

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON TUESDAY, 11TH AUGUST, 2020 AT 6.00 PM
IN THE 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)**

Present:	Councillors White (Chairman), Bray (Vice-Chairman), Alexander, Cawthron, Casey, Codling, Fowler, Harris and Placey
Also Present:	Councillors Honeywood, Knowles, Land, Scott, and Wiggins.
In Attendance:	Graham Nourse (Acting Assistant Director (Planning)), Lisa Hastings (Assistant Director (Governance) and Monitoring Officer), Trevor Faulkner (Temporary Planning Team Leader), Susanne Chapman-Ennos (Planning Team Leader), Matthew Lang (Planning Officer), Debbie Bunce (Legal and Governance Administration Officer), Keith Durrant (Committee Services Officer) and Emma Haward (Leadership Support Officer)

27. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

28. MINUTES OF THE LAST MEETING

Under minutes 21, (paragraph 2) and 23 (paragraph 1), Councillor Harris' declaration was incorrectly recorded, Councillor Harris had declared a personal interest in Planning Application 19/01706 Land South West of Horsley Cross Roundabout due to being a Ward Member and Parish Councillor of the neighbouring ward. The application was to be brought back to 'Committee' rather than the 'Authority'.

It was moved by Councillor Alexander and seconded by Councillor Bray and:-

RESOLVED that, subject to the changes outlined above, the minutes of the last meeting of the Committee held on Tuesday 14 July 2020 be approved as a correct record.

29. DECLARATIONS OF INTEREST

Councillor Bray declared a personal interest in **Planning Application 20/00202/FUL Brick Barn Residential Care Home, 106 Walton Road, Kirby-Le-Soken, Frinton-on-Sea CO13 0DB** due to being a member of Frinton and Walton Town Council however, he was not predisposed.

Councillor Alexander declared a personal interest in **Planning Applications 20/00084/FUL Martello Tower F, Marine Parade West, Clacton-on-Sea CO15 1LS** and **20/00520/FUL 12 Penfold Road, Clacton-on-Sea CO15 1JN** due to being a Ward Member for both applications however, he was not predisposed.

Councillor Scott declared a personal interest in **Planning Application 19/01856/FUL Alresford Hall, Ford Lane, Alresford CO7 8AY** due to being a Ward Member.

Councillor Land declared a personal interest in **Planning Application 19/01157/FUL Land Adjacent Little Thatch, Mill Lane, Thorpe-Le-Soken CO16 0ED** due to being the Ward Member and, in addition he was the Chairman of Thorpe Parish Council.

30. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were no questions on this occasion.

31. A.1 PLANNING APPLICATION - 19/01856/FUL - ALRESFORD HALL, FORD LANE, ALRESFORD CO7 8AY

Councillor Scott had earlier declared a personal interest in **Planning Application 19/01856/FUL Alresford Hall, Ford Lane, Alresford CO7 8AY** due to being a Ward Member.

The Committee was informed that the development applied for related to the construction of a children's adventure play area on the application site with associated new access from the B1027, car parking area and hard/soft landscaping. The development comprised of: a main building accommodating indoor play, café and ticketing area, various children play zones, a maze and a woodland walk trail.

The Committee was further informed that the application site encompassed land which hosted the former Whistleberry Nursery (to the rear and east of Alresford Hall). Alresford Hall (Grade II Listed) and its grounds are situated approximately 1.6 km south of Alresford and 10 kilometres south-east of Colchester. The site was located outside of the defined settlement boundary for Alresford in both the saved and emerging local plan and within a coastal protection belt within the saved plan only.

Taking into consideration the three strands of sustainability namely economic, social and environmental considerations the development was considered by Officers to represent a sustainable development by: creating local job opportunities, attracting additional visitors to the District, promoting children's interaction with nature, and retaining and strengthening existing landscaping and biodiversity enhancements.

The application and supporting documents/surveys had demonstrated that there would be no overriding harm which could not be mitigated in respect of heritage, landscape, ecology or highways considerations. The proposed development would reuse part of the estate which had been previously developed and would provide a unique visitor attraction within the District for families.

Subject to the recommended conditions within section 8.2 of this report, 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, an oral presentation was made by the Council's Planning Officer (ML) in respect of the application.

