of residential development in this locality will be assessed in full, referring to the appeal decision where relevant.
- 6.14 The site lies outside of any settlement development boundary as defined within both the adopted Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). Saved Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan. These sentiments are carried forward in emerging Policy SPL1 of the Publication Draft.
- 6.15 The National Planning Policy Framework 2019 (NPPF) requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.
- 6.16 At the time of writing this report the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Whilst it is recognised that there would be conflict with Saved Policy QL1 and Emerging Policy SPL1 in terms of the site being sited outside the settlement development boundary, as stated above, in the context of the 5 year housing land supply paragraph 11 d) of the NPPF requires applications for housing development to be assessed on their merits, whether sites are allocated for development in the Local Plan or not and it is important to consider whether any circumstances outweigh this conflict. In line with Paragraph 8 of the National Planning Policy Framework (2019), achieving sustainable development means meeting an economic objective, a social objective and an environmental objective. The sustainability of the application site is therefore of particular importance.

#### ***Economic Objective***

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

#### ***Social Objective***

- 6.18 Emerging Policy SPL1 of the Publication Draft of the Local Plan 2017 includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework

for directing development toward the most sustainable locations therefore being in line with the aims of the aforementioned paragraph 8 of the NPPF. This is the emerging policy equivalent to Saved Policy QL1 of the adopted Tendring District Local Plan 2007 which states that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan.

- 6.19 The site is almost equidistant from the Ardleigh and Lawford settlements. Ardleigh is identified as a village within saved Policy QL1 of the adopted Tendring District Local Plan 2007 and is defined as a Smaller Rural Settlement within Policy SPL1 of the emerging Tendring District Local Plan Publication Draft (2017). Lawford is defined as a Town within the saved Policy QL1 of the adopted Tendring District Local Plan 2007 and is defined as a Smaller Urban Settlement in recognition of the large range of local services offered.
- 6.20 There are bus stops within approximately 0.4 miles of the appeal site with services to Ardleigh and Lawford. This distance is not particularly far and accessible by footways along Harwich Road (A137) which is the principal road linking Ardleigh, Manningtree, Mistley and Lawford with Colchester. It is served by three bus routes with a frequent service in each direction each day, from early in the morning to late at night. Therefore, a bus journey to Lawford to utilise the large range of services there would be relatively straight-forward. Sustainable travel other than by private car would be reasonably practicable in this case. For these reasons, there would be no harm caused through the location of the proposed dwellings. The proposal, being situated outside defined settlement development boundaries would be in conflict with Saved Policy QL1 of the adopted Tendring District Local Plan 2007 which sets out the spatial strategy for Tendring to 2011. However, this policy is several years beyond its defined period of implementation and out-of-date. There would also be no harm caused by reason of the proposal's location. Therefore, the proposal's conflict with this policy must be given very limited weight. This echoes the conclusions made by the Inspector within paragraph 14 of the appeal decision (Appeal Ref: APP/P1560/W/18/3218683).

### ***Environmental Objective***

- 6.21 As mentioned above, paragraph 8 of the NPPF sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment including making effective use of land. Paragraph 127 of the NPPF states that developments should function well, should add to the overall quality of the area, are visually attractive as a result of good architecture and layout and are sympathetic to local character. Saved Policies QL9, QL10 and QL11 of the adopted Tendring District Local Plan (2007) seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Emerging Plan. Saved Policy HG14 requires a minimum of 1 metre side isolation between dwellings.
- 6.22 The proposed dwellings would form part of a clearly-identifiable ribbon of development along Harwich Road with numerous residential dwellings and commercial buildings directly adjacent or near to the site. The development would not constitute isolated homes in the countryside, being viewed alongside existing dwellings and against a backdrop of built form. Furthermore, the front boundary hedgerow will provide some screening and softening of the proposed development.
- 6.23 The immediate character to this section of Harwich Road sees a number of semi-detached properties, each pair being spaciouly separated. The introduction of a pair of semi-detached properties in this context would appear in keeping. The separation distance between the proposed dwellings and its neighbours retains an appropriate level of spaciousness as to not appear cramped or out of keeping with the existing pattern of development.

