



PLANNING COMMITTEE

DATE: Tuesday, 11 August 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. 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 on 01255686007 or 01255686584

DATE OF PUBLICATION: Monday, 3 August 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 - 22)

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

3 Declarations of Interest

Councillors are invited to declare any Disclosable Pecuniary Interests or Personal Interest, and the nature of it, in relation to any item on the agenda.

4 Questions on Notice pursuant to Council Procedure Rule 38

Subject to providing two working days' notice, a Member of the Committee may ask the Chairman of the Committee a question on any matter in relation to which the Council has powers or duties which affect the Tendring District **and** which falls within the terms of reference of the Committee.

5 A.1 PLANNING APPLICATION - 19/01856/FUL - ALRESFORD HALL, FORD LANE, ALRESFORD CO7 8AY (Pages 23 - 74)

The development applied for relates 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 would comprise of; a main building accommodating indoor play, café and ticketing area, various children play zones, a maze and a woodland walk trail.

6 A.2 PLANNING APPLICATION - 20/00202/FUL - BRICK BARN RESIDENTIAL CARE HOME, 106 WALTON ROAD, KIRBY LE SOKEN, FRINTON ON SEA CO13 0DB (Pages 75 - 88)

The application relates to Brick Barn Residential Care Home located at 106 Walton Road within the Parish of Kirby-le-Soken. The site lies a short distance from the edge of the Kirby-le-Soken Settlement Development Boundary as defined within the adopted Tendring District Local Plan 2007 but is 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).

7 A.3 PLANNING APPLICATION - 20/00084/FUL - MARTELLO TOWER F, MARINE PARADE WEST, CLACTON ON SEA CO15 1LS (Pages 89 - 100)

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

8 **A.4 PLANNING APPLICATION - 19/01157/FUL - LAND ADJACENT LITTLE THATCH, MILL LANE, THORPE LE SOKEN CO16 0ED (Pages 101 - 124)**

The application seeks full planning permission for the erection of one dwelling accessed via Mill Lane.

9 **A.5 PLANNING APPLICATION - 20/00520/FUL - 12 PENFOLD ROAD, CLACTON ON SEA CO15 1JN (Pages 125 - 136)**

Proposed change of use from dwelling (C3) to children's home (C2) for 2 children.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Planning Committee is to be held on Wednesday, 2 September 2020.

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.

Tendring District Council



PLANNING COMMITTEE MEETINGS PUBLIC SPEAKING SCHEME May 2017

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

TO WHICH MEETINGS DOES THIS SCHEME APPLY?

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

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

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

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

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

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

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

WHICH MATTERS ARE COVERED BY THIS SCHEME?

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

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

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

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

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

HOW DO I ARRANGE TO SPEAK AT THE MEETING?

You can:-

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

OR

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

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

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

WHAT WILL HAPPEN WHEN THE MATTER CONCERNED IS CONSIDERED?

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

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

WHAT SHOULD I SAY AT THE MEETING?

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

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

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

WHO DO I CONTACT FOR MORE INFORMATION?

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

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

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

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

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**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON TUESDAY, 14TH JULY, 2020 AT 6.00 PM**

| | |
|-----------------------|--|
| Present: | Councillors White (Chairman), Bray (Vice-Chairman), Alexander, Cawthron, Casey, Codling, Fowler, Harris and Placey |
| Also Present: | Councillors Broderick and King |
| In Attendance: | Graham Nourse (Acting Assistant Director (Planning)), Lisa Hastings (Assistant Director (Governance) & Monitoring Officer), Trevor Faulkner (Temporary Planning Team Leader), Amy Lang (Planning Officer), Debbie Bunce (Legal and Governance Administration Officer) and Emma Haward (Leadership Support Assistant) |

19. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

20. MINUTES OF THE LAST MEETING

It was proposed that the reasons for deferral be explained for Planning Applications 19-00188 – Lower Farm East End Green, Brightlingsea CO7 0SX and 20-00202 - Brick Barn Residential Care Home, Kirby-Le-Soken CO13 0DB.

It was moved by Councillor Bray, seconded by Councillor Harris and:-

RESOLVED that the Minutes of the last meeting of the Committee held on Tuesday 16 June 2020 be approved as a correct record.

21. DECLARATIONS OF INTEREST

Councillor Bray declared a personal interest in Planning Application 20-00119-FUL Oakleigh Residential Park, Weeley since he previously stated publically that this site should not be residential. He would withdraw from the meeting at the appropriate time.

Councillor Harris declared a personal interest in Planning Application 19-01706 Land South West of Horsley Cross Roundabout due to being a Parish Councillor for that locality, and also because he was the Ward Member for the neighbouring ward.

Councillor Harris also declared a personal interest in Planning Application 20-00119-FUL Oakleigh Residential Park, Weeley due to his being the Ward Member. Councillor Harris also declared that he called in this item to the Committee on behalf of Weeley Parish Council. Councillor Harris confirmed that he was not pre-determined regarding the matter and that therefore he would be able to participate in the consideration of the application.

22. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were no questions on this occasion.

23. **A.1 PLANNING APPLICATION 19-01706-OUT - LAND SOUTH WEST OF HORSLEY CROSS ROUNDABOUT**

Councillor Harris had earlier in the meeting declared a personal interest in Planning Application 19-01706 Land South West of Horsley Cross Roundabout due to being a Parish Councillor for that locality, and also because he was the Ward Member for the neighbouring ward.

It was reported that the application site was approximately 11.2 ha in size and presently consisted of open agricultural land, with part of the site having been used for weekly car boot sales during March to October. It was 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 was about 8 miles to the west and Harwich was about 9 miles to the east.

Members were made aware that an 'extant' consent for outline planning permission (13/00745/OUT) on the site had been 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 28,280m² of floorspace for B2 and B8 uses, a bus depot and 30m high telecommunications mast. All with associated access, landscaping, parking and highway improvements".

It was considered that the development of the land would 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 showed the retention of boundary trees, so that they were not threatened by the development proposal. Their physical protection during the construction phase of any development, that may be granted planning permission, could be secured by conditions.

With respect to ecology, provided the avoidance, mitigation, compensation and enhancement measures described in the submitted Ecology Assessment were implemented, then there would 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 were unlikely to have any significant effect on statutory or non-statutory designated sites.

ECC Highways and Highways England had raised no objections to the application subject to appropriate mitigation measures.

ECC Public Transportation Team were 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 would deliver an appropriate level of sustainable transport measures to address the relatively isolated nature of the site from a public transportation perspective.

The lawful commencement of works on the existing consented scheme - which had kept that 'extant' - and the submission of the current application with a known end-user for the 'Phase 1' component of the site, indicated that there was now a realistic prospect of business activity on the site and it was hoped that this would be the economic catalyst for 'Phase 2' which would bring new businesses into the Tendring area.

It was felt that the proposal would result in no material harm to interests of acknowledged importance and would facilitate substantial economic development within the District. The application had therefore been recommended by Officers 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 Temporary Planning Team Leader (TF) in respect of the application.

An update sheet had been circulated to the Committee prior to the meeting with details of further representations that had been received from Tendring Parish Council together with Officers' comments thereon.

Councillor Giancarlo Guglielmi, a local Ward Member, spoke in support of the application.

David Thompson, the agent on behalf of the applicant, spoke in support of the application.

Following discussion by the Committee, it was moved by Councillor Harris, seconded by Councillor Bray and 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. 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.

35. No development shall commence within each phase until full written details of measures to control odours, including extraction systems, within that phase have been

submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.

Reason – To control and limit odour in the interests of nearby local amenity and since the application does not include the necessary details for consideration.

24. A.2 PLANNING APPLICATION 20-00119-FUL - OAKLEIGH RESIDENTIAL PARK, WEELEY

Councillor Harris had earlier in the meeting declared a personal interest in Planning Application 20-00119-FUL Oakleigh Residential Park, Weeley due to his being the Ward Member. Councillor Harris had also declared that he had called in this item to the Committee following a direct request from on behalf of Weeley Parish Council. Councillor Harris had confirmed that he was not pre-determined regarding the matter and that therefore he would be able to participate in the consideration of the application.

Councillor Bray had earlier in the meeting declared a personal interest in Planning Application 20-00119-FUL Oakleigh Residential Park, Weeley since he previously stated publically that the application this site should not be residential. He withdrew from the meeting at this time.

It was reported that this application sought 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 restricted the use of the approved caravans to holiday use only. It was proposed to create a retirement park which would allow for residential occupations but restricted to those over the age of 50.

Members were reminded that Paragraph 47 of the NPPF required that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicated otherwise. The site lay outside of the Settlement Development Boundary of both Weeley and Weeley Heath in the Saved and Draft Local Plans and was not allocated for development.

Officers felt that in terms of applying the tilted balance to the planning merits of the case, given that the Council could not currently demonstrate a 5 year housing land supply, there was a need to weigh up the following planning considerations put forward in support of the application; namely:

- Although the permitted caravans could only be occupied for holiday use at present, the caravan units were the same whether they were made available for holiday or residential occupation. Each of the extant permissions allowed for the caravans to remain in place all year round, and this proposal was not for any additional caravans or built development in addition to that which had already been permitted. In physical form, operational and land use terms (this was no longer a green field site), therefore, the development would not introduce any use of land or development that had not already been found to be acceptable, and the land would essentially remain in use as a park home site. The only change would be the form of occupation;
- The proposed development was considered to address the three pillars of 'sustainable development', namely economic, social and environmental sustainability. The proposed use would help contribute to the local economy; in environmental terms, the application did not propose any additional development and would retain the existing

screening; and would be relatively socially sustainable, given that it had been accepted through previous approvals on this site that although it 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 within walking distance of a range of services and facilities;

- There were 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 had 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 had 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 was to deliver a ‘retirement village’ and as such they proposed that, if approved, the park homes would be restricted to people aged 50 or over without children living at home. A Section 106 agreement was being drafted which would 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 was something that complemented the Council’s emerging ‘Housing Strategy’ to cover the period 2020-2025. The draft strategy pinpointed the Council’s approach to delivering the housing necessary for the needs of the area, which included meeting the particular needs for older people around Clacton. The Strategy confirmed that the District had “...the highest proportion of over 65’s in the UK and the prediction was for this age group to continue increasing. Addressing the housing and other needs of the elderly would be paramount over the coming years”.

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

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

8 further letters of support that had been received.

(1) The fact that since the finalisation of the officer report, the referred to Section 106 Agreement had been completed and the Officers' recommendation no longer needed to refer to it still requiring completion.

Ian Roberts, a local resident, spoke in support of the application.

Carol Bannister, a local resident, spoke against the application.

Parish Councillor Christine Hamilton, representing Weeley Parish Council, spoke against the application.

Martin Taylor, the agent on behalf of the applicant, spoke in support of the application.

Following discussion by the Committee, it was moved by Councillor Fowler, seconded by Councillor Casey be authorised to grant permission for the development.

Following further discussion by the Committee, it was then moved by Councillor Cawthron, seconded by Councillor Alexander and RESOLVED that the Acting Assistant Director (Planning) (or equivalent authorised officer) be authorised to refuse planning permission for the development, for the following reasons:-

- (1) Outside Settlement/ Unsustainable Development/ Cumulative Impact
- (2) Loss of tourist related facility
- (3) Inadequate financial contributions
- (4) Inappropriate form of development in terms of space standards/parking
- (5) Inadequate information re. sewer infrastructure

25. A.3 PLANNING APPLICATION 20-00338-FUL - LAND TO THE WEST OF 45 HARWICH ROAD, LAWFORD CO11 2LS

It was reported that this application followed a previous application that had been refused by Members at their meeting held on February 2020 under planning application reference 16/01667/FUL. The application now before the Committee sought full planning permission for the erection of 2 no. three bedroom, semi-detached dwellings 1.5 storey in scale. The previously refused application had sought permission for 2 no. detached dwellings.

Members were aware that this application was before the Committee again at the request of Councillors Carlo Guglielmi, Val Guglielmi and Coley on the grounds that the revised development was not in keeping with its surrounds; was considered an overdevelopment of the site; would result in a negative impact on neighbours; and the previous refusal on site was a material consideration that must be followed when determining the application.

The Committee was informed that the application related to the land to the west of number 45 Harwich Road, Lawford. The site extended approximately 0.12 hectares in size and comprised 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 was an established coniferous hedge. To the rear of the site were a range of glasshouses and

commercial buildings accessed between the application site and number 45 Harwich Road. Those buildings were mainly redundant or used as storage.

The site was 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.

Of particular relevance in this instance was the appeal decision for number 43 Harwich Road located approximately 20 metres to the west of the application site (appeal reference APP/P1560/W/18/3218683 allowed on 3rd May 2019). Application 18/00649/FUL for the erection of 1 no. 1.5 storey dwelling had been 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 had concluded that the location of bus stops in close proximity to the site and the frequency of the bus service meant that sustainable travel other than by private car would be reasonably practicable in this location.

It was felt that the spacing around the dwellings, parking and garden provision in accordance with policy and standards demonstrated that the site would not be overdeveloped. The scale, height, design and appearance of the dwellings would not result in any material harm to the character and appearance of the area.

Members were advised that a legal agreement was required for this application in order to secure a financial contribution towards the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). A completed legal agreement to secure the required contribution had been received on 1st July 2020.

Officers considered that the principle of residential development in this location had been established by the recent appeal decision. The application provided a development that was acceptable in terms of design, access, residential amenity and visual impact and was therefore recommended for approval subject to the necessary conditions and legal agreement requirements.

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 in relation to other nearby delegated approvals for new dwellings that had been added to the presentation slides as follows;

- 19/01911/OUT One detached dwelling – Land Adj. 48 Harwich Road
- 19/01909/OUT One detached dwelling – Land Adj. 44 Harwich Road
- 20/00053/OUT One detached dwelling – Land Adj. 58 Harwich Road

(2) Application 19/01496/OUT for one detached dwelling at Land Adj. 56 Harwich Road was already included as part of the presentation.

(3) A slide showing the previously refused layout under application reference 19/01667/FUL had also been added to the presentation.

Bill Marshall, a local resident, spoke in support of the application.

Councillor Valerie Guglielmi, a local Ward Member, spoke against the application.

Philip Morphy, the agent on behalf of the applicant, spoke in support of the application.

Following discussion by the Committee, it was moved by Councillor Cawthron, seconded by Councillor Fowler 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. 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.

26. A.4 PLANNING APPLICATION 20-00387-FUL - 64A LADYSMITH ROAD, BRIGHTLINGSEA CO7 0JD

Members were informed that this application had been referred to the Planning Committee as the applicant was an employee of Tendring District Council, in the position of Planning Team Leader.

It was reported that the proposed first floor extension would be located at the front of the property and would be visible from the street scene. However, its modest size was considered to be of a scale and nature appropriate to the site and the surrounding area. The use of matching materials would blend the development with the host dwelling.

Given the modest depth of the extension it was not considered to result in any material loss of light or outlook to the neighbouring properties.

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) Correction to Agenda:

Paragraph 6.3 of the officer report described the dimensions of the proposed extension as 2.8 metres in width and 3.4 metres in depth with an overall height of 6 metres. The proposed extension was in fact 2.8 metres in width and approximately 1 metre in depth with an overall height of 6 metres.

Following discussion by the Committee, it was moved by Councillor Bray, seconded by Councillor Placey and unanimously RESOLVED that the Acting Assistant Director (Planning) (or equivalent authorised officer) be authorised to grant planning permission for the 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: Drawing No.1.

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

The meeting was declared closed at 9.59 pm

Chairman

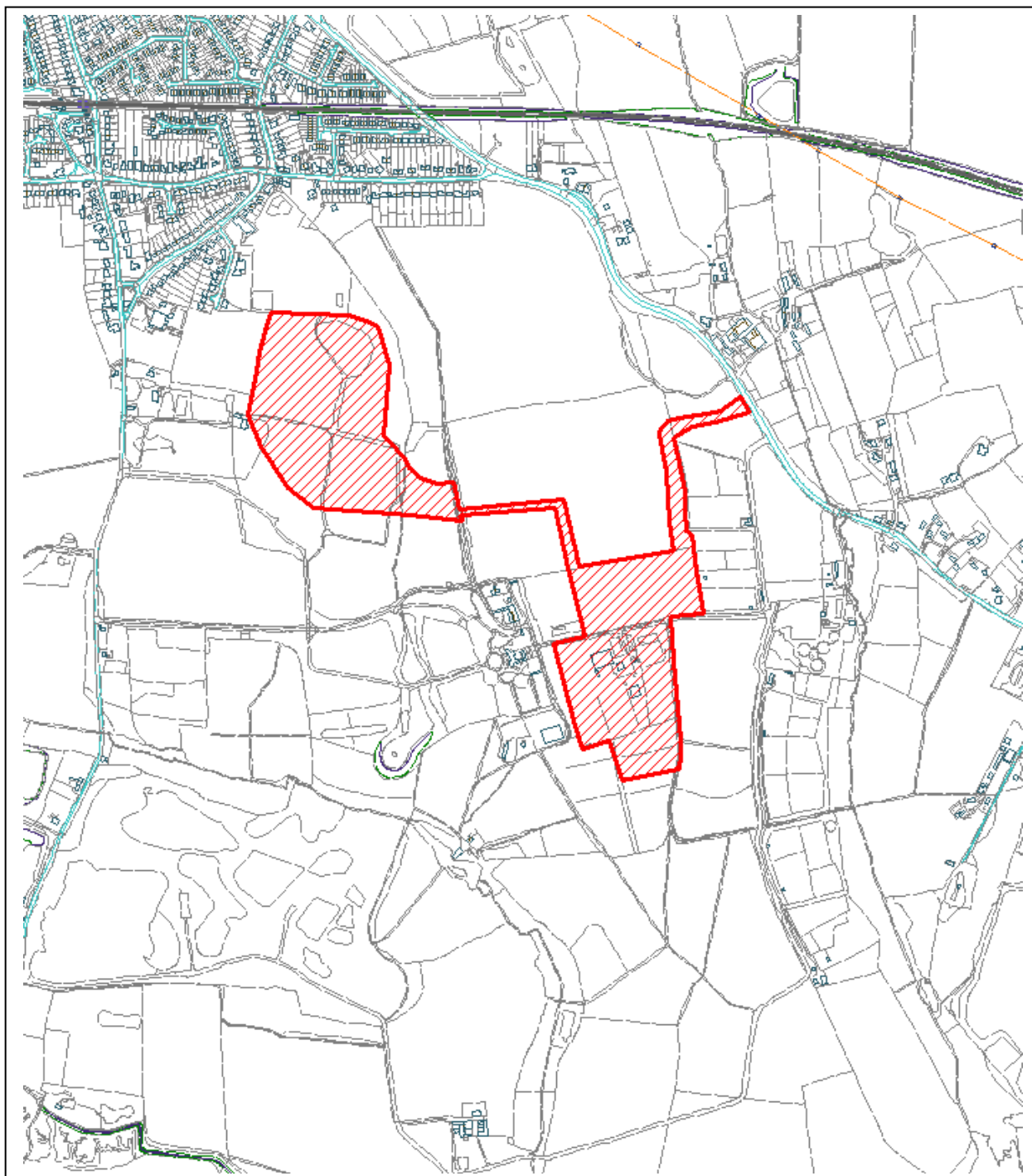
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PLANNING COMMITTEE

11TH AUGUST 2020

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

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



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Application: 19/01856/FUL

Town / Parish: Alresford Parish Council

Applicant: WSM Farming

Address: Alresford Hall Ford Lane Alresford CO7 8AY

Development: Proposed farm diversification to create a children's adventure play-land within Alresford Hall Farm

1. **Executive Summary**

- 1.1 The development applied for relates 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 would comprise of; a main building accommodating indoor play, café and ticketing area, various children play zones, a maze and a woodland walk trail.
- 1.2 The application site encompasses 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 is 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.
- 1.3 Taking into consideration the three strands of sustainability namely economic, social and environmental considerations the development is considered 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.
- 1.4 The application and supporting documents/surveys demonstrate that there will be no overriding harm which cannot be mitigated in respect of heritage, landscape, ecology or highways considerations. The proposed development will reuse part of the estate which has been previously developed and provide a unique visitor attraction within the District for families.
- 1.5 Subject to the recommended conditions within section 8.2 of this report, the proposal is considered to be acceptable with no material harm to visual or residential amenity, heritage assets, ecology interests or highway safety, and the application is therefore recommended for approval.