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

(a) An amendment to Condition 2 (Approved Plans) to reflect correct 'Access Arrangements Plan' and Condition 18 (Shuttle Bus) to reflect ECC-Highway's wording as follows:

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

- 663-100C
- 663-101B
- S01 Rev B
- S02 Rev C
- B01
- 2019-F-006-009
- Ground Floor Plan – Main Building
- Proposed Mezzanine & Roof Plan – Main Building
- Proposed North & East Elevations – Main Building
- Proposed South and West Elevations – Main Building
- Toilet/Changing Floor Plans and Elevations

Reason – For the avoidance of doubt.

18) Within two years of the opening of the attraction; in year two a free shuttle minibus service; in principal, will operate between the site and Alresford railway station during Bank Holidays and the local school holiday periods; the service/ frequency and route will:

- be agreed and finalised by both the developer, ECC as part of the Travel Plan monitoring and Community Rail Partnership.
- The Community Rail Partnership will help promote travel to the park by train, with leaflets and social media.
- At the end of year two the service will be reviewed, 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 and will look at but not restricted to what impact the promotion to use the train has had; changes in car park capacity during these periods and perceived traffic congestion getting to and from the attraction.

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

(b) An additional proposed Condition

- The proposed go-karts shall be peddle go-karts only and not engine powered or electric.

Reason – In the interests of visual amenity and biodiversity.

(c) Environment Agency Comments

Because a decision has been taken not to connect to mains drainage the applicant needs to justify why this is the case and identify that measures are in place to prevent environmental damage. The submitted documents look to have satisfied this requirement.

(d) Coastal Protection Belt Designation

Saved policy EN3 of the adopted local plan is relevant as the site is designated as protected Coastal Protection Belt in the adopted plan. However, it is noted that the site is well-contained and not viewed as part of a wider coastal landscape.

This stance is supported by the removal of the Coastal Protection Belt designation in the emerging local plan and indicates it is the Council's intention to not specifically allocate this site as a protected landscape.

The examination of the emerging local plan has commenced and therefore policies contained within the document can be afforded moderate weight.

Paragraph 47 of the National Planning Policy Framework is clear in that it states 'Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise'. In this instance the removal of the Coastal Protection Belt designation in the emerging local plan is considered to represent a material planning consideration that can be given a good degree of weight.

It is evident that the adopted local plan relies on old data and outdated Government guidance. The Coastal Protection Belt for example was an old County level designation carried over from the (now abandoned) Essex Structure Plan. The broad areas of Coastal Protection (which in many cases travel far inland) were reduced within the emerging local plan in order to focus upon the undeveloped coast of the District. Although the emerging local plan cannot be afforded full weight in the decision-making process, it provides a clear indication of the council's direction of travel and it aligns with the policies of the National Planning Policy Framework in respect of achieving growth of the rural economy, farm diversification and the development of rural tourism.

Consequently, officers are of the view that the removal of the Coastal Protection Belt designation in the emerging local plan in conjunction with the limited landscape impacts of the development should be given a good degree of weight in the determination of this application.

Nick White, a local resident, spoke in support of the application.

Andrew Tabachnik QC representing the Objectors) spoke against the application.

Councillor Scott, a Ward Member, spoke on the application. He was neither for nor against the application.

Susie Marsden, the applicant, spoke in support of the application.

Following discussion by the Committee, it was moved by Councillor Alexander, seconded by Councillor Fowler and **RESOLVED** that the Head of 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/documents

- 663-100C
- 663-101B
- S01 Rev B
- S02 Rev C
- B01
- 2019-F006-001 Rev C
- Ground Floor Plan – Main Building
- Proposed Mezzanine & Roof Plan – Main Building
- Proposed North & East Elevations – Main Building
- Proposed South and West Elevations – Main Building
- Toilet/Changing Floor Plans and Elevations

Reason – For the avoidance of doubt.

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

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

4. All changes in ground levels, hard landscaping, planting, seeding or turfing shown the approved landscaping details drawing nos. 663-100C and 663-101B 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 implementation of the approved scheme and adequate maintenance of the landscaping for a period of five years in the interests of visual amenity.

5. Prior to the commencement of any above ground works full design details of the various play areas shall be provided including scaled drawings of the various pieces of play

equipment in accordance with the submitted scale parameters. The play areas shall be constructed in accordance with the approved details.