- 6.24 Due to the bend in the road, the proposed dwellings would be sited in line with number 44 Harwich Road but approximately 3 metres forward of number 45 Harwich Road. The siting of the dwellings would retain a set back from the highway edge of approximately 23 metres further screened by the existing front boundary hedge. The proposed dwellings would not appear prominent, nor would their somewhat unaligned siting appear harmful to the character of the area given the significant set back from the highway.
- 6.25 The 1.5 storey scale of the development is considered appropriate being no higher than the ridge heights of both neighbouring properties and incorporate design features that are characteristic of the area, namely dormer windows. The semi-detached arrangement allows for a spacious development with tandem parking to the side of the dwellings meeting the aims of Policy HG14 of the adopted Local Plan. The proposed materials are considered to be acceptable and will appear in keeping with the character of the area. However, precise details will need to be secured by condition as insufficient details has been provided on the proposed plans.
- 6.26 The proposed development would deliver 2 additional homes which would be a benefit given the NPPFs aim to make a more efficient use of land and significantly boost the supply of housing, which the Council are currently not achieving due to failure to provide a 5-year supply.
- 6.27 The introduction of 2 dwellings in a semi-detached arrangement on the site would not result in any significant visual harm in terms of the character of the area or result in any wider landscape impact.
- 6.28 Objections have been received expressing concern that the proposal would constitute overdevelopment, does not follow the existing building line and would be out of character. However, the site is already part of an established ribbon development of residential and commercial properties along Harwich Road and the proposed dwellings would be sufficiently spaced from its neighbouring structures, be served by sufficient garden space and retain a good set back from the highway. As such, it would not harm the character of the area and could not be considered overdevelopment of the site.

#### Access and Parking

- 6.29 Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. These objectives are supported by emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 6.30 The Council's current Adopted Parking Standards require that for dwellings with 3 bedrooms a minimum of 2 parking spaces be provided per unit. The preferred bay size for cars is 5.5 metres by 2.9 metres and the minimum bay size is 5 metres by 2.5 metres. Furthermore, 0.25 visitor parking spaces per dwelling should also be provided.
- 6.31 The development will be accessed via the existing access off Harwich Road which currently serves 45 and 46 Harwich Road with clear visibility possible in both directions. There is conflicting information in relation to the use of the buildings to the rear of the site and number of vehicles currently using the site or able to use the site in the future. Nonetheless, the additional traffic movements associated with 2 dwellings cannot be considered excessive or harmful to highway safety. The development provides parking, space for turning and visitor parking of an appropriate level to serve the proposed dwellings.

- 6.32 Essex County Council as the Highway Authority has been consulted on the application and raise no objection subject to conditions which will be imposed where necessary having regard to the scale of development and details that can be secured by the standard approved plans condition.

#### Residential Amenities

- 6.33 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.
- 6.34 The proposed dwellings retain a decent separation distance of over 12 metres to the donor dwelling at number 45 Harwich Road and over 20 metres to the neighbouring property to the west at number 44 Harwich Road. The spacing between dwellings and presence of only one small side facing en-suite window will ensure that no material loss of outlook, loss of light or overlooking will occur to existing or future occupants.
- 6.35 Policy HG9 of the adopted Tendring Local Plan 2007 states that a 3 bedroom dwelling should be served by a minimum of 100 square metres of private amenity space. The plans demonstrate that this level of amenity space can be achieved for both the new dwellings and donor dwelling.

#### Trees and Landscaping

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

#### Financial Contribution – Open Space and play Space

- 6.39 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.
- 6.40 In line with the requirements of saved Policy COM6 and emerging Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space.
- 6.41 No contribution is being requested from the Open Space Team on this occasion.

## Financial Contribution – Recreational Disturbance

- 6.42 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.
- 6.43 The application scheme proposes a residential on a site that lies within the Zone of Influence (Zoi) being approximately 2400 metres from the Stour and Orwell Estuaries Ramsar and SPA. New housing development within the Zoi would be likely to increase the number of recreational visitors to the Stour and Orwell Estuaries and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.
- 6.44 A unilateral undertaking has been completed to secure this legal obligation. This will ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

## **7. Conclusion**

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

## **8. Recommendation**

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

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

## **8.2 Conditions and Reasons**

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans: PMA/516 AB100b, PMA/516 AB101, PMA/516 AB102f, PMA/516 AB103c and PMA/516 AB104c.

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

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

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

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

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

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

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

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

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

7. Notwithstanding the provisions of Article 3, Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no provision of fences, walls or other means of enclosures shall be erected forward of the front elevation of the dwellings hereby approved.

Reason - In the interests of visual amenity.

8. Notwithstanding the provisions of Schedule 2 Part 1 Classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without

modification), no extensions, additions, porches or alterations to the dwellings or their roofs shall be carried out and no outbuildings, enclosures, swimming or other pools shall be erected except in complete accordance with details which shall previously have been approved, in writing, by the Local Planning Authority following the submission of a planning application for such development.

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

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

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

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

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

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

Reason - To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety.

12. Prior to the occupation of the proposed development the private drive, vehicular turning facility and access shall be provided in principal and accord with Drawing Number AB102f.