Recommendation: Full Approval

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.

National Planning Policy Framework
National Planning Practice Guidance

Local:
Tendring District Local Plan 2007

| | |
|--------|--|
| QL1 | Spatial Strategy |
| QL2 | Promoting Transport Choice |
| QL3 | Minimising and Managing Flood Risk |
| QL7 | Rural Regeneration |
| QL9 | Design of New Development |
| QL10 | Designing New Development to Meet Functional Needs |
| QL11 | Environmental Impacts and Compatibility of Uses |
| ER16 | Tourism and Leisure |
| COM1 | Access for All |
| COM19 | Contaminated Land |
| COM20 | Air Pollution/Air Quality |
| COM21 | Light Pollution |
| COM22 | Noise Pollution |
| COM23 | General Pollution |
| COM29 | Utilities |
| COM31 | Water Supply |
| COM31a | Sewerage Disposal |
| COM11 | Formal Recreational Facilities in the Countryside |
| EN1 | Landscape Character |
| EN3 | Coastal Protection Belt |
| EN6 | Biodiversity |
| EN6a | Protected Species |
| EN6b | Habitat Creation |
| EN11a | Protection of International Sites: European Sites and RAMSAR Sites |
| EN11b | Protection of National Sites: Sites of Special Scientific Interest, National Nature Reserves, Nature Conservation Review Sites, Geological Conservation Review Sites |
| EN11c | Protection of Local Sites: Local Nature Reserves, County Wildlife Sites, Regionally Important Geological/Geomorphologic Sites |
| EN13 | Sustainable Drainage Systems |
| EN13a | Renewable Energy |
| EN23 | Development within the proximity of a Listed Building |
| EN29 | Archaeology |
| TR1 | Transport Assessments |
| TR2 | Travel Plans |
| TR3a | Provision for Walking |
| TR6 | Provision for Public Transport USE |
| TR1A | Development Affecting Highways |
| TR7 | Vehicle Parking at New Development |

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

| | |
|------|--|
| SP1 | Presumption in Favour of Sustainable Development |
| SPL1 | Managing Growth |

| | |
|-------|--|
| SPL3 | Sustainable Design |
| HP1 | Improving Health and Wellbeing |
| HP5 | Open Space, Sports and Recreation Facilities |
| PP8 | Tourism |
| PP13 | The Rural Economy |
| CP1 | Sustainable Transport and Accessibility |
| CP2 | Improving the Transport Network |
| PPL1 | Development and Flood Risk |
| PPL3 | The Rural Landscape |
| PPL4 | Biodiversity and Geodiversity |
| PPL5 | Water Conservation, Drainage and Sewerage |
| PPL7 | Archaeology |
| PPL9 | Listed Buildings |
| PPL10 | Renewable Energy Generation |

Supplementary Planning Guidance:

Parking Standards Design and Good Practice Guide (2009)
Tendring Tourism Strategy

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

| | | | |
|----------------|--|---------------|------------|
| 83/00219/FUL | Continued use and extension of part as wholesale nursery garden, retention of two multi-span polythene tunnels | Approved | 12.04.1983 |
| 88/01172/FUL | Retention of polythene tunnels and potting shed related to horticultural nursery (part of renewal of 83/00219/FUL) | Approved | 09.08.1988 |
| 93/00001/AGRIC | Agricultural Glasshouses | Determination | 18.02.1993 |
| 11/01305/FUL | Installation of 10kw ground mounted solar pv system. | Approved | 04.01.2012 |
| 12/01328/FUL | Installation of community biomass system, to include a new plant room/fuel store building. | Approved | 17.01.2013 |
| 19/01856/FUL | Proposed farm diversification to create a children's adventure play-land within Alresford Hall Farm | Current | |

4. Consultations

Environmental Protection

The Environmental Protection Team have the following comments to make -

Contaminated Land: 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.

Construction Method Statement: In order to minimise potential nuisance to nearby existing residents caused by construction works, Environmental Protection ask that

the following below is conditioned;

No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holidays.

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

No materials produced as a result of the site development or clearance shall be burned on site.

All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.

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

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

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

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

All waste arising from the ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.

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

All bulk carrying vehicles accessing the site shall be

suitably sheeted to prevent nuisance from dust in transit.

ECC-SUDs

Lead Local Flood Authority position

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

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 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.

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

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.

Condition 4

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

Reason

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

ensure mitigation against flood risk.

Environmental Protection

In addition to the original comments relating to contaminated land and construction method statement; the EP would like to address the submission of the Noise Assessment, dated 28th April 2020. The EP Team are satisfied that the relevant British Standards and relevant guidelines, as outlined in the report, can be met. The report indicates that there will be no significant adverse impact to nearby residents, from the predicted noise levels associated with the proposed development. Provision should be made by the developer / site manager to implement and maintain the recommendations laid out in the report.

Essex Gardens Trust

I am commenting on this application on behalf of the Essex Gardens Trust, which represents The Gardens Trust, a statutory consultee on historic landscapes and gardens. We wish to register an objection to this application for a children's adventure playground at Alresford Hall.

Alresford Hall is of historical importance as the manor Alresford. It stands in an isolated position, above a valley, to the south of the village which is a modern development centred on the railway station. The ruined medieval parish church is to the west on Ford Lane, from which the current access to the Hall and the properties on the estate is taken. This is a stretch of countryside which has been little disturbed except by gravel workings. The Hall is listed grade II. It owes much of its appearance to Matthew Martin, a director of the East India Company, who bought it in 1720. North of the Hall is a grade II post-medieval eight bay barn, and to the south of it a walled garden, also grade II. On level ground to the east of the Hall, there was until recently a nursery. This business has closed, and the buildings there largely cleared. It is in this area that the playground is proposed. It would occupy an area of about 200m square, in which there would be structures for a variety of activities. To the south would be a service and play building 40m long and 10m wide, and parking for over 150 cars. To the north would be a new access road from the B1027. It is difficult to see how this would not affect the setting of the listed buildings, changing the character of the area from rural/agricultural to commercial and developed with built form.

The Heritage Impact Assessment with the application has failed to recognise the existence only 200-300m south of the proposed car park of a complex of listed building, including the II* one known as The Quarters, historically associated with the Hall. The confusing name of The Quarters apparently references a link to Cromwell's troops, but the principal part of the building dates from about 1765 and is a chinoiserie

summerhouse or fishing lodge situated by a lake formed from a dammed stream. In origin this may well have been a millpond for the manor. An estate map of 1730 shows a straight drive cutting a view through woodland on the valley side down to the pond. The sweet chestnut trees that are a major component of this woodland may well date from about this time. The summerhouse was designed by Richard Woods for Thomas Martin as a Chinese temple with a cupola above sweeping soffits or eaves, large ogival headed sash windows, and a trellis work balustrade to the veranda facing the lake. Chinese style structures were popular adornments of 18th century gardens, but often of impermanent materials or at risk of changes in fashion, such that relatively few have survived. Woods was a significant landscape designer with about 40 known commissions. Some were in Essex where he settled from 1768, eventually becoming surveyor to the 9th Lord Petre at Thorndon Hall. At Alresford, he probably also improved the lake and its surroundings. The lake, the summerhouse, an island with a willow tree, and in the distance an 18th century brick bridge (also grade II), form a perfect 'Willow Pattern' picture. This, however, is not how Constable chose to portray it in his painting of 1816, which is a direct view of the summerhouse from across the lake. Around the summerhouse, there are also three roughly contemporary grade II listed buildings, a cottage, and outbuilding, a dovecot, whilst on the other side of the lake there is a listed icehouse.

These buildings, and the landscape, are part of a historic ensemble with the Hall, and the Heritage Impact Assessment should be revised to take account of them. They may not be intervisible with the development site, but historically they were part of it, and in terms of heritage values, they score highly for aesthetic, evidential and communal values. Their setting, as the wider surroundings in which they are experienced, to use the NPPF definition, will be damaged, as will that of the listed buildings at the Hall, in particular by a loss of tranquillity, an essential feature of this picturesque landscape. With the presence of tens of thousands of people a year, and 200 car movements a day, only a few hundred metres away, it could not be otherwise. The car park and the play building are a point nearest The Quarters, when ideally they should be to the north nearest the access road. The outcome would be contrary to the recommendations of the NPPF (170) which says planning policies 'should contribute to enhance the natural environment' from the effects, inter alia, of noise, and ensure new development 'is appropriate for its location', taking into account the likely effects of pollution, which includes noise (180). It is absurd that the agents say there is no need for a noise assessment. The development would also be inconsistent with the NPPF's emphasis on the 'desirability of sustaining and enhancing

the significance of heritage assets', and on the 'desirability of new development making a positive contribution to local character and distinctiveness' (192).

This is not the right place for a development of this sort, and we urge your authority to refuse the application.

Woodland Trust – Original Comments

Related to this application the Woodland Trust's concerns focus on the proximity of development to the ancient woodland of Stable Wood. We are additionally concerned by potential disturbance of Crestland Wood, as the applicant's Design & Access Statement includes reference to the creation of a walkway within this area, as an attraction for visitors. While this may utilise existing pathways, the Trust considers that further information is required to clarify any works which would be undertaken, and how this may impact the woodland.

A number of trees on site (T1, T20, T26, T36 and T37) are identified as veterans. The Trust considers that the proposals may impact some of these irreplaceable habitats also.

Mitigation

Natural England's Standing Advice on Ancient Woodland states "Mitigation measures will depend on the development but could include:

- improving the condition of the woodland
- putting up screening barriers to protect woodland or ancient and veteran trees from dust and pollution
- noise or light reduction measures
- protecting ancient and veteran trees by designing open space around them
- identifying and protecting trees that could become ancient and veteran trees in the future
- rerouting footpaths
- removing invasive species
- buffer zones"

This development should allow for a buffer zone of at least 15 metres from the adjacent ancient woodland, in order to avoid root damage and to allow for the effect of pollution from the development. The buffer should be planted before construction commences on site, and a fence should also be put in place during construction to ensure that the buffer area does not suffer from encroachment of construction vehicles/stockpiles etc. This is in keeping with Natural England's Standing Advice, which states that "you should have a buffer zone of at least 15 metres to avoid root damage. Where assessment shows other impacts are likely to extend beyond this distance, you're likely to need a larger buffer zone. For example, the effect of air pollution from development that results in a significant increase in traffic."

The Standing Advice additionally states "A buffer zone around an ancient or veteran tree should be at least 15 times larger than the diameter of the tree. The buffer zone should be 5m from the edge of the tree's canopy if that area is larger than 15 times the tree's diameter." The Trust considers that the veteran trees identified on site should be afforded a root protection area of 15 times stem diameter, and that it should be ensured the development will not encroach within the recommended buffer zones or RPAs. From the current plans it appears that there may be incursions within T1 and T37.

Conclusion

Ancient woodland and veteran trees are irreplaceable habitats. We consider that any development that adversely impacts on ancient woodland or veteran trees is inappropriate, and all possible steps should be taken to avoid such impact.

The Woodland Trust will maintain an objection to this planning application unless the applicant provides adequate buffering to the ancient woodland and veteran trees.

Woodland Trust – Additional Comments

Following the Trust's objection to the above application, we have received additional information and amended plans which have addressed the concerns we raised. Based on this, the Trust wishes to now withdraw our objection.

ECC Highways Dept

The additional information supplied for this application has been duly considered and site visits have been undertaken. The outstanding issues have now been addressed 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:

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

1. 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. The opening of the attraction shall not take place until the following have been provided or 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 and introduction of associated tactile paving for any crossing points.

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 shall be agreed with 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) As part of the S278 works a drainage survey will be required in the area of the proposed site access on Tenpenny Hill.

Reason: To make adequate provision within the highway for the movement and safety of the additional pedestrian traffic generated as a result of the proposed development in accordance with policy DM1 and DM9.

3. 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 in accordance with policy DM1.

4. 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 to ensure accordance with safety in accordance with policy DM1.

5. 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.

6. Prior to the opening of the attraction the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has 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 and that appropriate parking is provided in accordance with Policy DM8.

7. 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.

8. 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.

9. 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; 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 in accordance with policies DM9 and DM10.

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.

Natural England

NATURAL ENGLAND'S LOCAL PLANNING CONSULTATION ADVICE FOR

DISCHARGES TO GROUND OR SURFACE WATER - v. July 2017

Natural England's initial screening of this planning application suggests that impacts to designated sites caused by foul drainage arrangements need to be considered by your authority (i.e. the relevant Impact Risk Zone has been triggered).

Natural England
(Additional Comments in response

DESIGNATED SITES – NO OBJECTION SUBJECT TO SECURING APPROPRIATE MITIGATION

to Appropriate Assessment)

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.

Essex County Council Ecology

No objection subject to securing biodiversity mitigation, compensation and enhancements

We have reviewed the amended Ecological Impact Assessment (EcIA) (Naturally Wild, January 2020) recently supplied to the LPA, which relates to the likely impacts of development on designated sites, protected and Priority species & habitats.

We note that additional information has been requested in relation to Local Wildlife Sites but no data search from Essex Field Club for protected and Priority species. We therefore still consider the desk study submitted to be deficient but accept that the applicant's ecologists have identified those species likely to be present and affected.

We note from the amended EcIA that the development will not require its own water supply and waste water discharge will directly enter a foul sewage system for treatment. This provides certainty of impacts to the Colne Estuary SPA and Ramsar from foul drainage arrangements and following Natural England's local planning consultation advice, the LPA can record its decision regarding embedded mitigation measures in its bespoke HRA screening report.

We note that the amended EcIA states that in addition to areas of deciduous woodland and its ancient woodland, Crestland Wood Local Wildlife Site (LoWS Te21) supports a population of glow-worms. Likely impacts on this designated site from the development includes vegetation removal during construction & recreational disturbance post development. Mitigation & compensation for woodland pathways (see Fig 6, EcIA) are provided in Section 5 Conclusions and Recommendations. This includes an ecologist being

present to supervise works and to check for protected species, using a no-dig method for path construction but also fencing the path to stop visitors and dogs from walking in other areas of the woodland.

Whilst we support the aims of controlling public access within the LoWS woodland, we are concerned that fencing itself could result in damage to tree roots & soil layers. Depending on the type of fencing, it could also act as a barrier to wildlife eg mammals, so we request further information on this mitigation measure prior to beneficial use.

If this development is consented, we recommend a condition to secure a long term management plan for Crestland Wood LoWS to achieve positive conservation management for this local wildlife site as required by Government Indicator SDL 160 - 00 and supported by the NPPF. This should include a programme to thin and remove the Cypress trees which would improve its biodiversity value and make it more attractive to visitors.

We note that the amended EclA also refers to potential impacts on the adjacent Alresford Hall Woods (LoWS Te 26) from human and vehicular disturbance to any species using woodland edge plus potential trampling of woodland flora. However, we welcome the mitigation proposed for a buffer zone to be installed of 5m wide strips of species rich field margin/wildflower meadow retained or created, with fencing to prevent access to the buffer zone or adjacent woodland. This is considered acceptable to avoid impacts on this designated site in line with the Planning for Ancient Woodland (Planner's Manual for Ancient Woodland and Veteran Trees (Woodland Trust, July 2019).

The woodland on and adjacent to the site is in an area with multiple records of Hazel Dormouse (included in the EWT biological records search within 2km from Suffolk and Essex Dormouse Group) and we note that this European Protected Species has now been considered in the amended EclA. "There was no understorey within the woodland walkways area and therefore no suitable habitat that Hazel Dormice would utilise. There are very few species of plants that Hazel Dormice would readily forage on within this area and no evidence was found within this area of the woodland. It is therefore considered that this area of woodland surveyed is of negligible value to dormice." The conclusion is that due to a lack of suitable habitat and food on site, there is a negligible value to dormice. However, we note that Images 4 and 9 contain some bramble which could support Hazel Dormouse and therefore we recommend that a suitably licensed ecologist supervises works to create the woodland pathways.

In addition to surveys of trees and hedgerows in the meadow area, we also note that the amended EclA now states that, "No trees within the woodland walkway area contained any (Potential Roost Features) PRFs or any evidence of roosting bats on the date of the survey. However, as conditions of trees can change over time or suddenly during weather events, there is potential for trees to develop PRFs before, during or post construction of woodland pathways."

We consider that, by providing public access to the woodland, health & safety considerations will need to ensure that trees within falling distance of any paths are safe and this may impact on bats if any trees contain PRFs and this is likely to change over time. We therefore welcome the mitigation identified in Section 5 of the EclA relating to any trees in close proximity to the woodland walkways being assessed for PRFs prior to any tree management works and the potential for survey and a mitigation licence with compensation for the loss of any bat roost.