Reason – In the interests of visual amenity.

6. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Impact Assessment (Naturally Wild, January 2020), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. This is to include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction of the woodland pathways. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

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

7. No development shall take place (including any demolition, ground works, site clearance) until a Reptile Mitigation Strategy to include details of the receptor site, has been submitted to and approved in writing by the local planning authority.

The content of the method statement shall include the following:

- a) purpose and objectives for the proposed works;
- b) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
- c) extent and location of proposed works shown on appropriate scale maps and plans;
- d) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction
- e) persons responsible for implementing the works;
- f) initial aftercare and long-term maintenance (where relevant);
- g) The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

Reason - To conserve Protected and Priority species and allow the LPA to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended, s40 of the NERC Act 2006 (Priority habitats & species) and s17 Crime & Disorder Act 1998.

8. No above ground works shall take place until a Biodiversity Enhancement Layout, providing the finalised details and locations of enhancement measures, has been submitted to and approved in writing by the local planning authority. The enhancement measures shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

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

9. No above ground works shall take place until a lighting design scheme for biodiversity has been submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

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

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

10. A Landscape and Ecological Management Plan (LEMP) for Crestland Wood LoWS shall be submitted to, and be approved in writing by, the local planning authority in consultation with Essex Wildlife Trust, prior to beneficial use of the development.

The content of the LEMP shall include the following:

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

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

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

11. No development shall take place until a Construction Traffic Management Plan, which shall be adhered to during the construction phase of development, has been 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.

12. The opening of the attraction shall not take place until the following highway works/requirements have been completed:

a) A priority junction off B1027 Tenpenny Hill with ghosted right turn lane to provide access to the proposal site with Kerb radii measuring a minimum of 8 metres with a 2 metre-wide footway provide around each kerb radii and extended to the nearest crossing point and resurfacing of the full width of the carriageway for the extent of the ghosted right turn lane.

b) The road junction / access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 x 136 metres northwest bound and 2.4 x 160 metres southeast bound, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

c) Improvements to footways to an affective width of 2 metres from the two closest bus stops to the proposed junction and encompassing the introduction of associated tactile paving for any crossing points and the provision of a 2m wide pedestrian pathway within the site from the new junction to the entrance of the attraction.

d) To current Essex County Council specification, the upgrade of the two closest bus stops on the B1027 Tenpenny Hill or upgrade of the stops which would best serve the proposed site (details shall be agreed with the Local Planning Authority prior to commencement of the development).

e) The provision of 1 no. pedestrian refuge island (with beacon / keep left signage and bollards) in the vicinity of the site entrance to improve access for pedestrians using the bus stop on the opposite side of Tenpenny Hill (details of which shall be submitted to and agreed, in writing, by the Local Planning Authority prior to commencement of the development).

f) Provision of warning signs (x2) on new posts to diagram no. 506.1 and temporary signs (x2) diagram no. 7014(v) in advance of the new junction on each approach.

g) The submission of a drainage survey in the area of the proposed site access onto Tenpenny Hill shall be submitted to and approved, in writing, by the Local Planning Authority.

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

13. No unbound material shall be used in the surface treatment of the vehicular access within 30 metres of the highway boundary.

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

14. The gradient of the proposed vehicular access shall be in accordance with DMRB standards.

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

15. 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.

16. Prior to the first opening of the attraction the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, shall have been 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.

17. The Cycle / Powered Two-wheeler parking shall be provided in accordance with the EPOA Parking Standards. The approved facilities shall be secure, convenient, covered and provided prior to the first opening of the attraction and retained at all times.

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

18. Prior to the first opening of the attraction a workplace travel plan shall be submitted to and approved, in writing, by the Local Planning Authority 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.

19. Prior to opening of the attraction in year (season) two a free shuttle minibus service; in principal, will operate between the site and Alresford Railway Station during Bank Holidays and the local school holiday periods. Details of the minibus service shall be submitted and approved,

in writing, by the Local Planning Authority prior to its first introduction. The service/ frequency and route will:

- Be agreed and finalised by both the developer, ECC as part of the Travel Plan monitoring and Community Rail Partnership two months before operation of the service commences.
- The minibus provision will be regularly promoted to all staff and visitors to the Park as part of their commitment to active and sustainable travel, via their website, leaflets and social media channels.
- The Community Rail Partnership will help promote travel to the park by train, with leaflets and social media working closely with the Parks Travel Plan Co-ordinator.
- At the end of year (season) two the service will be reviewed, 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 and will look at but not restricted to what impact the promotion to use the train has had; changes in car park capacity during these periods and perceived traffic congestion getting to and from the park.