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

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

- safe access to/from the site;
- the parking of vehicles of site operatives and visitors;
- the loading and unloading of plant and materials;
- the storage of plant and materials used in constructing the development;
- wheel washing facilities;
- measures to control the emission of dust and dirt during demolition and construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works;
- details of hours of deliveries relating to the demolition and construction of the development;
- details of hours of site clearance or construction;
- a scheme to control noise and vibration during the demolition and construction phase, including details of any piling operations.



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

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

14. Prior to the occupation of the development, full elevation details of the proposed cycle stores 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 prior to occupation and retained in the 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 and amenity as insufficient details have 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 Agent, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

#### Legal Agreement Informative - Recreational Impact Mitigation

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

#### Highways Informatives

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

Informative 2: It is not essential to have a raised speed hump shown at the start of the new private drive due to the length and number of dwellings proposed for this private/ shared vehicular access as shown on amended proposed layout plan AB102f and the 'speed hump' text should be removed.

Informative 3: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Informative 4: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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

Informative 5: Areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the highway to ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety.

## **9. Additional Considerations**

### Public Sector Equality Duty (PSED)

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

### Human Rights

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

### Finance Implications

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

## **10. Background Papers**

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

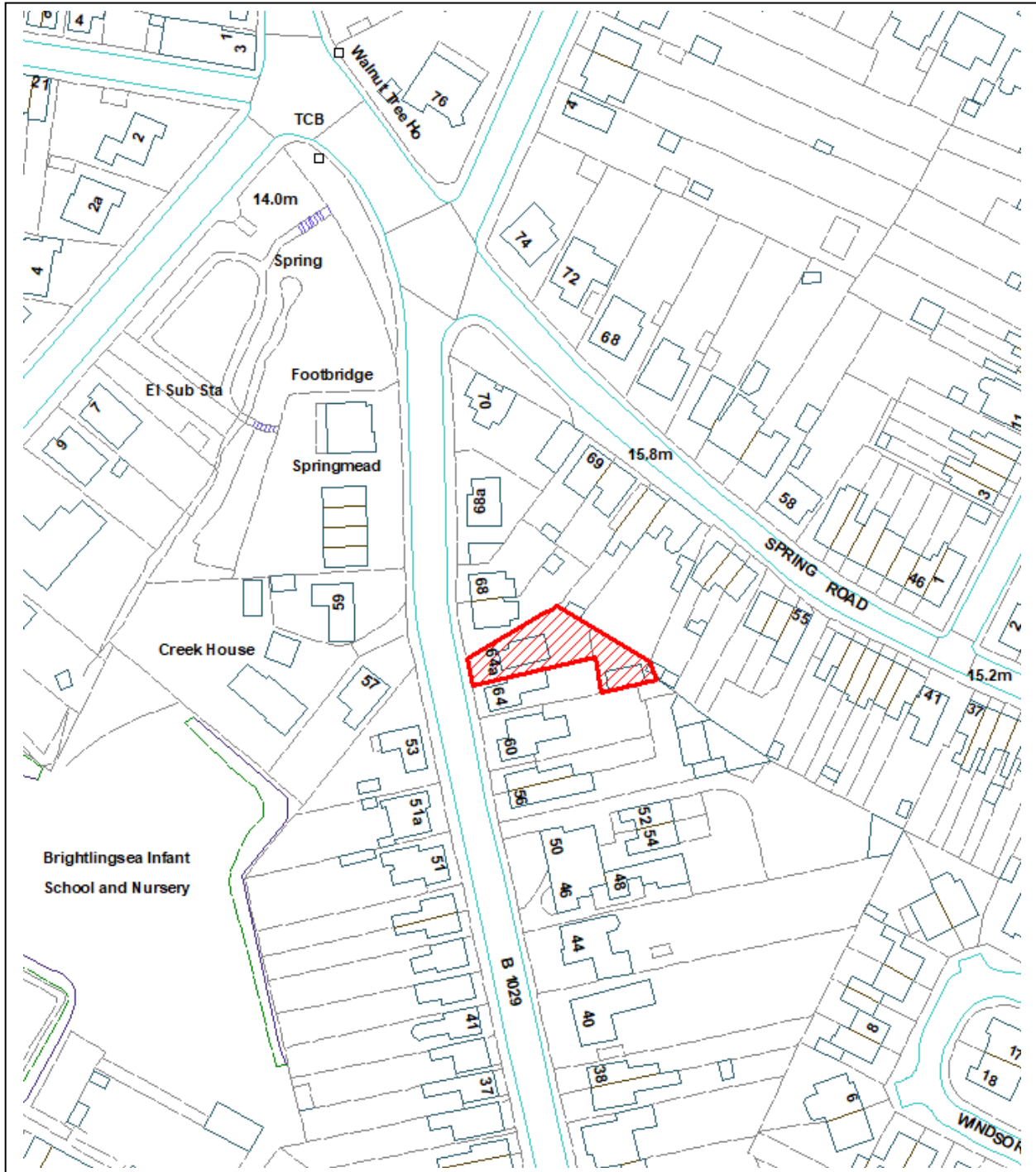
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## PLANNING COMMITTEE