We welcome the suggestion for a sensitive lighting scheme within the main development site to avoid impacts on bats roosting, foraging or commuting through the site although we recommend that lighting is not installed for the woodland walks and this should be secured by a condition of any consent.

We note that the amended EclA now reports that the reptile surveys confirmed low populations of three species - Common Lizard, Grass snake and Slow worm - present in grassland on site. The updated EclA now states "A new area of grassland should be established or identified within the grounds of Alresford Hall" for a reptile receptor site as capture and translocation will be necessary to allow for those areas to be developed into the car park facility. As there has been no assessment of potential reptile receptor sites, there is no certainty that any will meet the criteria in Natural England's Standing Advice - <https://www.gov.uk/guidance/reptiles-protection-surveys-and-licences#moving-reptiles-translocation-as-mitigation>.

This states:

"If you need to move reptiles to a new location, you'll have to choose a receptor site:

- as close as possible to the development site, and within the same local planning authority if possible
- that is at least the same size as the habitat that will be lost, and larger if the habitat to be lost is high quality (you can provide smaller habitat if it's substantially better quality)
- that will serve the same function as the habitat to be lost, eg it has hibernation features
- with similar habitat to the area that will be lost, including

water bodies

- that doesn't currently support the same species, but can be improved to make it suitable
- that will be safe from future development and managed in the long term

You can introduce small numbers of reptiles to an area with an existing population if you have improved the habitat so it can support the increased numbers. You must allow enough time for new habitats to become suitable for the reptiles before you start to capture them."

There is a need for newly created habitat eg as suggested in the amended EclA, to become suitable with sufficient prey invertebrate to support the translocated reptiles. We therefore consider that this further information is necessary to understand the quality of the potential receptor sites within the applicant's control so that the LPA can assess the proposed mitigation within a Reptile Mitigation Strategy. For this reason then, it will be necessary for the applicant to confirm a reptile receptor site prior to commencement. This needs to be which, if not submitted prior to determination, we recommend is secured as a condition of any consent.

We note that an additional site visit in early 2020 may now have taken place to examine other areas within the estate ownership and look forward to receiving confirmation of an agreed receptor site as soon as possible. This is necessary to ensure that there is sufficient capacity for the translocation which may need enhancement to accommodate the reptiles needing to be re-located.

We welcome the assessment of likely impacts on Priority species in the amended EclA and recommend that the mitigation measures for Brown Hare & Hedgehog are secured by a condition of any consent. Due to tree lines around the main development site making it unsuitable for ground nesting farmland birds as they provide predator perches, those species using the network of hedgerows are not considered likely to be affected by the proposal.

We also welcome the proposed biodiversity enhancements for this development including the use of native species for landscape planting as well as bird and bat boxes to ensure that measurable net gains are provided for biodiversity. This is necessary to meet the requirements of Paragraph 170d of the National Planning Policy Framework 2019. We recommend that these are secured by a condition of any consent and identified within a Biodiversity Enhancement Layout.

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under

s40 NERC Act 2006.

Impacts will be minimised such that the proposal is acceptable subject to the conditions below based on BS42020:2013.

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

Recommended conditions:

1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological 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).

2. PRIOR TO COMMENCEMENT: REPTILE MITIGATION STRATEGY

"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);

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.

3. PRIOR TO BENEFICIAL USE: BIODIVERSITY ENHANCEMENT LAYOUT

"A Biodiversity Enhancement Layout, providing the finalised details and locations of enhancement measures shall be submitted to and approved in writing by the local planning authority.

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

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

4. PRIOR TO BENEFICIAL USE: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

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

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

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

5. PRIOR TO BENEFICIAL USE: LANDSCAPE AND ECOLOGICAL MANAGEMENT PLAN

"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).

Essex County Council Archaeology

Due to the sensitive nature of the above site and high potential for archaeological evidence a programme of archaeological evaluation was required pre-determination. This included a programme of aerial rectification and targeted trial trench evaluation.

The results of this has been submitted in an evaluation report to support the application. The evaluation has been successful in accurately locating and identifying the level of survival of the cropmarks features identified through rectification of aerial photos in addition to revealing further possible associated activity within the development area. The evaluation has revealed a landscape of multi period activity from the Neolithic to Roman period. This consists of ring ditches, enclosures,

trackway and pits. The evaluation was unable to establish the function or character of the ring ditches which may be ritual or domestic in nature and some remain undated. Late Iron Age/Roman features were numerous and clustered in certain areas while prehistoric activity was spread across the wider area.

Considering the scheme has large areas of open space and areas where the topsoil does not need to be removed there is the potential for the preservation of archaeological deposits within the scheme. Should permission be granted a mitigation strategy will need to be submitted which will outline how the construction design of the buildings and play areas will protect the surviving archaeological deposits. The proposed buildings lie within areas which contain archaeological deposits which have been partly uncovered, should preservation not be possible in this area then full excavation of the footprint of the building will be required.

The following recommendations are made in line with the National Planning Policy Framework:

RECOMMENDATION:

1. A mitigation strategy detailing the preservation/excavation strategy shall be submitted to the local planning authority.
2. 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.
3. 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.

Campaign to Protect Rural
England

The Essex branch of the Campaign to Protect Rural England objects to this proposed development for the following reasons:

1. Heritage

The combined elements of the proposed development are substantial and significantly at odds with the rural location. The site is located in a prominent position, within the setting of Alresford Hall. The proposal for visitor car park, outdoor adventure play components, go-

cart track and substantial built structures will result in completely inappropriate and intrusive development immediately to the east of the hall, barn and walled garden, which are all listed. It is very difficult to see how the proposed development would not affect the setting of these listed buildings, changing the character of the area from rural/agricultural to commercial and overly developed with inappropriate built form.

This change to the setting of the heritage assets, and how it contributes to their significance, can only be considered adverse. As such, the development would cause substantial harm to the designated heritage assets and para 196 of the NPPF is relevant.

Additionally, the Heritage Impact Assessment submitted with the application has failed to acknowledge the existence - approximately 250m south of the proposed car park - of another complex of listed structures, including The Quarters (Grade II*), which is historically associated with the Hall. The Quarters was rebuilt in 1771 as a Chinoiserie fishing pavilion on the edge of a small lake in woodland. It was painted by John Constable in 1816 as part of the more well known commission of Wivenhoe Park, which is in the National Gallery Washington, whilst The Quarters painting is in the National Gallery in Melbourne. Around this pavilion, there are also three roughly contemporary Grade II listed buildings - a cottage and outbuilding, a dovecot, and on the other side of the lake there is a listed icehouse.

These buildings, and the landscape, are part of a historic ensemble with the Hall, and the Heritage Impact Assessment should really be revised to take them into account.

2. Noise

The noise pollution factor is very important because the tranquillity and seclusion experienced in and around the heritage assets will be significantly altered by this development - which is not typical of or appropriate for this peaceful location. The tranquillity of the setting contributes much to the II * listing of The Quarters. There is concern that noise from the outdoor play zones cannot be contained within the boundary of the development and neither would the impact of visiting cars and contractors/delivery vehicles. With the presence of tens of thousands of people a year, and 200 car movements a day, it could not be otherwise.

The outcome would therefore be contrary to the recommendations of the NPPF which says that planning policies 'should contribute to and enhance the natural and local environment' from the effects, inter alia, of noise (para 170). In addition, para 180 states that planning policies and decisions should also ensure new

development 'is appropriate for its location', taking into account the likely effects of pollution - which includes noise. As such, and with particular reference to para 180(b), it is somewhat surprising that no assessment of noise impact has been carried out.

3. Wildlife

The current peace and tranquillity of the landscape attracts a rich and diverse range of flora and fauna. The abundance of wildlife includes bats, buzzards, owls, woodpeckers, muntjac and fallow deer. There are strong concerns therefore about the potential for seriously adverse impacts of the proposed development on the wildlife of the surrounding area - not only from noise and light pollution but also resulting from the creation of a new link road off the B1027 and the volume of daily vehicle movements this will support.

The existing meadows and woodlands around the site provide biodiverse habitats for the many species of local flora and fauna. Crestland Wood is included in the register of Ancient Woodland and it is difficult to accept that the proposal to make this woodland part of the wider visitor attraction can be managed effectively to ensure that potential harm to the integrity of the habitat is contained. Similarly, Stable Wood - another ancient woodland of high ecological value - would be seriously degraded in all respects by the positioning of the proposed visitor car park, which is planned to abut the woodland.

In conclusion, for the reasons set out above, CPRE Essex considers the proposed development to be totally inappropriate for the location and setting and therefore urges Tendring District Council to refuse the application.

Historic England

Thank you for your letter of 8 January 2020 regarding the above application for planning permission. On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

ECC-Places Services (Heritage)

The proposal is located in a prominent position, in the setting of Alresford Hall.

The southern part of the site has been cleared of twentieth century buildings, returning it to the character which has historically been experienced here, as evidenced on historic maps. In its current use the application site makes a positive contribution to the setting of the designated heritage assets.

The proposal will result in dense development to east of the hall and walled garden. Whilst with screen planting this may not be aesthetically prominent, the

environmental changes will be adverse. In considering the tranquillity and seclusion experienced in and around the heritage assets, this experience will be significantly altered by a development which is not typical of this location adjacent to a large rural residence. This change to the setting of the heritage assets, and how it contributes to their significance, can only be considered adverse.

As such, the development is considered to cause less than substantial harm to the designated heritage assets and paragraph 196 of the NPPF is relevant. This harm is identified to the three heritage assets noted above and is considered to be at the lower end of the spectrum of harm.

I recommend a condition is attached to any permitted planning application requiring details of the new building, landscape/planting, surface treatments and any new fixtures.

ECC-Place Services (Heritage)-
Additional Comments

I have undertaken a site visit and reviewed the proposed scheme. I do not consider there to be any anticipated adverse impact on the setting of Grade II* Listed The Quarters. The low key development of this site does not detract from the setting of this designated heritage asset or the manner in which setting contributes to its significance.

5. Representations

5.1 Alresford Parish Council objects to this application for the following reasons:

- Significant concerns for the safety of pedestrians and vehicles accessing the site from the B1027 due to the section where the site entrance is proposed having a 60mph speed limit, being in close proximity to blind bends and there being no footways or crossing points.
- Environmental concerns due to the potential for adverse impacts on the wildlife, flora and fauna of the surrounding area.
- The land surrounding the proposed site is of great historical importance and has grade II and grade II* listed buildings/structures. The NPPF states that Grade I and Grade II* listed buildings must be protected from any influence detrimental in any way to their setting. A more in-depth examination is required as to the impact this development would have, for example, on The Quarters.
- The main site itself would require a thorough archaeological survey. Quote from Chartered Institute for Archaeologists: "Although the resources of the historic environment have the potential to bring great benefits, the interests of different parties involved in their management and use are not always aligned. In the UK, the planning systems and legislation relating to heritage provide a framework for mediation of those interests. They recognise that landowners have rights to do what they wish with their property, but that those rights may need to be constrained if changes planned to benefit the owner will have particularly damaging effects on resources that are important to society at large. This concept of balancing conflicting needs involves weighing up short-term benefits with potential impoverishment of society's resources for future use. Where the demand for development is found to outweigh the need for preservation of the historic environment, destruction of assets can be permitted but offset by an improved understanding of what happened in the past, normally through excavation or other types of investigation. All

historic environment assets whether designated or not are material considerations in the planning process. The spatial planning processes in the UK involve a regularly used series of steps or phases to manage change in the historic environment”.

- 5.2 92 representations of objection have been received and 62 comments of support. The content of these representations are outlined below;

Objections

- Access to the site is too narrow for car to pass side by side
- Pedestrian access is not shown from bus stops
- Dangerous crossing point for pedestrians utilising bus stops to visit attraction
- Water will drain out onto highway causing traffic hazards
- The site is a wildlife haven accommodating numerous species of birds, reptiles, insects and mammals.
- Noise children’s play area would deprive site of tranquillity adversely impacting upon natural and historic aspects.
- Significant detriment to natural beauty of site/area and local wildlife within and on nearby sites.
- Negative impact upon noise pollution
- Light pollution emanating from the site would have a detrimental impact upon the character of rural area and wildlife
- Adverse impact upon the historic setting and importance of the Grade II* building known as the Quarters
- Impact upon the setting of the Quarters and its link with the wider Alresford Hall Estate not properly assessed
- Dangerous new access on 60mph stretch of road near bend and hill
- Development would set precedent for housing development if not viable
- Local shops and outlets benefitting from passing trade is supposition only
- Adverse noise impacts upon local population and livestock occupying nearby fields
- Decrease in property values in the vicinity
- 200 cars per day is an unrealistic expectation for such a dangerous access point
- Unsustainable location forcing visitors to drive to development
- Impact of noise upon grazing livestock nearby
- Development will affect the rural setting and character of listed buildings
- Poorly designed new buildings not in keeping with the rural character
- Too isolated in the middle of the countryside
- Adverse impact on nearby ancient woodland from noise/air pollution
- Development fails to promote sustainable travel options
- Increases risk to pedestrians and cycle users
- Fails to provide enhancements to biodiversity
- Foul waste impacts upon local wildlife/designated sites
- Absence of an Environmental Impact Assessment
- Contrary to saved policy EN3 as site is within a Coastal Protection Belt
- No evidence of benefits to the Alresford Hall Estate
- Development gives rise to substantial car borne traffic.

Support

- Fantastic asset to village
- Great for families and days out for local people
- Help to encourage learning and job opportunities
- Maintains and protects natural surroundings
- Complies with the Council’s desire to increase tourism opportunities
- Renewable energy proposals
- Replaces wasted and dis-used commercial site

- Access to woodland walks is positive for mental well-being
- Design of the play equipment is in keeping with the rural surroundings
- Edge of village and no traffic proposed to go through the village
- Development would be well-screened by existing woodland
- Forward thinking, environmentally sensitive and sustainable development project
- Owners live in closest proximity to site so in their best interests to limit noise impacts
- Need more outdoor activities for children in the local area
- Objections to traffic are exaggerated (one every 2 mins proposed)
- Great asset to local tourism industry.

6. **Assessment**

Site Context

- 6.1 The application site encompasses land which hosted the former Whistleberry Nursery (to the rear and east of Alresford Hall). The nursery during its operation was a commercial enterprise which grew and sold plants. Until very recently, the site featured agricultural buildings comprising approximately 4,785 sq. m of land coverage (two buildings of approximately 530 sq. m and 1,352 sq. m of hard standing is still present on the site), polythene tunnels, glasshouses and large areas of hardstanding.
- 6.2 Immediately to the south of the former nursery site, there is a large area of land which has previously been compartmentalised through the use of Leylandii trees. The trees are approximately 15 metres in height and provide natural screening for this entire area.
- 6.3 Alresford Hall and its grounds are situated approximately 1.6 km south of Alresford and 10 kilometres south-east of Colchester. Alresford village is identified as a 'rural service centre' and 'principal defined village' in the adopted, and within the emerging, Local Plan.
- 6.4 There are bus stops located on the B1027 road, approximately 800 metres away from the site. These bus stops provide regular services to Alresford, Brightlingsea and Colchester (services No's 62, 74A, 74B, 78, 78C, 78D, 98 and 702). There is also a train station in Alresford, on the Clacton to London line, with direct access to London in approximately an hour and a half.

Proposal

- 6.5 This planning application proposes to create a children's adventure play area on the application site. The proposed leisure use will incorporate the following aspects;
- Six outdoor play areas. Although the precise design details of each play area is yet to be determined and will be addressed by condition they are envisaged to include:
 - Enchanted castle
 - Dragon water play
 - Goblin's labyrinth
 - Jumping pillows
 - Sand play
 - Wishing well play zone
 - A main building and covered area of 429 sqm. This will include visitor facilities such as toilets, food and beverage, ticketing, an ancillary retail outlet, an indoor play space and the staff/back of house and servicing with an additional small toilet and changing facility in helpful proximity to the water play area.
 - A small additional toilet and changing block building at the north of the site:

- The food and beverage offer on-site including a mix of staple café fair served in a courtyard setting with a mix of indoor and outdoor covers with a mix of pop -up food, a small indoor food service point and beverage units that will be interchangeable and removable from the site.
 - An interactive adventure trail within Crestland Wood. The trail will utilise existing paths within the woods and provides three possible routes to allow young people and families to go on a discovery trip through the countryside and woodland, solving problems and interacting with nature.
- 6.6 A new vehicle access is proposed from the B1027 road. This will provide a two way traffic access into the site and it will feature landscaping areas to soften its visual impact.
- 6.7 A car park to provide sufficient space for up to 200 vehicles will be provided at the south of the site (located within one of the existing Leylandi compartments).
- 6.8 Supporting information accompanying the application confirms that the operation opening hours will be 10-5 pm, 7 days per week. Predominantly between the Easter Holiday period until the October half term. It is also confirmed that there may be maybe seasonal events held infrequently at Christmas, Halloween and in the summer, where a longer period of opening would be required to allow evening visitors to the site.
- 6.9 Five free standing solar PV array panels are proposed; they will be located on land to the south west of the site and complement existing solar PV array panels within the estate.