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

20. A mitigation strategy detailing the archaeological preservation/excavation strategy for the site shall be submitted to and approved, in writing, by the Local Planning Authority. No development or preliminary groundworks can commence on those areas containing archaeological deposits where preservation cannot be achieved by design until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been approved in writing by the Local Planning Authority. The applicant will submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority). This 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 protect archaeological remains.

21. Prior to the commencement of the development proposals, investigations shall be carried out to establish whether the site is contaminated in any way. Such investigations shall be carried out in accordance with a scheme which shall first be agreed in writing with the Local Planning Authority.

If the investigations reveal contamination of the site, a further scheme shall be agreed in writing by the Local Planning Authority, setting out measures to ensure that the entire area of the site, in relation to soil conditions resulting from such contamination, will not be harmful or detrimental to human health, animal health, normal plant health or growth, to buildings, building surfaces or amenities. Such agreed measures shall be implemented and completed to the satisfaction of the Local Planning Authority prior to the commencement of any development of the site.

Reason – In the interests of health and safety.

22. Prior to the commencement of development, a scheme for on-site foul water drainage works, including maintenance arrangements, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the first use of the attraction, the foul water drainage works relating to the development must have been carried out in complete accordance with the approved scheme.

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

23. The attraction shall only be open to the general public between the following opening times and during the seasonal period outlined below, unless otherwise agreed, in writing, by the Local Planning Authority;

- 10am – 5pm (7 days a week); and
- Between the 23rd March and 31st October in any calendar year.

Reason – In the interests of residential amenity.

24. The recommendations and tree protection measures outlined within the submitted Arboricultural Impact Assessment, Arboricultural Method Statement and on drawing no. drawing no. P1416 TPP01 V2 (as prepared by Ligna Consultancy) shall be adhered to at all times during the construction phase of the development.

Reason – To protect the trees identified for retention during construction in the interests of visual amenity.

25. No works except demolition shall takes 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 1l/s, by utilising infiltration elsewhere on site, 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.
- Demonstrate that all storage features can half empty within 24 hours for the 1:30 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753, including specified pre-treatment prior to water entering the attenuation basin.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

Reason -

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

26. 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.

27. Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

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

28. 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. A.2 PLANNING APPLICATION - 20/00202/FUL - BRICK BARN RESIDENTIAL CARE HOME, 106 WALTON ROAD, KIRBY LE SOKEN, FRINTON ON SEA CO13 0DB

Councillor Bray had earlier declared a personal interest in **Planning Application 20/00202/FUL Brick Barn Residential Care Home, 106 Walton Road, Kirby-Le-Soken, Frinton-on-Sea CO13 0DB** due to being a member of Frinton and Walton Town Council however, he was not predisposed.

Members were informed that the application had been referred to the Planning Committee at the request of Councillor Knowles due to her concerns with the perceived negative impact on neighbours from the proposed use and previous poor Care Quality Commission (CQC) reports.

The Committee was made aware that the application related to Brick Barn Residential Care Home located at 106 Walton Road within 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 fully 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).

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 meaning a use that did not fall within the categories defined with the Use Classes Order) including internal alterations reducing the current accommodation from 15 bedrooms to 9.

Members were 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 physical alterations. That application had been refused due to the lack of marketing information therefore failing to justify the loss of employment in line with the requirements of Saved Policy ER3 of the adopted Tendring District Local Plan 2007. Since this previous application, it had come to light that the proposal would involve internal/physical alterations to the building 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 did not result in the loss of an employment use and did not require assessment under the provisions of Saved Policy ER3 of the adopted Tendring District Local Plan 2007.

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

Officers stated that the site was 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 a service to Colchester. The sustainable location of the site was reflected

in the Council's inclusion of the site within the extended settlement development boundary of the emerging Local Plan.

The proposed use would see a reduction in rooms seeking to provide accommodation for up to 9 residents on a medium term basis of between 6 months to 2 years. This would in turn reduce the number of associated comings and goings and associated traffic movements when compared with the current lawful use, thus lessening the potential for any noise or disturbance to neighbouring properties.