14<sup>TH</sup> JULY 2020

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### **A.4 PLANNING APPLICATION - 20/00387/FUL - 64A LADYSMITH AVENUE BRIGHTLINGSEA CO7 0JD**



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**Application:** 20/00387/FUL

**Town / Parish:** Brightlingsea Town Council

**Applicant:** Mr and Mrs Newland

**Address:** 64A Ladysmith Avenue Brightlingsea CO7 0JD

**Development:** Proposed first floor front extension.

## 1. **Executive Summary**

- 1.1 The application has been referred to the Planning Committee as the applicant is an employee of Tendring District Council, in the position of Planning Team Leader.
- 1.2 The proposed first floor extension will be located at the front of the property and will be visible from the street scene. However, its modest size is considered to be of a scale and nature appropriate to the site and the surrounding area. The use of matching materials will blend the development with the host dwelling.
- 1.3 Given the modest depth of the extension it is not considered to result in any material loss of light or outlook to the neighbouring properties.

### **Recommendation:**

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

- a) Subject to the conditions stated in section 8.2

## 2. **Planning Policy**

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

*NPPF National Planning Policy Framework February 2019*

*National Planning Practice Guidance*

*Tendring District Local Plan 2007*

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

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

SPL3 Sustainable Design

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

- 2.2 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated

policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

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

94/00774/FUL	Conversion of garage to dining room (variation to condition 3 imposed upon permission TEN/738/83)	Approved	09.08.1994
20/00387/FUL	Proposed first floor front extension.	Current	

**4. Consultations**

Brightlingsea Town Council                      Support the application

**5. Representations**

None received.

**6. Assessment**

6.1 The main planning considerations are:

- Site Context;

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

#### Site Context

- 6.2 The application site is located to the east of Ladysmith Avenue inside the development boundary of Brightlingsea. It serves a detached two storey dwelling constructed of brickwork with a tiled roof. The front of the property has an area of hardstanding for parking of 2 vehicles. There is an established box hedgerow to the side boundaries.

#### Proposal

- 6.3 This application seeks planning permission for a first floor front extension. The proposed extension will measure approximately 2.8m wide, 3.4m deep and will have a pitched roof giving a maximum total height of 6m. The proposal will be designed from materials to match those of the existing dwelling, the exterior walls will be of facing brickwork, the roof will be pitched and tiled, and the window will be white UPVC. The design and scale of the proposal is considered in keeping with the existing dwelling and surrounding area and is not considered to cause any adverse effects on the visual amenities of the area.

#### Principle of Development

- 6.4 The principle of development is considered acceptable as the proposal simply seeks to extend and improve the existing host dwelling. The main considerations are therefore the detailed design and impact matters set out below.

#### Scale, Design and Visual Impact

- 6.5 The site is located in a residential area. Ladysmith Road is predominately made up of two storey dwellings, many of which have been altered or extended.
- 6.6 The proposed extension will be located at the front of the property and will be visible from the street scene. Its modest size is considered to be of a scale and nature appropriate to the site and the surrounding area. The use of matching materials will blend the development with the host dwelling.
- 6.7 The proposed development is therefore considered to be in keeping with the host dwelling and is acceptable in design terms.

#### Residential Amenities

- 6.8 The neighbouring property 64 Ladysmith Avenue has one small obscure glazed window at both ground and first floor levels on the facing flank close to the extension, serving a landing and under stairs cupboard. There is also a secondary kitchen window at ground floor set back slightly behind the proposed extension. These windows are north facing and already obstructed to some extent by the existing dwelling. Given the modest depth of the extension it is not considered to result in any material loss of light or outlook to this neighbour. The neighbour at 66 Ladysmith Avenue is sufficiently separated from the extension to prevent any loss of amenity.



### Access and Parking

- 6.9 The proposal will have no impact to access and parking. There is currently parking available for two cars.

## **7. Conclusion**

- 7.1 The application is recommended for approval.

## **8. Recommendation**

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

### 8.2 Conditions and Reasons

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No.1.

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

### 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.

## **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/>.