Principle of Development

- 6.10 The revised NPPF (2019) is a material consideration in the determination of all planning applications.
- 6.11 Paragraph 80 of the NPPF stipulates *'planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt'*.
- 6.12 Paragraph 83 of the NPPF concerns rural development proposals and the promotion of a prosperous rural economy. It states that planning policies and decisions should enable:
- a) The sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
 - b) The development and diversification of agricultural and other land-based rural businesses;
 - c) Sustainable rural tourism and leisure developments which respect the character of the countryside; and;
 - d) The retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.
- 6.13 Saved Policy ER16 of the adopted Local Plan relates to tourism and leisure uses. When promoting the development of new tourist attractions, the Council will seek to direct investment within the resort towns and main settlements as specified in the area policy statements. This policy provides support for tourism and leisure uses provided that:
- The development is accessible to all potential visitors and users;
 - There is suitable vehicular and public transport access to the site and parking provision, especially where the proposal is likely to generate large traffic volumes;

- Proposals should be located close to the main road network and link to other public rights of way wherever possible;
 - The type of use proposed would not cause undue disturbance by reason of noise. Uses creating high levels of noise should be located well away from residential property and sensitive wildlife areas;
 - There will not be an adverse effect on agricultural holdings and the proposal would not result in an irreversible loss of high-quality agricultural land; and where appropriate opportunities are taken to improve damaged and despoiled landscapes and enhance the landscape character of the area.
- 6.14 Emerging policy PP6 contained within the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) provides support for farm and other land-based diversification schemes that benefit the rural area and emerging policy PP8 states that the Council will generally support proposals that would help to improve the tourism appeal of the District to visitors, subject to other relevant policies in the Local Plan. In particular, the Council will support appropriate proposals for the provision of leisure and tourism facilities as part of farm diversification schemes and outdoor recreational activities that would strengthen the function and protection of the undeveloped countryside.
- 6.15 Emerging policy PP13 relates to the rural economy and provides support for growth in the rural economy and it states that the Council may grant planning permission for development in the countryside outside of defined settlement development boundaries, subject to detailed consideration, including against other policy requirements in this Local Plan:
- Where appropriate to the historic environment, conversion or re-use of rural buildings in the countryside to employment, leisure or tourism use;
 - Business and domestic equine related activities;
 - Agricultural and key workers' dwellings; and buildings that are essential to support agricultural, aquaculture, horticulture and forestry; and farm diversification schemes; and
 - Buildings that are essential to support agricultural, aquaculture, horticulture and forestry; and farm diversification schemes.
- 6.16 Saved policy EN3 of the adopted Local Plan is also relevant as the site is designated as falling within the 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 view is supported by the removal of the Coastal Protection Belt designated in the emerging Local Plan and indicates it's the Council's intention to not specifically allocate this site as a protected landscape.
- 6.17 The above-mentioned national and local planning policies do therefore support a scheme of this nature which aims to promote a sustainable rural tourism use that will stimulate economic growth in a rural area. The provision of well-designed new buildings on the site to sustain the farm diversification project is supported within the NPPF at paragraph 83 and must be considered against the history of the site which has accommodated in the past a large horticultural use and still contains several structures and areas of hardstanding.
- 6.18 Furthermore, the supporting documentation asserts that the proposal would assist in securing the long term future of the Alresford Hall Estate and its associated heritage assets whilst offering local employment opportunities. In addition the bespoke nature of the 'enchanted theme' offering a children's adventure play area and potential woodland adventure trail in a largely rural location provides for a visitor attraction that is unique within the District and promotes children's interaction with nature.
- 6.19 Taking into consideration the three strands of sustainability namely economic, social and environmental considerations the development is considered 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.

- 6.20 Subject to the detailed design/technical matters being addressed such as highway impacts, detailed design aspects and heritage/ecology considerations the development is acceptable in principle.

Layout/Design

- 6.21 Saved Policy QL9 sets out a range of general design principles, including requirements for developments to have regard in their design approach to local character and distinctiveness, architectural quality, scale and massing, and landscaping. This policy requires all new development to make a positive contribution to the quality of the local environment, and to protect or enhance local character.
- 6.22 Draft Policy SPL3 sets out the requirement for development to achieve sustainable design.
- 6.23 Paragraph 124 of the NPPF states that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 6.24 The layout of the proposed development is dictated by the various constraints of the site along with the siting of the proposed access and parking area. The car park will be sited at the southern end of the development within an area screened by existing leylandii compartments. Visitors will then enter the main play area to the north via a tree lined pedestrian route from the car park which leads to the main building and entrance area.
- 6.25 To the north of the main café/indoor play building, the play area will consist of themed outdoor play areas including an enchanted castle, a separate water play element, informal sand and toddler play, a network of tunnels themed around a goblin's labyrinth, jumping pillows and a peddle go-kart track. These areas will be interspersed amongst pedestrian pathways and a robust landscaping scheme including tree and shrub planting.
- 6.26 Further to the north of the main play areas will be a maize maze within the existing agricultural field, and beyond a pedestrian path leading to Crestland Wood to allow families access to the woodland for walks/activity trails.
- 6.27 In terms of the design approach the external appearance of the proposed development will be high quality, not only for the elevational and surface treatment of the two buildings and pathways but also for the siting and orientation, selection of materials and finishes, and associated landscaping.
- 6.28 The main building has been designed to be single storey with a steep pitched roof and timber finish. This is in order to enable the building to be more in keeping with the local rural character. The eaves height has been kept low with the use of canopies with the aim of keeping the appearance low and the roof the dominant feature. The building will have an agricultural appearance through the scale, form and choice of materials in order to reflect the previous agricultural use of the site.
- 6.29 The full details of the various children's play areas will be secured via a condition. A site layout is submitted with the application alongside indicative sketch drawings which show the proposed maximum heights of the play equipment and their indicative appearance. The scale and design approach outlined is acceptable and consistent with the rural character of the locality.

- 6.30 Officers consider that the scale of the development has been sensitively set out within the confines of the site. The location, arrangement and interconnectivity of the various buildings and play areas within the site seeks to enhance the existing site setting.
- 6.31 The positioning and space between the various buildings and play attractions sets out a low density development that allows for the continued protection and enhancement of the site's existing setting and habitat.
- 6.32 For the reasons outlined above, the proposal is considered to be in accordance with Saved Policy QL9 and emerging Policy SPL3.

Highway Safety/Parking

- 6.33 Paragraph 102 of the NPPF requires Councils, when making decisions to ensure:
- a) appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of development and its location;
 - b) safe and suitable access to the site can be achieved for all users; and
 - c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 6.34 Saved policy TR1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. Policy CP1 in the emerging Local Plan states that developments will only be acceptable if the additional vehicular movements likely to result from the development can be accommodated within the capacity of the existing or improved highway network or would not lead to an unacceptable increase in congestion.
- 6.35 The site access is proposed to be taken from the site's eastern boundary on to the B1027 via a new access junction which will incorporate a new dedicated ghost island right turn lane and D-island refuge to assist visitors crossing the road from the bus stop opposite. Bus stops are located in the immediate vicinity of the proposed access location, both on the site-side and on the opposite side of the B1027. New pedestrian pathways from both bus stops to the site access will be installed to cater for visitors utilising the local bus service.
- 6.36 The location of the proposed access has been determined with reference to the desirable minimum visibility requirements.
- 6.37 Furthermore, the application details confirm that during highest demand (typically during the summer school holidays) the following vehicle movements are forecast;

| Hour Ending | Arrivals (vehicles) | Departures (vehicles) | Two-Way (vehicles) |
|-------------|------------------------|--------------------------|-----------------------|
| 11:00 | 75 | 0 | 75 |
| 12:00 | 75 | 0 | 75 |
| 13:00 | 17 | 0 | 17 |
| 14:00 | 17 | 75 | 92 |
| 15:00 | 17 | 75 | 92 |
| 16:00 | 0 | 25 | 25 |
| 17:00 | 0 | 25 | 25 |

- 6.38 The supporting Transport Assessment states that the above table confirms a materially low level of forecast trip generation, with only 92 two-way trips in the busiest period, which equates to only an additional 1.5 trips on the network every minute.
- 6.39 Therefore having regard to the above details and supporting information, the submitted Transport Assessment concludes the following;
- The proposals are, despite their necessarily rural location, sited in a sustainable location; with opportunity for travel to and from key destinations by bus and rail from the site;
 - Visibility available from the proposed access will conform to desirable minimum standards relative to the speeds of vehicles on the B1027;
 - Proposals will leave significant spare capacity on the B1027 at the proposed site access with low queuing times;
 - Analysis of the existing accident data confirms no existing, or likely future, highway safety issue.
- 6.40 Essex County Council Highways have reviewed the Transport Assessment and additional supporting information and have confirmed no objections to the development proposals subject to the following requirements;
- The submission of a Construction Traffic Management Plan which will 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;
 - A priority junction off B1027 Tenpenny Hill with ghosted right turn lane to provide access to the proposal site;
 - The road junction/access being 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;
 - Improvements to footways to an effective width of 2 metres from the two closest bus stops to the proposed junction and encompassing and introduction of associated tactile paving for any crossing points;
 - 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;
 - 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;
 - 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;
 - No unbound material being used in the surface treatment of the vehicular access within 30 metres of the highway boundary;
 - The gradient of the proposed vehicular access being provided in accordance with Design Manual for Road and Bridges standards;
 - Prior to the opening of the attraction the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, being marked out in parking bays.

- The Cycle / Powered Two-wheeler parking being provided to standard prior to the opening of the attraction;
- 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.
- 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; 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.

6.41 The requirements of Essex County Council Highways are to be secured via planning conditions outlined in section 8.2 below.

6.42 In regard of parking provision, 200 spaces are proposed in conjunction with overflow provision and bus/coach parking if required. Having regard to the forecast trip generation figures and the availability of other modes of transport for visitors Essex County Council Highways are satisfied that this level of provision is acceptable and will meet the needs of the development.

6.43 Overall, the NPPF states that *“at the heart of the Framework is a presumption in favour of sustainable development”*. It is considered that the proposals, despite being located in a rural environment by necessity of their nature and purpose, are in a sustainable location, with both rail and bus access offering convenient, regular and efficient sustainable travel options.

6.44 Moreover, the NPPF states, at Paragraph 109, that *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”* Officers consider that from the analysis detailed in the submitted Transport Assessment in conjunction with the comments of Essex County Council Highways, that there are no “unacceptable” or “severe” impacts. On this basis the proposals are considered to be acceptable on highway grounds.

Heritage/Archaeology Impacts

6.45 Government policies relating to planning are given in the National Planning Policy Framework (NPPF). Section 12 (paragraphs 126 – 141) of the NPPF (Conserving and enhancing the historic environment) outlines policies relating to the historic environment

and the key role it plays in the Government's definition of sustainable development, the principle which underpins the document.

- 6.46 The NPPF requires that local planning authorities *'should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment'*, recognising that *'heritage assets are an irreplaceable resource'* and should be conserved *'in a manner appropriate to their significance'*.
- 6.47 The NPPF requires that planning applicants should *'describe the significance of any heritage assets affected'* by their application, *'including any contribution made by their setting'*.
- 6.48 The following built heritage assets have been identified in the vicinity of the site;
- The main heritage assets for consideration are:
- Grade II Listed Alresford Hall
 - Grade II Listed Barn 70 Metres north east of Alresford Hall
 - Walled Gardens to the rear and right of Alresford Hall; and
 - Grade II* Listed Building known as the Quarters
- 6.49 The applicant's Heritage Statement and subsequent addendum looks at the impacts of the development upon the setting of these assets. The statement concludes that the fields to the east of Alresford Hall (the application site) only play a minor role in how its heritage significance and that of its associated garden walls and barn is appreciated. Alresford Hall is therefore best appreciated from the west and the proposed adventure play would be invisible from this direction. The proposals would retain the open character of the site and would be an improvement on the appearance of the nursery, which previously occupied it. The statement also confirms that the proposals would also retain the existing pattern of field boundaries and so preserve the historic character of the landscape.
- 6.50 ECC-Place Services have reviewed the content of the applicant's Heritage Statement. They agree that in its current use the application site makes a positive contribution to the setting of Alresford Hall, the Listed Barn and Walled Gardens. They consider that the development would result in a significant change to the setting of the heritage assets at Alresford Hall and whilst with screen planting the development may not be aesthetically prominent, the environmental changes would alter the tranquillity and seclusion experienced in and around those assets.
- 6.51 As such, ECC Place Services conclude that the development is considered to cause less than substantial harm to the designated heritage assets and paragraph 196 of the NPPF is relevant. This harm is identified to the three heritage assets at Alresford Hall noted above and is considered to be at the lower end of the spectrum of harm.
- 6.52 Having regard to ECC-Place Services conclusions, Paragraph 196 of the NPPF states the following, *'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal'*.
- 6.53 Taking into consideration the requirements of paragraph 196 (NPPF), officers are of the view that the development would result in public benefits that outweigh the harm identified by ECC-Place Services. The harm identified, for the reasons outlined above, is evidently at the lower end of the 'less than substantial' spectrum. Consequently, the benefits associated with creating a unique visitor attraction for the District, including creating local job opportunities, attracting additional visitors to the District and promoting children's interaction with nature, are considered to outweigh the lower level of harm identified to the assets

associated with Alresford Hall. The development is therefore considered to meet the requirements of paragraph 196 of the NPPF.

- 6.54 Essex Gardens Trust and several objection letters refer to the adverse impact of the development upon the Grade II* listed building known as the Quarters.
- 6.55 In this respect the submitted addendum to the Heritage Assessment concludes the following;
- 6.56 The Quarters were apparently used as either a fishing lodge or summerhouse, whereas the fields comprising the development area have been agricultural since the time of tithing and probably before. There is no functional connection between the agricultural fields of the development area and a summerhouse or fishing lodge. There is no aesthetic connection between them either because they have different physical characteristics or are experienced as different types of place.
- 6.57 The lack of comparable physical qualities between the development area and the Quarters, and the absence of a strong sensory connection, means that the only connection between them is that they were once part of the same estate. Since this historic relationship does not find expression in physical qualities, it has little bearing on defining the setting of the Quarters.
- 6.58 Given the multiple layers of buffering, the distance of the development area from the Quarters and the fall in the terrain, any sensory connection between the development area and the Quarters can be discounted. As such it is not considered that the development would adversely impact upon the setting of the Quarters.
- 6.59 This stance is supported by the comments of Historic England and ECC-Place Services. Neither of which raise any concerns or objections to the development in respect of harm to the setting of this listed property.

Impact upon Trees/Landscape Character

- 6.60 In order to show the likely impact of the development proposal on trees on the land the applicant has provided a tree survey and report containing an Arboricultural Impact Assessment (AIA). This information is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations.
- 6.61 The report identifies those trees that will be retained along with those that will need to be removed in order to implement the development proposal. It also provides an indication of the locations of areas of new tree planting that would both compensate for potential tree losses and enhance the appearance of the development.
- 6.62 None of the trees identified for removal have such amenity value that they merit retention or protection by means of a Tree Preservation Order. New tree planting will adequately compensate for tree losses.
- 6.63 In order to create a new vehicular access point in the proposed location it will be necessary to remove a short section of hedgerow/young trees to physically create the new access. In itself this will not cause significant harm to the character of the area. Furthermore, the set back of the vegetation behind a highway verge in the vicinity of the new access means that there would not be removal of vegetation to facilitate the required highway visibility splays.
- 6.64 In terms of the impact of the development proposal on the local landscape character it is noted that the site is currently well screened by existing vegetation and that this can be

strengthened and improved by new planting. The site is not overlooked from the public highway or from the Public Right of Way network.

- 6.65 The relatively low level impact of the development proposal would be unlikely to cause significant harm to the local landscape character.
- 6.66 The application is supported by an Arboricultural Method Statement (AMS) containing a Tree Protection Plan (TPP) (drawing no. P1416 TPP01 V2) which contains information to show that retained trees will be physically protected for the duration of the construction phase of the development. It shows where cellular confinement systems will be utilised to avoid causing damage to roots of existing trees. Compliance with the requirements of the AMS will be essential if the development proposal is to be implemented without causing harm to retained trees.
- 6.67 In terms of soft landscaping the information provided is sufficient to secure a satisfactory level of new planting to soften screen and enhance the appearance of the development.
- 6.68 In respect of the proposed woodland activity trail the applicant has provided a plan showing the route of the existing paths and details of the likely style of a wooden bridge that would need to be constructed to facilitate safe access to the woods.
- 6.69 In terms of the increased public access and the potential minor improvements to the surface of the paths it is considered that this would not compromise the integrity of the wood itself or the ground flora contained therein. The construction of the wooden bridge may cause short term minor disturbance during construction but otherwise would not significantly affect the character of the wood.
- 6.70 The Woodland Trust originally objected to the development due to the lack of a buffer between the proposed site access and woodland to the east of the site. Furthermore, they sought further information as to the nature of the woodland walk element of the proposal and the root protection areas of the most important trees on the site. Following the submission of revised plans showing a 15m buffer zone alongside the site access and additional information showing the absence of development within the root protection areas of certain trees within the site they now confirm that they have no objections to the application.

Biodiversity

- 6.71 Paragraph 170 of the NPPF requires Councils, when determining planning applications, to minimise impacts on and providing net gains for biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission. Saved policies EN6 of the adopted Local Plan and emerging policy PPL4 of the emerging Local Plan give special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for.
- 6.72 In this respect a detailed ecological appraisal has been submitted. The appraisal concludes the following;
- Overall the site is of moderate – high ecological value. There is a small population of common lizard and slow worm within the meadow grassland on site and this area of site is also regularly used by a small number of grass snake.
 - The woodland area is of low value to badgers and of moderate- high value to nesting birds.

- Trees and hedgerow across site are also of high-moderate value to nesting birds. Tree lines, woodland and hedgerow are of value to commuting and foraging bats.
- There is also the potential for bats to roost within trees on site if potential roost features (PRFs) are created over time or from weather events. However, on the dates of survey, no PRFs were observed on trees on site or the immediate surrounding area.
- There is a negligible value to hazel dormice on site due to the lack of suitable habitat and food available to this species. The site is also of value to hedgehogs and brown hare within the grassland and woodland on site.

6.73 In view of the above findings, the submitted ecological appraisal then recommends a number of mitigation and enhancement measures which have been independently reviewed by ECC-Place Services Ecology Team. They have commented as follows upon the findings/recommendations of the applicant's appraisal;

- We accept that the applicant's ecologists have identified those species likely to be present and affected.
- We note that the ecological appraisal states that in addition to areas of deciduous woodland and its ancient woodland, Crestland Wood Local Wildlife Site (LoWS Te21) supports a population of glow-worms. Likely impacts on this designated site from the development includes vegetation removal during construction & recreational disturbance post development. Mitigation & compensation for woodland pathways are provided in the conclusions section of the appraisal. This includes an ecologist being present to supervise works and to check for protected species, using a no-dig method for path construction but also fencing the path to stop visitors and dogs from walking in other areas of the woodland.
- We support the aims of controlling public access within the LoWS woodland through fencing. However, we request further information on this mitigation measure prior to beneficial use via condition.
- We recommend a condition to secure a long term management plan for Crestland Wood LoWS to achieve positive conservation management for this local wildlife site as required by Government Indicator SDL 160 - 00 and supported by the NPPF. This should include a programme to thin and remove the Cypress trees which would improve its biodiversity value and make it more attractive to visitors.
- We note that the ecological appraisal also refers to potential impacts on the adjacent Alresford Hall Woods (LoWS Te 26) from human and vehicular disturbance to any species using woodland edge plus potential trampling of woodland flora. We welcome the mitigation proposed for a buffer zone of species rich field margin/wildflower meadow retained or created, with fencing to prevent access to the buffer zone or adjacent woodland. This is considered acceptable to avoid impacts on this designated site in line with the Planning for Ancient Woodland (Planner's Manual for Ancient Woodland and Veteran Trees (Woodland Trust, July 2019).
- The woodland on and adjacent to the site is in an area with multiple records of Hazel Dormouse (included in the EWT biological records search within 2km from Suffolk and Essex Dormouse Group) and we note that this European Protected Species has been considered in the ecological appraisal. There are very few species of plants that Hazel Dormice would readily forage on within this area and no evidence was found within this area of the woodland. It is therefore considered that this area of woodland surveyed is of negligible value to dormice. The conclusion is that due to a lack of suitable habitat and food on site, there is a negligible value to dormice.