The proposal would ensure a vacant premises was brought back into use; facilitate new employment and provide a valuable contribution to the housing mix for the District in a location recognised as sustainable by National and Local Plan policies. The application was therefore recommended by Officers 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**.

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

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

(a) An amendment to the recommendation to now incorporate a legal agreement:

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:

- Giving priority to residents in need of housing who have a connection with the Tendring District.

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.

(b) An additional objection received:

The material planning considerations raised can be summarised below:

- Kirby Le Soken does not have the infrastructure nor amenities for this type of establishment.

Officer response: This matter has already been addressed within the officer report.

Fiona Kennedy, a local resident, spoke in support of the application.

Councillor Knowles, the local Ward Member, spoke against the application.

Nikki Faber, the applicant, spoke in support of the application.

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

(a) a Section 106 Legal Agreement to deal with following matters:

- Giving priority to residents in need of housing who have a connection with the Tendring District; and
- Residents to be sourced through the Council's register or from other professional bodies such as SSAFA (The Armed Forces Charity), the Royal British Legion and the Baptist Church in Clacton-on-Sea).

(c) The following Conditions and Reasons:

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Floor Plan MH-3596.

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

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

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

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

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

5. The use hereby approved shall operate in strict accordance with the Supporting Statement and Management Plan received on 16th June 2020 unless otherwise agreed in writing by the Local Planning Authority.

Reason – To ensure the use and facility is appropriately operated and managed in the interests of residential amenities for both existing and future occupants.

33. A.3 PLANNING APPLICATION - 20/00084/FUL - MARTELLO TOWER F, MARINE PARADE WEST, CLACTON ON SEA CO15 1LS

Councillor Alexander had earlier declared a personal interest in **Planning Application 20/00084/FUL Martello Tower F, Marine Parade West, Clacton-on-Sea CO15** due to being a Ward Member however, he was not predisposed.

Members were informed that this application was before the Planning Committee as the site was within the ownership of Tendring District Council.

It was reported that the application related to Martello Tower F which was located on Marine Parade West near the junction with Tower Road, Clacton-on-Sea. The building was a designated Scheduled Ancient Monument, a Grade II Listed Building and was also located within the Clacton Seafront Conservation Area.

The application sought full planning permission for the change of use of the building to a wedding venue and conference centre. The application only sought planning permission for the proposed use and did not propose any alterations to the building. Any future alterations to the building would be the subject of separate applications for planning permission, listed building consent and Scheduled Ancient Monument Consent (as required).

The Committee was informed that Historic England and Essex County Council Historic Environment had raised no objection to the change of use and supported the approach to find a new, sustainable and viable use for this important historic structure subject to full consideration of all proposed physical alterations to the building and its curtilage.

The Council's Environmental Protection Team had also raised no objection subject to the submission and approval of a Noise Management Plan. This would deal with issues around amplified music and noise from extraction systems and potential disturbance from activities outside the building.

The site was located within a highly sustainable Town Centre location with plenty of on street parking and public transport links and Essex County Council Highways had raised no objection.

Officers felt that Martello Tower F was an important historic building and an important landmark that contributed to the character and appearance of the area. There was nothing to suggest that the proposed use would not represent a suitable and viable use which would help to safeguard the future of the building and ensure that its history, architecture and cultural significance are enjoyed by future generations. The application was therefore recommended by Officers for approval subject to appropriate 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**.

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

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

(a) **An** additional representation received:

Email of support received from Councillor Chris Griffiths (St James Ward).

(b) Additional information provided by agent via email dated 11/08/2020 regarding the potential capacity of the venue which can be summarised as follows:

- The capacity will depend on when the use starts and whether the Covid-19 spacing arrangements are still in place.
- If permission is granted then the operator will have to get a Certificate from the Fire Officer and they will specify a capacity.
- The size of the space has the potential for accommodating approximately 80 people in 'normal' conditions.

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

Conditions and Reasons:

1. The use 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. Prior to the commencement of the use and occupation of the development, a Noise Impact Assessment and Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The survey and plan shall address, but not be restricted to, the opening hours, all types and locations of entertainment and associated activities and details of extraction and plant equipment. The use shall only operate in strict accordance with the approved details and shall not commence until the measures set out in the Noise Management Plan have been implemented in full. Such measures as approved and implemented shall be retained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

Reason – To ensure that nearby noise sensitive premises do not suffer a loss of amenity by reason of noise nuisance.