-We welcome the mitigation identified in Section 5 of the ecological appraisal relating to any trees in close proximity to the woodland walkways being assessed for potential roosting features prior to any tree management works and the potential for survey and a mitigation licence with compensation for the loss of any bat roost.

-We welcome the suggestion for a sensitive lighting scheme within the main development site to avoid impacts on bats roosting, foraging or commuting through the site although we recommend that lighting is not installed for the woodland walks and this should be secured by a condition of any consent.

-We note that the ecological appraisal reports that the reptile surveys confirmed low populations of three species - Common Lizard, Grass snake and Slow worm - present in grassland on site. The ecological appraisal states "A new area of grassland should be established or identified within the grounds of Alresford Hall" for a reptile receptor site as capture and translocation will be necessary to allow for those areas to be developed into the car park facility. We therefore consider that this further information is necessary to understand the quality of the potential receptor sites within the applicant's control so that the Local Planning Authority can assess the proposed mitigation within a Reptile Mitigation Strategy. For this reason then, it will be necessary for the applicant to confirm a reptile receptor site prior to commencement. This needs to be, if not submitted prior to determination, secured as a condition of any consent.

-We welcome the assessment of likely impacts on Priority species in the ecological appraisal and recommend that the mitigation measures for Brown Hare & Hedgehog are secured by a condition of any consent. Due to tree lines around the main development site making it unsuitable for ground nesting farmland birds as they provide predator perches, those species using the network of hedgerows are not considered likely to be affected by the proposal.

-We also welcome the proposed biodiversity enhancements for this development including the use of native species for landscape planting as well as bird and bat boxes to ensure that measurable net gains are provided for biodiversity. This is necessary to meet the requirements of Paragraph 170d of the National Planning Policy Framework 2019. We recommend that these are secured by a condition of any consent and identified within a Biodiversity Enhancement Layout.

-We note from the ecological appraisal that the development will not require its own water supply and waste water discharge will directly enter a foul sewage system for treatment. This provides certainty of impacts to the Colne Estuary SPA and Ramsar from foul drainage arrangements.

6.74 A bespoke HRA screening report has been produced and confirms that the Local Planning Authority can have certainty that the impacts of foul drainage arrangements and the development overall will not adversely impact upon the designated sites noted above. Natural England have confirmed agreement with the conclusions of the Local Planning Authority's HRA screening report.

6.75 The ecological mitigation/enhancement measures outlined above are to be secured via conditions included at section 8.2 of this report.

Impacts on Residential Amenity

6.76 The NPPF (2019) at paragraph 127 states that planning should secure developments with a high standard of amenity for existing and future users. Saved Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria development will only be

permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

- 6.77 The closest properties to the site are: Alresford Hall, Hall Cottages, Wood Cottage, Stable Cottages and The Quarters.
- 6.78 The closest is Alresford Hall itself. Despite its owner's interest in the development, this has been modelled as a noise sensitive receiver within the submitted Noise Assessment to provide completion and context. A pair of semi-detached cottages, Hall Cottages, lie to the north of the Hall, at the north-western corner of the 'maize maze field'. To the south of the Hall, Wood Cottage and beyond it, Stable Cottage lie slightly down-slope of the site on the edge of Mill Wood. The Quarters is Grade II* listed, with a cluster of associated listed structures and outbuildings, and lies some 200 metres to the south west of Stable Cottage through dense woodland, at the bottom of the valley.
- 6.79 Against this context a noise survey was requested and prepared by the applicant's to support the development proposals. The noise survey produced a baseline soundscape survey in conjunction with an evaluation of the proposed sound levels.
- 6.80 The potential noise generation has been evaluated by modelling propagation from three aspects of the proposed development: i) the play areas; ii) the access road; and iii) the car park to the five most exposed noise-sensitive residential receivers outlined above.
- 6.81 The noise survey concludes the following;
- 6.82 The risk that the proposed development might bring noise into the area that could adversely affect existing residential occupiers has been examined in detail. The most important outcomes are that:
- The noise impact of construction on residential neighbours to the development can be rated as negligible;
 - The noise impact of additional traffic on the B1027 generated by visitors to the site can be rated as negligible;
 - The noise impact of the operation of the site on its nearest residential neighbours, represented by Hall Cottages, Alresford Hall itself, Wood Cottage, Stable Cottage and the house at The Quarters, has been shown to represent 'No Observable Adverse Effect';
 - The noise impact of out-of-hours servicing of the site can be rated as negligible.
- 6.83 Consequently the proposed development as a whole presents no risk of any adverse noise effect. The development therefore complies with the objectives both of local and national planning policy.
- 6.84 The Council's Environmental Protection team has reviewed the submitted noise assessment and confirms agreement with its findings.
- 6.85 Therefore, insofar as it produces no adverse effect on any residential neighbour, the proposed development is compliant with Tendring District Local Plan saved policies QL11, ER7 and ER16. Moreover, it meets the objective of policy COM22 without the need for any mitigation.

Drainage

- 6.86 A Surface Water Drainage Strategy has been provided which confirms that the disposal of surface water flows is to be carried out via various infiltrations and SuDS systems to treat run-off at source. These systems include swales, permeable paving and soakaway manholes. All proposed surface water systems will be designed to accommodate the worst

case 1 in 100 year plus 40% climate change storm event and all volumes will be retained on site.

- 6.87 ECC-SUDs Team have reviewed the submitted drainage strategy and have no objections subject to conditions outlined in section 8.2 below securing precise details of the scheme, its implementation and on-going maintenance.
- 6.88 The foul drainage proposals for the site show the foul drainage from the proposed development being drained through a package treatment plant and discharge into the sub-base of the infiltration system beneath the adjacent carpark. The proposals are in keeping with the site in its current scenario mimicking the existing drainage sources.

Archaeology

- 6.89 Due to the sensitive nature of the site and high potential for archaeological evidence a programme of archaeological evaluation was required pre-determination. This included a programme of aerial rectification and targeted trial trench evaluation.
- 6.90 ECC-Place Services (Archaeology) have reviewed the submitted evaluation report and agree that the evaluation has been successful in accurately locating and identifying the level of survival of the cropmarks features identified through rectification of aerial photos in addition to revealing further possible associated activity within the development area. The evaluation has revealed a landscape of multi period activity from the Neolithic to Roman period.
- 6.91 Overall, they state that the scheme has large areas of open space and areas where the topsoil does not need to be removed and therefore there is the potential for the preservation of archaeological deposits within the scheme. A condition has been recommended to secure a mitigation strategy to outline how the construction design of the buildings and play areas will protect the surviving archaeological deposits.

7. Conclusion/Planning Balance

- 7.1 Paragraph 8 of the NPPF explains that achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways so that opportunities can be taken to secure net gains across each of the different objectives, economic, social and environmental. Having regard to the proposed development, it is considered that the proposals meet the objectives outlined above and such can be considered as sustainable development.
- 7.2 From an economic perspective the development would; result in the creation of a range of local and regional jobs during the construction phase; result in the creation of a range of full time and part jobs available for local people once the children adventure play is open and through the attraction of additional visitors to the local area; increased support for local services; and amenities will be created.
- 7.3 The social benefits from the development are as follows: the provision of a children's adventure play area would provide a unique visitor attraction within the district that would encourage children's interaction with nature, thus encouraging learning. The proposals will also encourage healthy lifestyle choices with a proposed layout that encourages outdoor activity, nature and exercise.
- 7.4 Environmentally the development would re-use an area of the estate which has been recently utilised as a horticultural nursery area containing several structures, result in landscape enhancements to include new tree planting, hedgerows and a maize maze and provide biodiversity enhancements.

- 7.5 The proposed leisure development is therefore considered to represent sustainable development that meets the three strands of sustainability namely: environmental, social and economic. As such the development is recommended for approval subject to the conditions listed at section 8.2 of this report.

8. **Recommendation**

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

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/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.

8.3 Informatives

Positive and Proactive Statement

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

Highway Informatives:

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

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

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

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

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/>.

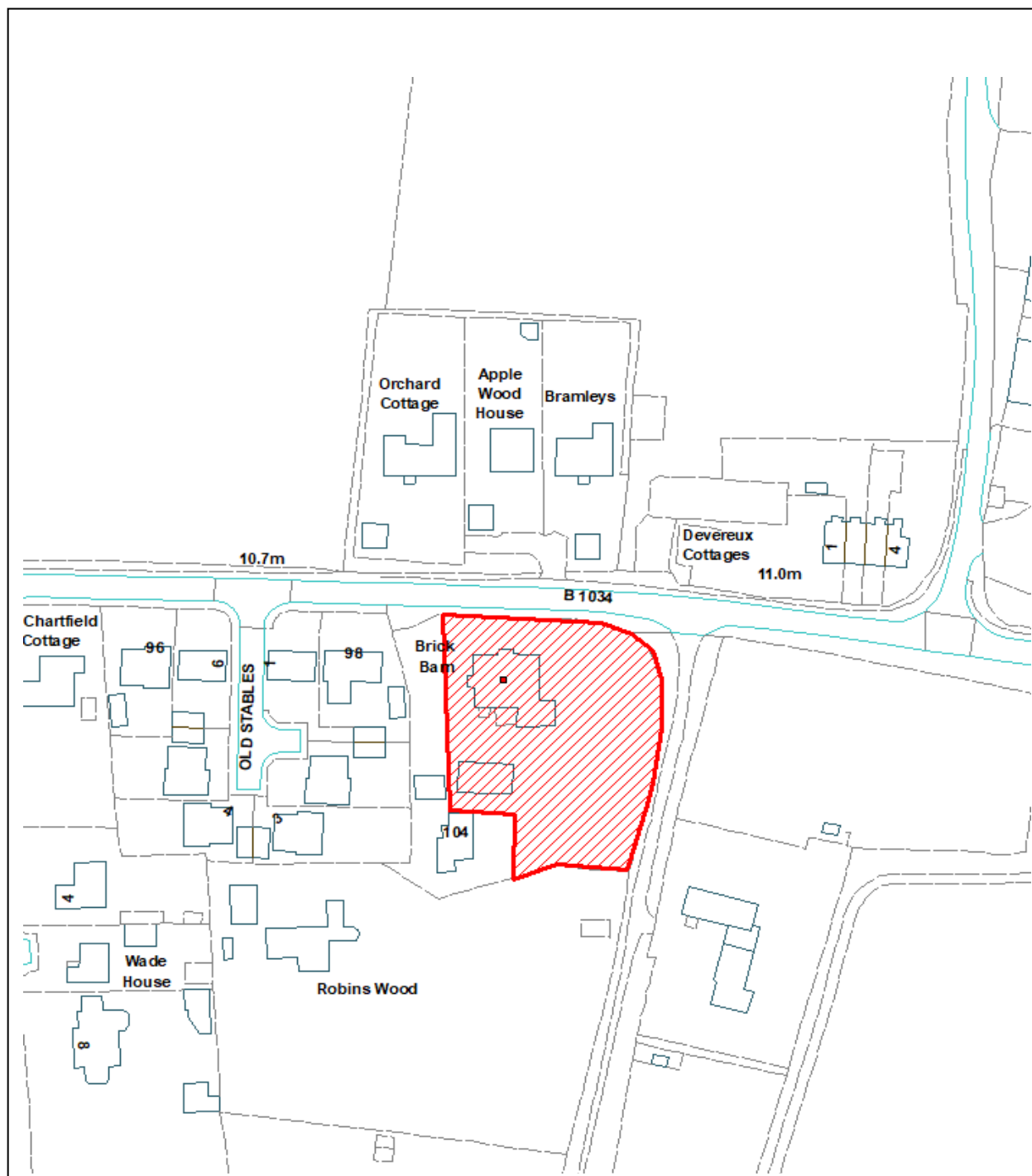
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PLANNING COMMITTEE

11th AUGUST 2020

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

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



DO NOT SCALE

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Application: 20/00202/FUL

Town / Parish: Frinton & Walton Town Council

Applicant: Mrs Nikki Faber - Loyalty Project

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

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

1. Executive Summary

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

- 1.8 The proposal will ensure a vacant premises is 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 is therefore recommendation for approval subject to conditions.

Recommendation: Full Approval

- a) Subject to the conditions stated in section 8.2

2. Planning Policy

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

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

COM6 Provision of Recreational Open Space for New Residential Development

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

ER3 Protection of Employment Land

HG3 Residential Development within Defined Settlements

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG10 Conversion to Flats and Bedsits

HG14 Side Isolation

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

CP1 Sustainable Transport and Accessibility

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP11 HMO and Bedsits

PPL4 Biodiversity and Geodiversity

SP1 Presumption in Favour of Sustainable Development

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

- 2.2 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.
- 2.3 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018, with further hearing sessions in January 2020. The Inspector issued his findings in respect of the legal compliance and soundness of the Section 1 Plan in May 2020. He confirmed that the plan was legally compliant and that the housing and employment targets for each of the North Essex Authorities, including Tendring, were sound. However, he has recommended that for the plan to proceed to adoption, modifications will be required – including the removal of two of the three Garden Communities 'Garden Communities' proposed along the A120 (to the West of Braintree and on the Colchester/Braintree Border) that were designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033.
- 2.4 The three North Essex Authorities are currently considering the Inspector's advice and the implications of such modifications with a view to agreeing a way forward for the Local Plan. With the Local Plan requiring modifications which, in due course, will be the subject of consultation on their own right, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications – increasing with each stage of the plan-making process.

2.5 The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will progress once modifications to the Section 1 have been consulted upon and agreed by the Inspector. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

3. Relevant Planning History

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

4. Consultations

ECC Highways Dept
24.04.2020
ORIGINAL COMMENTS

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

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

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

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

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

ECC Highways Dept
10.03.2020 & 30.06.2020
AMENDED COMMENTS

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

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

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

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CO4 9YQ

5. Representations

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

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

5.2 28 letters of objection have been received together with a petition of 4 signatories. These letters are in response to the application as originally submitted as well as in response to re-consultation on the additional information. The concerns raised can be summarised as follows (officer response in italics);

- Unsustainable location.
- Lack of amenities and employment opportunities.
The site lies within the Kirby-le-Soken Settlement Development Boundary and has therefore previously been considered an acceptable location for development.
- Will devalue property prices.
This is not a material planning consideration.
- Examples of anti-social behaviour from the previous use and likely to result from proposal.
- Was previously poorly run as a care home.
- Previous residents left to roam.
- Poor Care Quality Commission (CQC) reports.
There is no evidence of these issues, but in any case the proposal is to change the use of the site so it would not be reasonable to object to a proposed use on grounds of historic problems. Anti-social behaviour is a matter for the police. CQC is a separate body and is not a consideration under planning legislation. Additional information (in the form of meeting minutes) received on 30th June 2020 has been provided by the applicants with regard to the CQC history.
- Loss of employment.
- No evidence of need.
- Insufficient marketing.
The proposal does not result in the loss of employment. The National Planning Policy Framework 2019 supports mixed communities and there is not a requirement to demonstrate need. The proposal does not require assessment against marketing particulars or loss of employment policies.
- Highway safety concerns.
The proposal seeks a reduction in residents and the Highway Authority do not raise an objection.
- Property is in a poor state of repair.
The application proposes internal alterations and renovation works to accommodate the proposed used.
- Coronavirus concerns adds an important and worryingly additional dimension to this planning application when moving people from different areas into a village where there is a lot of elderly vulnerable people.
As with the rest of the population, potential residents will be subject to up to date Government testing procedures and social distancing rules.

6. Assessment

6.1 The main planning considerations are:

- Site Context;
- Planning History;
- Description of Proposal;
- Principle of Development;
- Residential Amenities;
- Access and Parking; and,
- Financial Contribution – Recreational Disturbance.

Site Context

- 6.2 The application relates to Brick Barn Residential Care Home located at 106 Walton Road within the Parish of Kirby-le-Soken (also known as Connemara). The site lies on the southern side of Walton Road and comprises a large, two storey property with a separate detached building to the rear and garden area to the rear. The premises currently lies vacant.
- 6.3 The detached building to the rear is known as 'The Bungalow'. The supporting information accompanying the application explains that this building is the registered Charity known as Tendring Knowledge Hub. This was registered as a charity with Tendring District Council on the 16th of May 2014. This building, although separate, will operate as one facility alongside the main building.
- 6.4 The site is located on the eastern edge of the village with existing dwellings to the west and opposite. The land to north-east and south becomes more rural in character mostly comprising large areas of agricultural land and associated farm buildings. The eastern boundary of the site is enclosed by mature vegetation and trees screening the building as you enter the village.
- 6.5 The site lies a short distance from the edge of the Kirby-le-Soken Settlement Development Boundary as defined within the adopted Tendring District Local Plan 2007 but is within the extended Kirby-le-Soken Settlement Development Boundary as defined within the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.6 The accompanying Planning Statement suggests that the site was last registered as a four bedded care home (D1 Use) for people suffering from complex mental disorders and that the centre has since been deregistered and closed as a care home on the 14/05/2019. However, there are no planning records to confirm this and the lawful use of the building is considered to be a Care Home (C2 Use).

Planning History

- 6.7 This application follows a previously refused application under planning application reference 19/01532/FUL for the proposed change of use from care home to HMO (House in Multiple Occupation) with no alterations. The application was flawed and incorrectly assessed. The development was considered contrary to Saved Policy ER3 of the adopted Tendring District Local Plan 2007. Policy ER3 of the adopted Tendring District Local Plan 2007 states that land in employment use will normally be retained for that purpose, and its change of use will only be permitted if the applicant can demonstrate that it is no longer viable or suitable for any form of employment use. Within this, the applicant should either submit evidence of a sustained but ultimately unsuccessful marketing exercise, undertaken at a realistic asking price or demonstrate that the land is inherently unsuitable and/or not viable or suitable for any form of employment use. The information supplied with previous the application was considered insufficient having regard to the requirements and criteria of Policy ER3 and

therefore failed to demonstrate that the site was no longer viable or suitable for any form of employment use.

- 6.8 Since this previous application, it has come to light that the proposal will involve internal/physical alterations to the building and the use will in fact fall under the definition of a Hostel and not a HMO as previously considered by officers. The facility will be supported by 4 full time staff and 4 part time staff and therefore does not result in the loss of an employment use and does not require assessment under the provisions of Saved Policy ER3 of the adopted Tendring District Local Plan 2007.

Description of Proposal

- 6.9 The description of the application has been amended to accurately reflect the proposed development. The application therefore seeks full planning permission for the change of use of the existing Care Home (within use Class C2 of the Town and Country Planning (Use Classes) Order 1987 as amended) to a Hostel for the Homeless (a “sui generis” use).
- 6.10 Hostels were excluded from Use Class C1 Hotels in 1994 and are sui generis, meaning they are in a Use Class of their own always requiring planning permission. There is no definition of a hostel in planning law but it can be understood as providing overnight or short term accommodation which may be supervised, where people can usually stay free or cheaply. Hostels may provide board, although some may provide facilities for self-catering. The element of supervision should not be relied on as a determining factor to take into account in considering the use class of the premises. Occasionally hostels are used to provide longer-term accommodation, but a hostel is not a residential care home, irrespective of any supervision it may have.
- 6.11 The alterations to the internal accommodation and layout are summarised below;

| Floor Level | Existing (15 bedrooms) | Proposed (9 bedrooms) |
|--------------------------------------|------------------------------------|--|
| Ground Floor Plan | Lounge | <i>No change</i> |
| | TV Room | becomes Dining Room |
| | Dining Room | Split into 2 and becomes a Smoking area (off the dining room) and staff area (off the kitchen) |
| | Kitchen | <i>No change</i> |
| | Pantry | <i>No change</i> |
| | Laundry Room | becomes Store Room |
| | Wet-room | <i>No change</i> |
| | WC | <i>No change</i> |
| | Room 1 (including sink) | Combined to become Room 1 (sink to remain) |
| | Room 2 | |
| | Room 3 (including sink and toilet) | becomes Room 2 (sink and toilet remain) |
| | Room 4 | becomes Laundry Room |
| | Room 5 (including sink and toilet) | becomes Room 3 (sink and toilet to remain but moved) |
| Garden room (no internal connection) | <i>No change</i> | |
| First Floor Plan | Office | <i>No change</i> |
| | Laundry Room (including toilet) | becomes Bathroom |
| | Shower Room | <i>No change</i> |

| | | |
|--|----------------------------|--|
| | Room 6 (including toilet) | Room 6 (toilet remains and sink added) |
| | Room 7 (including toilet) | becomes Room 5 (toilet remains and sink added) |
| | Room 8 | Combined to become Room 4 (toilet and sink added to room, communal toilet and sink added with access from hallway) |
| | Room 9 (including toilet) | |
| | Room 10 (including toilet) | becomes Staff Room |
| | Room 11 (including sink) | becomes room 7 (toilet and sink) |
| | Room 12 (including sink) | becomes spare room (sink remains) |
| | Room 13 (including sink) | Becomes Room 9 (shower room added) |
| | Room 14 (including toilet) | becomes Room 8 (toilet and sink remain) |
| | Room 15 (including sink) | |
| | Garden Room | No change |

6.12 Further information has been provided explaining how the site will operate and be managed. The key points from this statement can be summarised as follows;

Accommodation:

- Each bedroom will be provided with wash facilities and a lockable door for privacy and security.
- All residents are able to have tea and coffee making facilities in their rooms as they desire.
- There is one main kitchen and pantry on the ground floor.
- A further two kitchenettes will be situated in two of the 5 communal rooms, one on the ground floor and the second on the first floor.
- There are four Communal lounges situated on the ground floor and the other quiet lounge on the first floor (labelled as spare bedroom on the proposed first floor plan – this will not be used for sleeping).

Use and Residents:

- The Charity and main building are a combined project.
- It is intended that residents will 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.
- Offering medium fixed term accommodation of a minimum of six months and maximum of two years.
- It is intended to work with and support the residents and to ensure that suitable permanent accommodation will be found for sustainable independent living.

Staffing:

- The main building will be managed on a 24/7 basis.
- The charity building will be open until 3.30pm and offer training /education and learning and various life courses.
- The application form details that the facility will be supported by 4 full time staff and 4 part time staff.
- Management and staff will be on site daily working across both buildings.
- Staff to overlap start of all shifts to provide time for a handover. Night staff will remain awake.

The staffing and shift patterns are provided below:

| Day | Main Building Day Shift | Main Building Evening Shift | Main Building Night Shift | Charity Building |
|-----------|------------------------------------|-----------------------------|----------------------------|--------------------|
| Monday | M 1 08.30-10.00 M 2 10.00-18.00 | Staff 18.00-20.00 | Staff 20.00-08.30 | M 1 10.00-15.30 |
| Tuesday | M 1 08.30-10.00 M 2 10.00-18.00 | Staff 18.00-20.00 | Staff 20.00-08.30 | M 1 10.00-15.30 |
| Wednesday | M 1 08.30-10.00 M 2 10.00-18.00 | Staff 18.00-20.00 | Staff 20.00-08.30 | M 1 10.00-15.30 |
| Thursday | M 1 08.30-10.00 M 2 10.00-18.00 | Staff 18.00-20.00 | Staff 20.00-08.30 | M 1 10.00-15.30 |
| Friday | M 1 08.30-10.00 M 2 10.00-18.00 | Staff 18.00-20.00 | Staff 20.00-08.30 | M 1 10.00-15.30 |
| Saturday | Day staff 08.30-20.00 | | Night staff 20.00-08.30 | Closed |
| Sunday | Day staff 08.30-20.00 | | Night staff 20.00-08.30 | Closed |

Key to table - M1 = Manager 1 M2 = Manager 2

- Teachers/Professionals will be in the Charity Building at various times for course delivery.
- Both managers will also operate an 'on call' system for evenings and weekends.

Principle of Development

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

Residential Amenities

- 6.17 Paragraph 127 of the National Planning Policy Framework 2019 states that planning should always seek to secure a high standard of amenity for existing and future users. Policy QL11 of the adopted Tendring District Local Plan (2007) states that development will only be permitted if it will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives.
- 6.18 The proposed internal alterations include enlarged rooms and the provision of wash facilities in each. The site is served by ample garden space to serve the 9 residents. The proposal is therefore considered to result in a good standard of amenity for its future occupants.
- 6.19 The site is located on the edge of the village with the majority of neighbouring dwellings being to the west of the site. There are no building works and the proposal will not result in any loss of outlook or light.
- 6.20 Regard must be had to the existing lawful use which allows accommodation for 15 residents and the associated comings and goings of visitors, staff and deliveries. The proposed use will see a reduction in residents to 9, which will in turn reduce the number associated movements and potential for any noise or disturbance to neighbouring properties. Through an appropriately worded condition the number of residents will be restricted to a maximum of 9.
- 6.21 Furthermore, the intended occupation period of between 6 months and 2 years will help minimise any potential disturbance from the turnaround of residents allowing them the opportunity to become more settled into the community.

Access and Parking

- 6.22 Paragraph 108 of the National Planning Policy Framework (2019) seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 6.23 Access to the site is gained via an existing driveway. The site can accommodate 9 parking spaces and 1 disabled parking space together with two motorcycle spaces. The development will involve the installing of new bike racks on the site which will be secured by condition.
- 6.24 Essex County Council Highway Authority raise no objection to the proposal.

Financial Contributions – Recreational Disturbance

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

as a result of the development and a proportionate financial contribution is not considered necessary in this instance.

Other Matters – Engagement with the Head of Housing

- 6.28 Throughout the course of the application, officers have engaged extensively with the applicants to seek various additional pieces of information to allow for a better understanding of the use and how it will function. Officers have also engaged with the Head of Housing and Environmental Health who has confirmed that there is a need for good quality, low cost accommodation in the District for those at risk of homelessness.
- 6.29 The latest comments provided by the Head of Housing and Environmental Health following consideration of all additional information confirms that the principle of the use for supported housing that is well managed and priced at a level that is affordable for those on low incomes or in receipt of benefits such as Universal Credit can be supported by the Council on the basis that the facilities on offer are appropriate to the needs of the tenants and the support is provided by those with relevant experience and qualifications.
- 6.30 Referral of potential residents from the Council will be dependent on an inspection of the finished, converted building and successful issue of an HMO licence and further discussions with the owners about the support package on offer.

7. Conclusion

- 7.1 The proposal will ensure a vacant premises is 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.

8. Recommendation

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

8.2 Conditions and Reasons

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

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

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

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

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

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

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

in its approved form unless otherwise agreed in writing by the Local Planning Authority.

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

5. 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.

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 seeking additional information from the Applicant to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

9. Additional Considerations

Public Sector Equality Duty (PSED)

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

Human Rights

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

Finance Implications

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

10. Background Papers

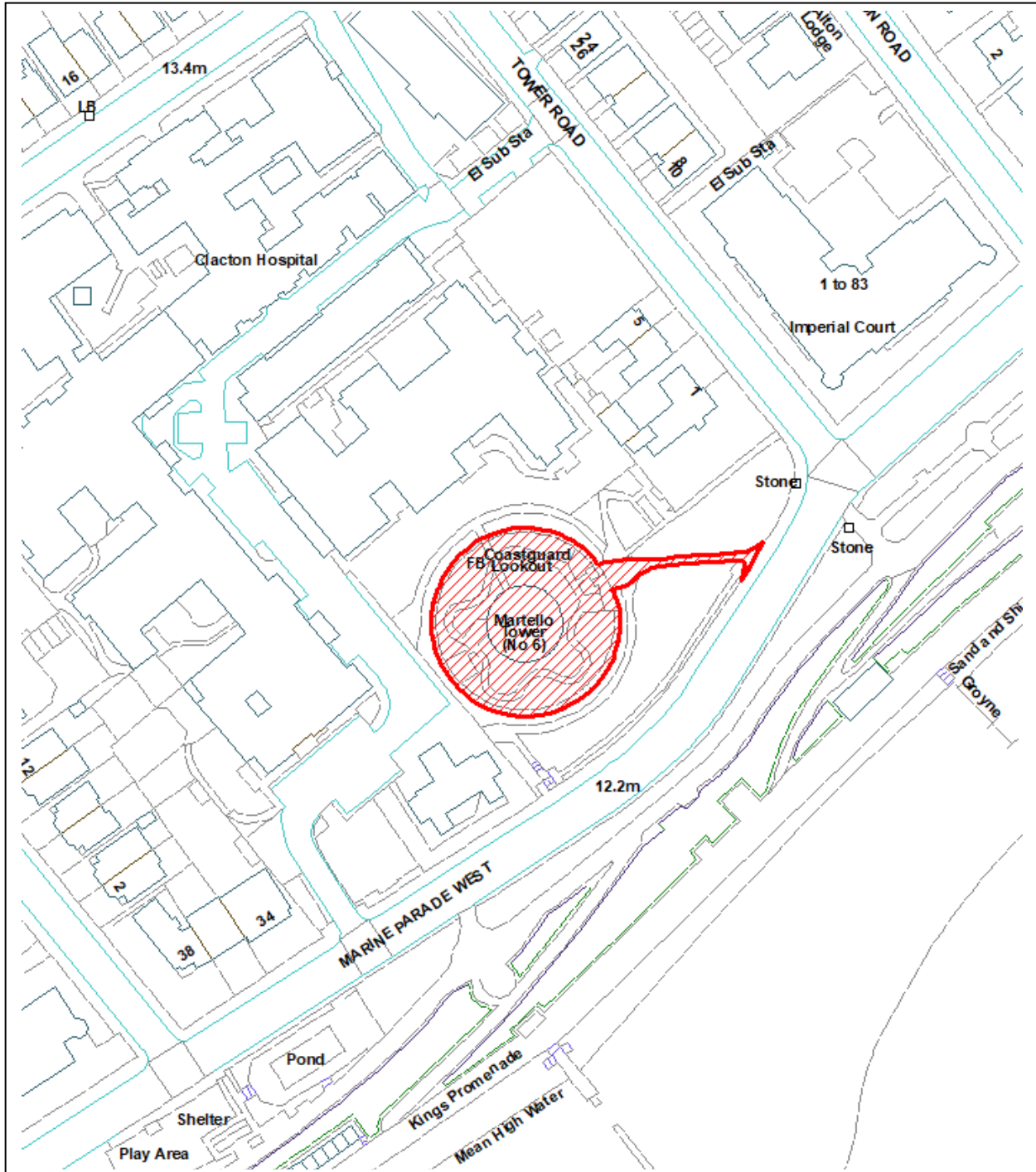
- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

PLANNING COMMITTEE

11TH AUGUST 2020

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

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



DO NOT SCALE

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Application: 20/00084/FUL

Town / Parish: Clacton Non Parished

Applicant: Mr Paul Nash

Address: Martello Tower F Marine Parade West Clacton On Sea CO15 1LS

Development: Proposed use of building as wedding venue and conference centre (Use Class D2).

1. Executive Summary

- 1.1 This application is before the Planning Committee as the site is within the ownership of Tendring District Council.
- 1.2 The application relates to Martello Tower F which is located on Marine Parade West near the junction with Tower Road, Clacton on Sea. The building is a designated Scheduled Ancient Monument, a Grade II Listed Building and is also located within the Clacton Seafront Conservation Area.
- 1.3 The application seeks full planning permission for the change of use of the building to a wedding venue and conference centre. The application only seeks planning permission for the proposed use and does not propose any alterations to the building. Any future alterations to the building will be the subject of separate applications for planning permission, listed building consent and Scheduled Ancient Monument Consent (as required).
- 1.4 Historic England and Essex County Council Historic Environment raise no objection to the change of use and support 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.
- 1.5 The Council's Environmental Protection Team also raise 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.
- 1.6 The site is located within a highly sustainable Town Centre location with plenty of on street parking and public transport links and Essex County Council Highways raise no objection.
- 1.7 Martello Tower F is an important historic building and an important landmark that contributes to the character and appearance of the area. There is nothing to suggest that the proposed use would not represent a suitable and viable use which will help to safeguard the future of the building and ensure that its history, architecture and cultural significance are enjoyed by future generations. The application is therefore recommended for approval subject to appropriate conditions.

Recommendation: Full Approval

Subject to the conditions stated in section 8.2

2. Planning Policy

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

National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL11 Environmental Impacts and Compatibility of Uses

ER16 Tourism and Leisure Uses

ER26 Conversion of Premises

COM22 Noise Pollution

EN17 Conservation Areas

EN22 Extensions or Alterations to a Listed Building

EN23 Development within the Proximity of a Listed Building

TR7 Vehicle Parking at New Development

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

SPL3 Sustainable Design

HP2 Community Facilities

PP8 Tourism

PPL8 Conservation Areas

PPL9 Listed Buildings

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Conservation Area Character Appraisals

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

| | | | |
|--------------|---|----------|------------|
| 97/01374/FUL | Replacement of wooden kiosk and entrance building | Refused | 07.04.1998 |
| 03/00993/FUL | Change of use of Martello Tower and site to A3 restaurant use | Approved | 25.07.2003 |
| 05/01988/FUL | Variation of condition 05 of approval 03/00993/FUL to change opening hours from 11.00-23.00 Monday to Saturday and 11.00-17.00 Sundays to 11.00-00.30 Monday to Saturday and 12.00-23.00 Sundays. | Approved | 18.01.2006 |
| 10/00918/FUL | We would like to have two alpacas, two pigmy goats and two rabbits that will be supervised at all times, roaming the grounds of the moat which has a 15ft wall. There is a shed already on site to house the animals at night. (Retrospective Application). | Approved | 28.09.2010 |

4. Consultations

Historic England
09.07.2020

Thank you for your letter of 17th June 2020 regarding the above application for change of use. The change proposes the use of building as wedding venue and conference centre (Use Class 02).

As noted in the planning application the Martello Tower known as Martello 'F' is designated as a scheduled monument an (UID 1016555). It is also separately listed at Grade II and situated in the in

the Clacton Seafront Conservation Area. As a designated heritage asset it is highly valued and as a class of monuments Martello towers are iconic and unmistakable. The significance lies both in their function and role in the defences of Britain in the very early years of the 19th Century and their location. Although Martello's were replicated across the British Empire the east coast chain is particularly important and F is one of three similar sites in Clacton.

Historic England confirms that we do not have an in principle objection to the change of use and support the approach to find a new, sustainable and viable use for this important historic structure.

Please note however that any physical changes resulting from the change of use are may require further applications for planning permission and will are very likely to require Scheduled Monument Consent. This potentially applies to classes of works such as repairs, the updating of services and facilities, but also other minor works including changes to internal fittings and sign age. We would recommend the council seek further information from the client as to whether further works are anticipated following the change of use application and whether further planning applications are anticipated. We recommend the applicant contacts Historic England at the earliest opportunity for further advice on the Scheduled Monument.

We also suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

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

Essex County
Council Heritage
27.04.2020
**LATEST
COMMENTS**

Built Heritage Advice pertaining to an application for: Proposed use of building as wedding venue and conference centre (Use Class D2).

This letter should be read in addendum to my letter of 28/02/2020.

While in support of seeking a sustainable use for the heritage asset, conserving and enhancing it, the change of use has not been demonstrated to be achievable sympathetically.

Should the application be permitted, this does not mean that a wedding venue can be absolutely achieved here. The use as a venue would need to be demonstrate that it can be sympathetically achieved via a future application.

Essex County
Council Heritage
28.02.2020
**ORIGINAL
COMMENTS**

Built Heritage Advice pertaining to an application for: Proposed use of building as wedding venue and conference centre (Use Class D2).

The structure is a designated heritage asset, as follows:

- Scheduled monument Martello tower F, Marine Parade West, Clacton-on-Sea (Listing Entry ID: 1016555).
- Grade II listed Martello tower and brick lined moat (Listing Entry ID: 1111520).
- The site is also located within the Clacton Seafront Conservation Area.

Whilst ECC Heritage do not support this application, we would support an application that seeks to find a sustainable use for the heritage asset, conserving and enhancing it. This may be realised as a wedding venue.

A change of use application alone does not provide adequate information showing how the proposed change of use to a wedding venue and conference centre will be sympathetically facilitated. Stating that this information will follow in later planning applications and scheduled monument consents is not adequate, given the high significance of the heritage assets concerned in this application, and the great weight required to be given to the asset's conservation as per paragraph 193 of the NPPF.