3. Prior to the commencement of the use and occupation of the development, a detailed external lighting scheme including the intensity of illumination and predicted lighting contours

shall be provided. The development shall be carried out in accordance with the approved details, provided prior to the occupation of the development and retained in this approved form unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure lighting is sensitively designed and minimises light spillage in the interests of residential amenities and the character and appearance of the Clacton Seafront Conservation Area.

34. A.4 PLANNING APPLICATION - 19/01157/FUL - LAND ADJACENT LITTLE THATCH, MILL LANE, THORPE LE SOKEN CO16 0ED

Councillor Land had earlier declared a personal interest in **Planning Application 19/01157/FUL Land Adjacent Little Thatch, Mill Lane, Thorpe-Le-Soken CO16 0ED** due to being the Ward Member and , in addition, the Chairman of Thorpe Parish Council.

Members were informed that the application had been referred to the Planning Committee by Councillor Land due to his concerns that the proposed dwelling would cause highway impacts and other traffic issues, a negative impact on neighbours, and harm the Conservation Area, it was also located on a public right of way and it was within a confined space. Additional comments had been received by email from Councillor Land, dated 26th August relating to a polluted waterway.

Officers stated that the application sought full planning permission for the erection of one dwelling accessed via Mill Lane.

The application site was located within the defined Settlement Development Boundary for Thorpe Le Soken, as defined by the Saved Tendring District Local Plan 2007 and the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

Members were reminded that a previous application for this site, planning application reference 18/00781/FUL, had been refused by the Planning Committee on the following grounds: impact upon neighbouring amenities – Little Thatch and Mill Lodge; the proposal was contrary to Saved Policy EN6 Biodiversity and EN6a 'Protected Species; and the impact upon the setting of the Listed Building, Mill Barn Farm. The application had subsequently been taken to appeal and dismissed on 25 July 2019. However, the sole reason for dismissing the appeal had related to coastal habitats in that the proposal had failed to provide a RAMs contribution. In all other respects the appeal scheme had been considered acceptable by the Planning Inspector and the reasons for refusal had not been upheld.

The Committee recalled that the current resubmitted application had been due to have been determined on 19 September 2019. However, the Chairman of the Committee had decided that it be deferred for later consideration as a consequence of a late consultation response from ECC Ecology seeking a Great Crested Newt Survey for this site. In spring 2020, a Great Crested Newt Survey had been provided by the applicant, which concluded that great crested newts (GCN) were likely to be absent from all surveyed ponds within 250m of the site. ECC

Ecology had been re-consulted on the submitted Great Crested Newt Survey and had raised no objections, subject to conditions relating to biodiversity enhancement.

In conclusion, the previous appeal (reference APP/P1560/W/18/3213632) had been dismissed on the single issue of a lack of a Unilateral Undertaking (UU) to address a RAMS contribution. This application had addressed this, a UU had now been completed to address the RAMS contribution. The principle of residential development in this location was acceptable to officers and subject to conditions there was not considered to be any material visual harm, harm to neighbouring amenities, harm to ecology and biodiversity, harm to heritage assets or highway safety.

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

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

An update sheet had been circulated to the Committee prior to the meeting with details of: Corrections/Additions to Section 3 (Relevant Planning History) of the officer report (in bold):

01/01840/FUL	New Cottage	Refused	17.12.2001
02/00040/REFUSE	Appeal	Dismissed	17.10.2002
02/01638/FUL	Detached House	Withdrawn	08.11.2002
04/00858/OUT	Residential Development	Withdrawn	29.06.2004
16/01886/TCA	1 No. Cherry tree - fell	Approved	15.12.2016
17/01933/FUL	Proposal for one dwelling.	Refused	10.04.2018
19/00011/REFUSE	Appeal	Dismissed	25.07.2019
18/00781/FUL	One dwelling.	Refused	27.07.2018
18/01574/TCA	2 No. Blackthorn - remove, 1 No. - Multi-trunk (species unknown) - remove, 2 No. Cherry Trees - remove	Approved	15.10.2018

In addition, the applicant's agent had raised the following addition points in an email to officers. These points were responded to by Officers in italics under each item:

1. The report fails to mention the comments from the EA dated 17th June (copy again enclosed) which made it clear that the EA had no further comment to make. This is different to the response stated on the agenda

Officer comment: Paragraph 6.45 of the officer report does state that the EA have no holding objection and have no further comments to make on the application. However, they did caveat this advice by advising that there are various requirements for use of a private system and tests that would need to be taken to ensure that such a system would not cause environmental issues including ground water pollution, which could include the need to seek an Environmental Permit. The granting of Planning Permission or Building Regulation approval does not guarantee the granting of an Environmental Permit.

2. My client has now engaged Kingspan (the manufacturer of Klargester) and Binder's (the leading installers of package treatment plants within the region), who have both since inspected the site. They both confirm that the Biodisc system can be effectively installed on this site fully in accordance with the requirements of an Environmental Permit and under the Building Regulations. Further details are enclosed [*these have been uploaded to the case file*]. An infiltration test has been commissioned and the results will be available shortly.

Officer comment: agent comments noted, but this confirms that infiltration test results are still required to confirm that this form of private treatment works is appropriate.

3. I note that paragraph 6.46 of the report makes it clear that such matters are not relevant for the determination of the LPA. I am therefore surprised that the report continues by stating a condition in this respect would be necessary because of the local concerns!. Of course such comments fail to accord with the statements within the NPPG. Your clarification of the need for this condition is essential in order to avoid this matter being progressed to an appeal.

Officer comment: Officers do not consider it inappropriate or unreasonable to impose a condition (condition 19 in the recommendation) to seek agreement to the detailed foul water strategy for this site. As stated under 2 above, it is still uncertain that a private treatment works is viable and as such the LPA will need certainty on how any future dwelling would address foul water. It is fully understood that notwithstanding the granting of Planning Permission or Building Regulation approval that this does not guarantee the granting of an Environmental Permit. Informatives are also added to the recommendation setting out this additional requirement.

4. Paragraph 5.2 refers to an objection from EWT. Could you please explain why a further consultation was not sent to EWT enclosing the GCN report, which would clearly overcome their objection?

Officer Comment: *It is understood EWT were reconsulted but no further comments have been received. As set out in the officer report, ECC Ecology did provide additional comments on the GCN Survey.*

5. I must seriously question the allegation reported on the agenda from the neighbour regarding photos of shredded reptiles. I consider this statement to be wholly untrue and highly inappropriate that you have repeated such unsubstantiated comments on a public document. No photographs have been forwarded to me or my client, nor has any matter been investigated by others. I must insist that such comments are retracted without delay and the agenda corrected and apology sent to my client.

Officer Comment: *This is a third party comment and it is not unreasonable for an officer report to refer to it in the summary of representations. Representations are placed in the public domain and the applicant/agent has every right to take these matters up directly with those who have made comments on the application.*

6. In addition to my serious doubts regarding the imposition of Condition 19, I must question the purpose and relevance/ enforceability of conditions 8, 10, 13 and 14. Condition 8 is outside the application site and to which my client has no ownership or control. There is no ability for the Council to enforce this condition, notwithstanding the ability for the Council to demonstrate that any damage was caused by the applicant/developer. Similarly, Condition 11 is beyond the application site and is controlled by other legislation. An inspection of the site will show that the land has been entirely cleared bar the hedgerow along part of the southwestern boundary. Condition 14 is therefore entirely irrelevant. Condition 13 is also questionable as the hedgerow can be removed from my client's land prior to the implementation of the planning permission. The inclusion of this condition can only result in confusion by the neighbour when the ability for the Council to enforce the condition proves to be impossible.

Officer Comment: *With respect to condition 8 it is not considered unreasonable to require the applicant to make good and affect any repairs necessary to the surface or sub surface of Mill Lane which is a public right of way (Footpath no.11 Thorpe Le Soken). Condition 10 is required to ensure that the public right of way is maintained free and unobstructed at all times, which would seem to be a reasonable and necessary requirement. Condition 13 is considered reasonable and necessary to retain and protect the hedgerow along the common boundary and condition 14 relates to the same issue. The loss of the hedgerow between the site and 'Little Thatch' would change the relationship with the neighbouring property and the character of the site. In addition, the site lies (at least in part) within a Conservation Area and as such trees cannot be removed without consent.*

Dr Kirstine Hansen, a local resident, spoke against the application.