ECC Heritage are unable to support the application due to the lack of sufficient information provided. The viability of the proposed change of use is not clear and therefore may cause harm to the designated heritage asset. In this regard it is also not established whether a wedding venue is the optimum viable use for this heritage asset. As such, paragraph 196 of the NPPF is relevant. The applicant has also not supplied sufficient information demonstrating their understanding of the significance of the scheduled monument and listed building, as required by paragraph 189 of the NPPF.

Were the applicant to submit a new application, ECC Heritage would encourage them to submit this in the form of a pre-application and discuss the feasibility of this change of use with planners at a site visit.

ECC Highways
Dept
02.03.2020

The information that was submitted in association with the application has been fully considered by the Highway Authority. The site is situated within the town and there are existing waiting restrictions in the vicinity of the site with some limited waiting spaces opposite the site on Marine Parade West (3 hours no return in 4 hours) in addition, you have the Martello Coach and car park in the vicinity. It is noted that there have been two previous applications approved for a restaurant and zoo, 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. The powered two-wheeler/cycle parking facilities as shown on the approved plan are to be provided prior to the first occupation of the development and retained at all times.
Reason: To ensure appropriate powered two-wheeler and bicycle parking is provided in accordance with Policy DM8.

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

Informative:

1. Prior to first occupation of the proposed development, the Developer shall submit details to the Local Planning Authority for approval in consultation with Essex County Council. To highlight what

advance publicity is being provided for the D2 use in relation to nearby public parking facilities and sustainable transport options that are available to get to and from the site either via a website or brochure for the venue.

Reason: Due to the fact that the site has no parking facilities within the confines of the site.

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

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

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

5. Representations

- 5.1 The site is located within the non-parished area of Clacton on Sea.
- 5.2 No letters of representation or objection have been received.

6. Assessment

- 6.1 The main planning considerations are:
 - Site Context;
 - Site History;
 - Description of Proposal;
 - Principle of Development;
 - Impact on the Heritage Assets;
 - Residential Amenities; and,
 - Accessibility and Parking.

Site Context

- 6.2 The application relates to Martello Tower F, which fronts Marine Parade West near the junction with Tower Road, Clacton on Sea. The building is a designated Scheduled Ancient Monument, a Grade II Listed Building and is also located within the Clacton Seafront Conservation Area.
- 6.3 The tower is an important local landmark located in a prominent position surrounded by raised soft landscaping, public open space and benches. Martello Tower F is the only remaining moated example on the Essex coast. It has had some alterations, particularly in the 20th century, but the structure remains substantially unchanged and still retains many details dating from the period of construction.

Site History

- 6.4 The most recent planning history for the site is for a petting zoo use approved under planning application reference 10/00918/FUL. The use has ceased and the building lies vacant.

Description of Proposal

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

Principle of Development

- 6.6 Paragraph 8 of the National Planning Policy Framework 2019 (NPPF) sets out the three overarching objectives for achieving sustainable development; economic, social and environmental. In addition, Section 6 the NPPF supports building a strong, competitive economy stating at paragraph 80 that planning decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. Paragraph 92 of the NPPF is also relevant as this requires the Local Planning Authority to plan positively for the provision of venues and meeting places in order to provide the social and cultural facilities and services the community needs.
- 6.7 In this instance, the proposal would fulfil the economic objective by providing direct employment opportunities and by providing trade for other hospitality and associated services. Furthermore, the scheme would contribute to the social objective by providing a facility that will benefit the local community providing a venue where local community groups and organisations can meet. Finally, the proposal would meet the environmental objective of sustainable development by bringing a heritage asset back into use thus making effective use of land and contributing to protecting and enhancing our historic environment.
- 6.8 These objectives of the NPPF are supported by adopted Tendring District Local Plan (2007) Saved Policies COM4 New Community Facilities, ER16 Tourism and Leisure Uses and ER26 Conversion of Premises. These are all permissive policies subject to a range of detailed considerations relating to location and accessibility, noise and disturbance and the character of the area. The aims and objectives of these policies are carried forward within the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) Policies HP2 Community Facilities and Policy PP8 Tourism. Specifically Draft Policy PP8 states that the Council will support appropriate proposals for conference facilities for businesses and educational purposes or to be used for functions such as weddings and other celebratory events.
- 6.9 Having regard to the town centre location of the building, characteristics of the site and the aims of above-mentioned national and local plan policies, the principle of the proposal is considered acceptable subject to the detailed considerations set out below.

Impact on the Heritage Assets

- 6.10 The Martello Tower known as Martello 'F' is designated as a scheduled ancient monument (SAM)(UID 1016555). It is also separately listed as Grade II listed Martello tower and brick lined moat (Listing Entry ID: 1111520). The site is also located within the Clacton Seafront Conservation Area. As a designated heritage asset it is highly valued and as a class of monuments Martello towers are iconic and unmistakable. The significance lies both in their function and role in the defences of Britain in the very early years of the 19th Century and

their location. Although Martello's were replicated across the British Empire the east coast chain is particularly important and F is one of three similar sites in Clacton.

- 6.11 Paragraph 192 of the NPPF states that in determining applications, local planning authorities should take into account (a) the desirability of sustaining and enhancing the significance of heritage assets by putting them to a viable use consistent with their conservation; (b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and, (c) the desirability of new development making a positive contribution to local character and distinctiveness.
- 6.12 Saved Policy EN22 of the adopted Tendring District Local Plan (2007) and draft Policy PP9 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) deal with works to Listed Buildings stating that development involving proposals to alter a Listed Building will only be permitted where it would not result in the damage of features of special architectural or historic interest and that the special character and appearance of the building would be preserved.
- 6.13 The original comments received from ECC Heritage highlighted concerns with the applicant's approach to the re-development of the site stating that a change of use application alone does not provide adequate information showing how the proposed change of use to a wedding venue and conference centre will be sympathetically facilitated. However, ECC Heritage did confirm that they are in support of an application that seeks to find a sustainable use for the heritage asset, conserving and enhancing it and this may be realised as a wedding venue. The use as a venue would need to be demonstrate that it can be sympathetically achieved via a future application.
- 6.14 Historic England confirms that they have no principle objection to the change of use and support the approach to find a new, sustainable and viable use for this important historic structure subject to the necessary applications for alterations to the building.
- 6.15 In this case, the proposed use will ensure the long-term future of an important heritage asset which makes a positive contribution to the local character and Clacton Seafront Conservation Area. Any physical alterations required to facilitate the use will be subject of a full and thorough assessment under the relevant applications for planning permission, listed building consent and Scheduled Ancient Monument Consent as required in consultation with Essex County Council Historic Environment and Historic England.

Residential Amenities

- 6.16 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. Draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives.
- 6.17 The northern and western boundaries of the application site adjoin the Clacton and District Hospital. Whilst there are dwellings to the east of the site, they are some distance from the building. Due to the location of the site within a relatively busy town centre area there will be a degree of background noise and traffic noise currently. Furthermore, the thickness of the walls of the building and the depth of the moat will help minimise any noise and disturbance from activities associated with the use.
- 6.18 The Council's Environmental Protection Team require the submission and approval of a Noise Impact Assessment prior to the commencement of the use. This will address the

activities that may have an impact on any neighbouring/noise sensitive properties such as noise from amplified music; speech and any extraction systems or any other external plant or machinery that is linked to the premises.

- 6.19 Officers consider that through the imposition of an appropriately worded condition for the submission of a Noise Impact Assessment and Management Plan including details of opening hours, any noise and activities associated with the proposed use can be appropriately managed and mitigated.

Accessibility and Parking

- 6.20 Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 6.21 Furthermore, the Essex County Council Parking Standards 2009 set out the parking requirements for new development. In this instance, 1 space per 20 square metres would be required. However, lower provision of vehicle parking may be appropriate in urban areas including town centre locations where there is good access to alternative forms of transport and existing car parking facilities.
- 6.22 Whilst the use would generate traffic there is ample of on-street parking and car parks nearby. The site is in a sustainable location, close to the town centre and accessible by public transport. There is also some limited parking at the site to accommodate a wedding car and deliveries. It should be noted that the previous petting zoo and restaurant operated successfully without any impact on highway safety. Essex County Council Highways raise no objection to the proposal.

7. Conclusion

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

8. Recommendation

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

8.2 Conditions and Reasons

1. The 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.

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.

Full Planning Permission, Listed Building Consent and Schedule Ancient Monument Consent

The applicant is reminded that all necessary consent required for works to the building or within its curtilage must be sought.

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

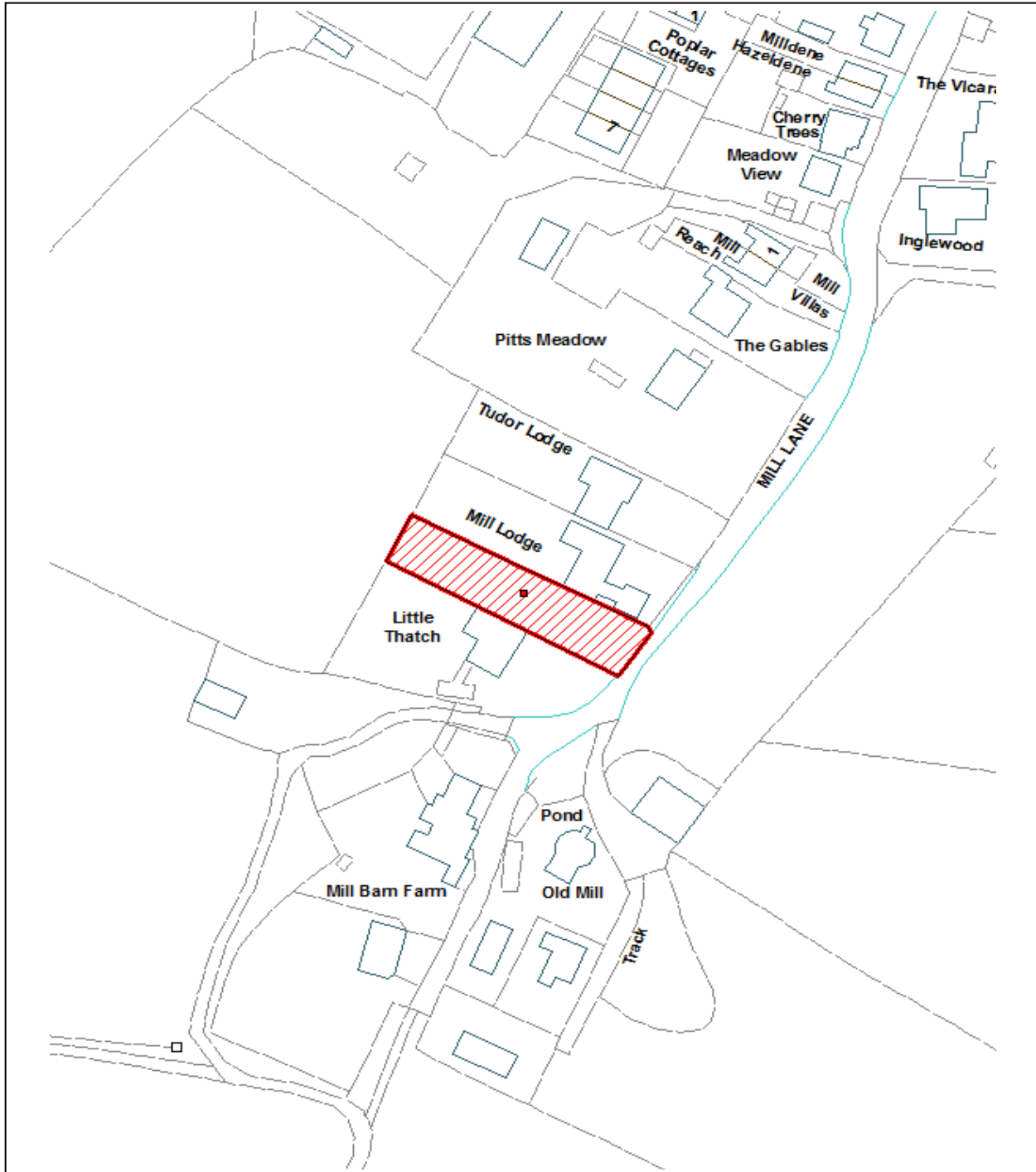
- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

11TH AUGUST 2020

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

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



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Application: 19/01157/FUL

Town / Parish: Thorpe Le Soken Parish
Council

Applicant: Mr & Mrs Cramphorn

Address: Land adjacent Little Thatch Mill Lane Thorpe Le Soken CO16 0ED

Development: One dwelling.

1. Executive Summary

- 1.1 The application is referred to the Planning Committee by Councillor Land due to the proposed dwelling causing highway impacts and other traffic issues, a negative impact on neighbours, the site is located within a Conservation Area, it is located on a public right of way and it is within a confined space. Additional comments have been received by email from Councillor Land, dated 26th August relating to polluted waterway.
- 1.2 The application seeks full planning permission for the erection of one dwelling accessed via Mill Lane.
- 1.3 The application site is 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).
- 1.4 An earlier application for this site, planning application reference 18/00781/FUL, was recommended for approval, and overturned by Planning Committee who refused planning permission 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 was taken to appeal and subsequently dismissed on 25 July 2019. However, the sole reason for dismissing the appeal related coastal habitats in that the proposal failed to provide a RAMs contribution. In all other respects the appeal scheme was considered acceptable and the reasons for refusal not upheld.
- 1.5 The current resubmitted application was to be determined at the Planning Committee to be held on 19 September 2019. However, it was subsequently agreed by the Committee Chairman 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 was provided by the applicant, which concluded that great crested newts (GCN) are likely to be absent from all surveyed ponds within 250m of the site. ECC Ecology were re-consulted on the submitted Great Crested Newt Survey and raise no objections, subject to conditions relating to biodiversity enhancement.
- 1.6 In conclusion, the previous appeal (reference APP/P1560/W/18/3213632) was dismissed on the single issue of a lack of a Unilateral Undertaking (UU) to address a RAMS contribution. This application has addressed this, a UU has now been completed to address the RAMS contribution. The principle of residential development in this location is acceptable and subject to conditions there is not considered to be any material visual harm, harm to neighbouring amenities, harm to ecology and biodiversity, harm to heritage assets or highway safety.

Recommendation: Full Approval

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

Subject to the conditions stated in section 8.2

2. Planning Policy

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

NPPF National Planning Policy Framework

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

HG1 Housing Provision

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

TR1A Development Affecting Highways

TR4 Safeguarding and Improving Public Right of Way

TR7 Vehicle Parking at New Development

EN6 Biodiversity

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN17 Conservation Areas

EN23 Development within the Proximity of a Listed Building

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

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

- SPL3 Sustainable Design
- PPL4 Biodiversity and Geodiversity
- PPL8 Conservation Areas
- PPL9 Listed Buildings
- LP1 Housing Supply
- LP2 Housing Choice
- CP1 Sustainable Transport and Accessibility

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:
- 2.7 The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in 2026 and any one year, Councils must be able to identify five

years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

- 2.8 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).
- 2.9 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

| | | | |
|--------------|---|-----------------------------------|------------|
| 01/01840/FUL | New Cottage | Refused | 17.12.2001 |
| 16/01886/TCA | 1 No. Cherry tree - fell | Approved | 15.12.2016 |
| 17/01933/FUL | Proposal for one dwelling. | Refused | 10.04.2018 |
| 18/00781/FUL | One dwelling. | Refused Dismissed at appeal | 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 |

4. Consultations

Essex County Council
Highways

As with the previous Planning Application: 18/00781/FUL the Highway Authority retain some concerns that the access onto the High street /B1033 is narrow, with an adverse effect on visibility and therefore the safety of both pedestrians and drivers, but consider that the increased vehicle movements associated with this one additional property could be considered to be within an acceptable tolerance and note that there are no recorded personal

injury collisions at the connection of Mill Lane to the High Street.

This does not in any way detract the underlying principal of seeking to avoid the intensification of usage of PROW by private vehicular means in order to avoid associated maintenance and safety issues that would otherwise impact the public usage. It remains that intensification (site dependent) will, more often than not, result in a frequency and volume of vehicular movement that is well beyond levels afforded by established prescriptive rights and therefore give rise to public nuisance issues. Such matters must continue to be material to the determination of all future planning applications where intensification is likely to result.

In consequence, any further development along this land/footpath beyond this application would be unacceptable and would be objected to.”

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

1. Prior to the first occupation of the proposed dwelling, the proposed vehicular access shall be constructed to a width of 4.8m and shall be provided with an appropriately constructed connection to Mill Lane.
2. Prior to the proposed access on the proposed dwelling being brought into use, an 2.4m x 11m visibility splay in both directions, shall be provided on both sides of that access onto the Public Right of Way and shall be retained and maintained free from obstruction clear to ground thereafter. These splays must not form part of the vehicular surface of the access.
3. No unbound materials shall be used in the surface treatment of the proposed vehicular access throughout.
4. All off street car parking shall be in precise accord with the details contained within the current Parking Standards being provided within the site which shall be maintained free from obstruction and retained thereafter.
5. The Cycle / Powered two wheeler parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.
6. Any new or proposed boundary hedge shall be planted a minimum of 1m back from the highway boundary and 1m behind any visibility splays which shall be maintained clear of the limits of the highway or visibility splays thereafter.
7. Prior to the occupation of the proposed development, the developer shall make good and effect any

repairs necessary to the surface and sub surface of Mill Lane, Public Footpath No11 (Thorpe Le Soken) which have been unavoidably caused by the construction and fitting out phases of the proposed development to the specifications of the highway Authority entirely at the developers own expense.

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

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

9. The public's rights and ease of passage over public footpath No.11 (Thorpe Le Soken) shall be maintained free and unobstructed at all times.

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

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

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

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

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

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.

Essex County Council Ecology
17.06.2020

Thank you for consulting Place Services on the above application.

No objection subject to securing
a) a financial contribution towards visitor management measures as part of the Essex Coast RAMS
and
b) biodiversity mitigation and enhancement measures

Summary

We have reviewed the Great Crested Newt Survey Report (Liz Lord Ecology, May 2020) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats.

We are satisfied that there is sufficient ecological information available for determination.

This provides certainty for the LPA of the likely impacts on protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

The mitigation measures identified in the Great Crested Newt Survey Report (Liz Lord Ecology, May 2020) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority Species Great Crested Newts.

We note that Tendring DC have prepared a project level HRA Appropriate Assessment which identifies that the development is approximately 2km away from Hamford Water SPA, SAC and Ramsar site and SPA. Therefore this site lies within the Zone of Influence (ZOI) for the Essex Coast RAMS and delivery of mitigation measures in perpetuity will therefore be necessary to ensure that this residential development will not have an adverse effect on the integrity of the above Habitats sites from recreational disturbance, when considered 'in combination' with other plans and projects.