Richard Everett, representing Thorpe Parish Council, spoke against the application.

Councillor Dan Land, the local Ward Member, spoke against the application.

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

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

- (1) Policy COM31A of Adopted Local Plan;
- (2) Essex County Council Design Guide 45 Degree Rule;
- (3) Loss of light/outlook to adjacent properties;
- (4) Clearance (12m) to thatched cottage (Little Thatch) (.).

35. A.5 PLANNING APPLICATION - 20/00520/FUL - 12 PENFOLD ROAD, CLACTON ON SEA CO15 1JN

Councillor Alexander had earlier declared a personal interest in **Planning Application 20/00520/FUL 12 Penfold Road, Clacton-on-Sea CO15 1JN** due to being a Ward Member however, he was not predisposed.

Members were advised that the application was before the Planning Committee as its approval would result in a proposed development which would conflict with the requirements of the Development Plan, principally Policy COM5 (Residential Institutional Uses) of the Tendring District Local Plan 2007.

It was reported that the site fell within a 'Control of Residential Institutional Uses Area in Clacton and Frinton', as defined on the adopted Local Plan Proposal Map. Within such areas the provision of new Residential Institutions were not generally supported in recognition that concentrating such accommodation in small areas could lead to various problems, including the cumulative effect such developments could have on the 'image' and tourism function of the resort concerned. Furthermore, such uses could cause harm in terms of pressure on local medical and support services, the loss of visitor accommodation and an erosion of local character through the conversion of front gardens to forecourt parking.

Notwithstanding this policy position prescribed in Policy COM5 of the adopted Local Plan, Policy LP10 (Care, Independent Assisted Living) of the emerging Local Plan set out a more positive planning policy position in terms of providing support for care homes and extra care housing within settlement development boundaries. The emerging Plan did not seek to replicate the previous areas of control for Residential Institutional Uses.

The application proposed changing the existing four-bedroom domestic dwellinghouse (which had a Use defined as C3) to a property which used two of the available bedrooms to accommodate children between the ages of 7 and 15 who were under the care of Essex County Council ('Looked After Children').

Officers considered that by reason of the small-scale nature of this proposal, being to accommodate only two children, in a four bedroom dwelling house, that it would not materially conflict with the overall aims of policies which governed the provision of residential uses. Further, the development would result in offering two place within the District – which currently had a very high proportion of children who were placed outside the District due to the limited places available. Placing children outside areas they were familiar with could contribute to the breakdown of placements, a lack of continuity of support and a lack of educational provision. On balance, given the particular circumstances and small-scale nature of the proposals, it was considered by Officers that this application could be supported.

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

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

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

A further Consultation response received:

A consultation response had been received from the Highways Authority making the following observations:

The highway authority has not been making site visits due to the COVID-19 restrictions and the observations below are based on submitted material, google earth image dated April 2019 and previous visits to the area. The site is in a town centre location with good public transport links close to the premises, therefore - from a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

Proposed Highways Conditions

1. The proposed development shall not be occupied until such time as car parking for a minimum of three vehicles has been provided (2 staff; 1 visitor parking space) in accordance with the Parking Standards, details to be agreed with the Local Planning Authority. The agreed car parking shall be retained at all times for such purpose.

Reason - To ensure that on street parking of vehicles in the adjoining streets/roads does not occur and that appropriate parking is provided.

2. Cycle 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 parking is provided in the interest of highway safety and amenity.

A further condition was recommended to deal with the storage of construction materials. However, this was not deemed necessary in this case as the application was purely for a change of use of the premises.

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

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 Notwithstanding the provisions of Article 3, Schedule 2 Part 3 of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking and re-enacting that Order with or without modification), the application site shall be used as a children's home and for no other purpose including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any Statutory instrument and re-enacting that Order with or without modification).

Reason - The development hereby permitted is contrary to the general adopted policy of the local planning authority and is granted solely in recognition of the particular small scale nature of the proposed use. Any wider use of this premises for a Class C2 use will need to be assessed against its impact on its own merits and with regard to the amenities and privacy of occupiers of adjoining properties.

The meeting was declared closed at 11.23 pm

Chairman