We also note that Tendring DC will secure the Essex Coast RAMS contribution under a legal agreement.

We also support the proposed reasonable biodiversity enhancements, which have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 170d of the National Planning Policy Framework 2019. The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured prior to slab level.

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

Impacts will be minimised such that the proposal is acceptable subject to the conditions below based on BS42020:2013.

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

Recommended conditions:

1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Great Crested Newt Survey Report (Liz Lord Ecology, May 2020) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

2. PRIOR TO SLAB LEVEL: BIODIVERSITY ENHANCEMENT STRATEGY

"A Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority.

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

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

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

Reason: To enhance Protected and Priority Species habitats and allow the LPA to discharge its duties

Environment Agency
19.05.2020

under the s40 of the NERC Act 2006 (Priority habitats & species).

Thank you for your consultation dated 30 April 2020. We have reviewed the amended application and make the following comments which are intended to provide guidance to the Local Planning Authority (LPA). We have included links to further advice which will be of interest to the LPA and the applicant.

Foul Drainage

We suggest the Local Authority should ask the developer to provide more information regarding their plans for the drainage at this site using the foul drainage assessment form.

<https://www.gov.uk/government/publications/foul-drainage-assessment-form-fda1>

We value the application of the drainage hierarchy to avoid a proliferation of private systems installed in areas where connection to the foul sewer could be an option. Although the property appears to be further than 30m from the public foul sewer the production of a drainage strategy for the site should investigate the possibility of connection to mains drainage.

The applicant plans to install a package treatment plant (PTP) although the application lacks information concerning where the PTP will discharge. The drainage strategy should clarify if discharge is to be made to land or surface water. The foul drainage assessment form provides guidance on carrying out percolation tests to determine if the land is suitable for a drainage field. The applicant should refer to our approach to Ground Water Protection. Section G of this guidance outlines our positions on discharges of liquid effluent to ground and use of deep infiltration systems.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/692989/Environment-Agency-approach-to-groundwater-protection.pdf

Environmental Permitting

The applicant may be able to discharge sewage effluent under the General Binding Rules (GBR). This would be classed as a new discharge so additional rules would need to be complied with. The GBR can be found at:
<https://www.gov.uk/government/publications/small-sewage-discharges-in-england-general-binding-rules>.

If the applicant can't comply with the GBR they would need to apply for an Environmental Permit. We can provide basic pre-application advice for free to help with the permit application. A chargeable service is available if more in-depth advice is required. Pre-application advice can be obtained via this online form:

<https://www.gov.uk/government/publications/environmental-permitting-pre-application-advice-form>.

A permit application can't be pre-determined so the applicant should not automatically assume that a permit will be issued. The applicant should also be aware that the granting of Planning Permission or Building Regulation approval does not guarantee the granting of an Environmental Permit.

The applicant would also need to obtain separate permissions/easements to cross or use third party land if this is relevant to their proposal.

We trust this advice is useful.

5. Representations

5.1 One letter of representation has been received from District Councillor Daniel Land, stating the following:

- The development is in a poor location at the bottom of a narrow unmade road which doubles as a PROW;
- It's deep in the Conservation Area, in close proximity to some local historical landmarks. Thorpe High Street is a busy main road, with access from Mill Lane causing additional troubles on the road network at peak times;
- This development will have an impact on the neighbours on their visual amenity and privacy.
- The area at the bottom of this tiny lane is not suitable for heavy vehicles servicing a building site and will disrupt local residents and people using the busy footpaths

5.2 One letter of representation has been received from Essex Wildlife Trust, stating the following:

- Objection on the grounds that insufficient information has been provided by the applicant to enable determination. A Great Crested Newt Survey is required according to the guidance published by Natural England.

Thorpe Le Soken Parish Council have commented on this application and have stated that:

- Recommends refusal as per previous comments.

5.3 Representations have been received from 4 members of the public (through multiple letters of representation) raising the following concerns:

- Insufficient survey effort provided to establish the presence or absence of Great Crested Newts on or in the vicinity of the site;
- It has been previously reported that a breeding colony of Great Crested Newt exist in the pond less than 5 metres from the site;
- The site has had no survey effort expended on it despite Natural England Standing advice advising that this should be undertaken. Not to do so would be against both the NPPF guidance and indeed would be contrary to English and European Law. A Habitat Suitability Index (HSI) has been undertaken of the pond ecologically connected and adjacent to the site and found that the pond has 'Good' suitability for Great Crested Newt. This indicates that there is an 0.74 suitability for GCN to be present. With a score as high as this it would be unlawful for a decision to be taken to develop the site without the proper survey effort being undertaken. The HSI report has been sent to the Council for their information and action;
- It should be clear, as emphasised by the planning inspector, R Sabu that all applications should be considered on their own merits;

- The Appeal Inspector also made the point that the proposed developments harm to the living conditions of the occupants of neighbouring properties, adverse highway safety and biodiversity impacts, and harm in character and appearance terms were not positive benefits to the appeal scheme. The inspector concluded that they accordingly only had a neutral effect on the planning balance. It is therefore clear that in combination with other material considerations this application should be refused;
- Mill Lane is unsuitable for construction vehicles due to the width of the road and concerns over the resident's access to Mill Lane as the entrance to Mill Lane is a major issue;
- Concerns that the plot of land is too narrow to build on without encroaching onto neighbouring properties;
- An Ecology Report has never been conducted on this site;
- Concerns over the loss of light to the neighbouring dwellings, Mill Lodge and Little Thatch;
- There is no mains sewerage along Mill Lane;
- The development makes no contribution to the desirability of preserving or enhancing the character and appearance of the Thorpe Le Soken Conservation Area;
- The applicant has speedily mowed the plot to avoid surveys. Photos of shredded animals from the clearing of the site have been provided;
- This application has already been rejected, this is the same proposal resubmitted;
- The site was originally cleared and there were concerns with the ecology and wildlife;
- There are concerns with the proposal in terms of the foul water adding to the polluted waterway problems;
- A survey is needed to demonstrate the ecological impact;
- There does not appear to be a Foul Drainage Assessment (FDA). The applicant does not address foul drainage provision. The onus is on the applicant to undertake this.
- It is noted that application reference 19/01276/FUL (a site further up Mill Lane) has truthfully identified that it would be necessary for the site not to connect to mains drainage. This makes a material planning consideration;
- It is noted that the application form has been amended from mains sewerage to a private treatment facility. There are issues already along Mill Lane. Concerns with the soakaway will require a huge discharge area which doesn't exist. The new Mill Lane properties with private treatment facilities discharge and flood the neighbouring field in the winter;
- Concerns in regards to the extension of time and the documents not being viewable on public access;
- The previous documents for applications 01/01840, 02/01638 and 04/00858 do not appear to have been published for the property;
- Concerns with the location of installing a treatment system which should be 50 metres away from other treatment systems; and
- Concerns over the inaccuracies and missing date within the Foul Drainage Assessment.

6. **Assessment**

Site Context

- 6.1 The application site is located on the western side of Mill Lane and is situated between 'Little Thatch' to the south and 'Mill Lodge' to the north. Mill Lane is an un-adopted, unmade road with a mix of housing types including bungalows, terraces, and detached 1.5 and 2 storey dwellings.
- 6.2 The site lies within the Settlement Boundary for Thorpe-le-Soken, as established in the Tendring District Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). The site lies within the Thorpe-le-Soken Conservation Area and located to the east of the site is a Public Right of Way which forms the vehicular access to the site.

Principle of Development

- 6.3 The application site is 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).
- 6.4 Policy SPL2 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft states that there is a general presumption in favour of new development within defined development boundaries of towns and villages, subject to detailed consideration against other relevant Local Plan policies. The principle for residential development is therefore acceptable subject to the detailed consideration below. The appeal decision also accepted the principle of development.

Layout, design and Appearance

- 6.5 The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.6 The plan demonstrates that the proposed dwelling will be situated towards the front of the site and accessed via a vehicular access from Mill Lane. The proposed dwelling will be one and a half storeys with a traditional cottage design. The materials proposed are red brick and plain tiles which will be in keeping with the character of the area. Due to the sensitive location of the proposed dwelling, a condition will be attached to this decision to ensure a sample of these materials is provided subject to being agreed by the Local Planning Authority. The design is unchanged from the appeal proposal and the Inspector has not raised any objection to the design.
- 6.7 The residential character of the locality is predominantly linear in form consisting of detached dwellings on fairly spacious plots fronting Mill Lane. Dormer windows to the front of the dwelling are a prominent feature along Mill Lane and therefore the design of this proposal is considered to be in keeping with the character of the area.
- 6.8 Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling with three bedrooms or more should be a minimum of 100 square metres. This is achieved comfortably.

Impact upon Neighbouring Amenities

- 6.9 The NPPF, in paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria, *'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'*.
- 6.10 The appeal site lies between two detached dwellings; Little Thatch to the south and Mill Lodge to the north. Within the appeal decision, the Planning Inspector stated that:
- '...the proposed dwelling would occupy almost the full width of the plot such that the flank walls would be in close proximity to the boundaries with the adjacent properties. The flank wall of Mill Lodge is also in close proximity to the boundary and has an existing triple window that currently looks out onto the vacant site'*.
- 6.11 Paragraph 15 of the appeal decision consider the impact on Mill Lodge and stated that:

'...the proposed building would present a two-storey wall, albeit with a slope at higher level, that would be readily visible from the kitchen window in the flank wall of Mill Lodge. However, the space served by this window is a dual aspect open plan kitchen, which also benefits from a patio door to the adjacent wall which affords a high quality of outlook across the rear garden. Therefore, while outlook from the kitchen window would be affected by the proposed development, due to the nature of the room that this window serves it would result in no material harm to the living conditions of the occupiers of Mill Lodge in this respect'.

6.12 The relationship with the neighbouring dwelling is unchanged from the appeal proposal and therefore there is no objection in terms of the impact on Mill Lodge.

6.13 In terms of loss of light, the appeal decision letter concluded that:

'...the window is south facing, and given the close proximity and height of the flank wall of the proposed dwelling, it would reduce the levels of light reaching the kitchen area. However, given that there is a full height patio door on the adjacent wall, the space would still receive adequate light such that the living conditions of the occupiers would not be unduly affected. Moreover, given the function and layout of the room, it is unlikely that the occupiers would spend substantial portions of the day in the space adjacent to that flank window'.

6.14 The Appeal Inspector noted the guidance within the Essex Design Guide, with respect to outlook and light, and the application of a 45 degree rule in relation to neighbouring windows. It was concluded that:

'...given the position of the proposed building in relation to Mill Lodge and the open plan nature of the internal spaces, the harm to outlook and light would not be significant such that refusal of permission on this ground alone would be justified'.

6.15 Within paragraph 18 of the appeal decision, the Planning Inspector acknowledged the concerns in relation to the effect of the proposed dwelling on the living conditions of occupiers of Little Thatch with regards to outlook. However, it was concluded that:

'...since the proposed building would not be located directly opposite to this side of the house, the outlook from the bedroom window in the flank wall of Little Thatch would not be unduly affected. Furthermore, since the room is unlikely to be occupied during substantial parts of the day, any harm would be very limited such that refusal of permission on this ground alone would not be justified'.

6.16 Paragraph 18 of the appeal decision did acknowledge concerns raised relating to overlooking to the front of Little Thatch. However, the Inspector concluded that:

'...the windows on the flank wall of the proposed building facing Little Thatch would be to an ancillary room of the kitchen and a secondary window to the dining area. Therefore, a suitable condition could be reasonably imposed to require these windows to be obscured such that the privacy of the occupants of Little Thatch would not be unduly affected should planning permission be forthcoming'.

6.17 A condition will be imposed to ensure that the two windows proposed on the south western elevation show on Drawing No.CML.01 Revisions E shall be non-opening and glazed in obscure glass and retained in this approved form.

6.18 Paragraph 19 of the appeal decision provides further consideration to the impact on 'Little Thatch' and concluded that:

'...given the position of the proposed dwelling in front of the building line of Little Thatch, the proposed building would not significantly affect the levels of light reaching the bedroom window. It may be likely that the occupants of the appeal site would erect a fence

along the boundary with Little Thatch that may reduce the levels of light to this room. However, given that the room is less likely to be occupied for substantial parts of the day compared with other spaces, the harm in this respect would be limited. While light levels to the front of Little Thatch may be reduced for certain parts of the day, given that the windows to the front of Little Thatch would continue to receive light from the south, the levels of light available in the dwelling would not be significantly reduced such that the living conditions of the occupiers would be unduly affected’.

- 6.19 The relationship with Little Thatch is unchanged from the appeal proposal and therefore there are no objections in terms of impact upon ‘Little Thatch’.

Impact upon Heritage Assets

- 6.20 Policy EN17 of the Tendring District Local Plan 2007 and Policy PPL8 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) state that development within a Conservation Area must preserve or enhance the special character or appearance of the Conservation Area.

- 6.21 Policy EN23 of the adopted Tendring District Local Plan (2007) seeks to ensure that any proposals for development that would adversely affect the setting of a Listed Building, including group value and long distance views will not be permitted. Policy PPL9 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) seeks to ensure that the proposals for new developments affecting a listed building or setting will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric: are explained and justified through an informed assessment and understanding of the significant of the heritage asset and its setting; and are of a scale, design and use materials and finishes that respect the listed building and its setting.

- 6.22 A Planning and Heritage Statement was submitted as part of this planning application describing the proposed development and the impact upon the Conservation Area and Listed Buildings.

- 6.23 As stated within the earlier appeal decision at paragraph 25, the Planning Inspector recognised the:

‘...concerns relating to the effect of the proposed development on The Old Mill and the Grade II Listed Mill Barn Farm in terms of the effect on the setting of these buildings and the living conditions of the occupiers’. The Inspector explained that *‘given the distance between these buildings and the appeal site, and the design and conditions of the occupiers would not be adversely affected by the proposal. Thus, taking these matters together, and in accordance with the duties imposed by the Planning (Listed Buildings and Conservation Areas) Act 1990, I conclude that the proposed development would preserve the character and appearance of the Conservation Area and the setting of the aforementioned Listed Buildings.’*

- 6.24 It is therefore concluded that there is no substantive grounds for objection to the scheme in terms of heritage impact.

Trees and Landscaping

- 6.25 Regrettably the previous vegetation found on the application site has been cut down to ground level. There is some re-growth comprising rank and ruderal vegetation including brambles. There is a large Willow in the northernmost corner of the site that will not be affected by the development proposal.

- 6.26 On, or close to the boundary with the adjacent property known as ‘Little Thatch’ there is an established boundary hedge.

- 6.27 A soft landscaping condition will be imposed to secure new planting on the site frontage to soften the appearance of the development and the retention of the front boundary hedge within the Conservation Area.

Highway safety

- 6.28 Essex County Council Highways have been consulted on this application and have stated that although there were concerns with planning application 18/00781/FUL, the access onto High Street is narrow, with an adverse effect on visibility and therefore the safety of both pedestrians and drivers, but consider that the increased vehicle movements associated with this one additional property could be considered to be within an acceptable tolerance and note that there are no recorded personal injury collisions at the connection of Mill Lane to the High Street.
- 6.29 This does not in any way detract the underlying principle of seeking to avoid the intensification of usage of PROW by private vehicular means in order to avoid associated maintenance and safety issues that would otherwise impact the public usage. It remains that intensification (site dependent) will, more often than not, result in a frequency and volume of vehicular movement that is well beyond levels afforded by established prescriptive rights and therefore give rise to public nuisance issues. Such matters must continue to be material to the determination of all future planning applications where intensification is likely to result. In consequence, any further development along this land/footpath beyond this application would be unacceptable and would be objected to.
- 6.30 Notwithstanding these highway concerns, it is again material to note the conclusions reached in the previous appeal. The Planning Inspector, at paragraph 27 of the appeal decision letter, acknowledges:

'...local concerns regarding highway safety and congestion relating to Mill Lane and High Street including during the construction process and I note the evidence relating to damage to The Oaks'. The inspector also recognises 'the evidence relating to the use of Mill Lane as a Public Footpath. However, while I acknowledge that the Highways Authority objected to previous proposals for the site, it has not raised any objections on this proposal in this regard and from the evidence before me I see no reason to disagree with this assessment'.

- 6.31 There is sufficient parking to the front of the host dwelling to meet Essex County Council Parking Standards requirement of 5.5 metres by 2.9 metres. There is therefore no objection on highway safety grounds.
- 6.32 The Highway Authority does not raise any objection to the proposal subject to conditions relating to vehicular access, visibility splays, no unbound materials, off street parking, cycle parking, boundary hedge 1 metre back from highway, repairs to public footpath and construction method statement. All of the conditions will be imposed apart from the condition relating to off street parking as the application site can accommodate sufficient parking.

Financial Contributions – Open Space

- 6.33 Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".
- 6.34 On this occasion, a contribution is not required from the Public Realm team.

Habitat Regulations Assessment

- 6.35 Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Areas of Conservation). Within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against the in-combination recreational impact from new dwellings.
- 6.36 Legal advice has been sought in relation to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) which supports the view that Tendring District Council can seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). A Habitat Regulations Assessment has therefore been undertaken to confirm that the mitigation will be a proportionate financial contribution as recommended by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any likely significant effect the proposal may have on European Designated Sites.
- 6.37 The application site lies within the Zone of Influence (Zoi) of Hamford Water SPA and Ramsar Site. Within the Appeal paragraph 9, the Planning Inspector stated that the appellant has *'provided a signed Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 during the course of the appeal seeking to ensure the payment of a financial contribution prior to the commencement of development'*. However, the UU provided by the appellant *'does not refer specifically to Essex Coast RAMS or to Hamford Water SPA and Hamford Water Ramsar site, the sites that would be adversely affected by the proposal. Consequently, there is a possibility that it would not mitigate the harm caused by the proposed development. Moreover, NE's interim advice states that "in the interim period before the RAMS is adopted, a financial contribution should be agreed with and collected from the developer, prior to commencement, on the basis that it can be used to fund strategic 'off site' measures (i.e. in and around the relevant European designated site(s))" (my emphasis). Since the relevant European designated sites are not explicitly identified in the UU it would not meet this requirement.* The inspector concluded in paragraph 11 of the appeal decision that *'the UU therefore would conflict with Regulation 122 of the Community Infrastructure Levy regulations 2019 (as amended)'*.
- 6.38 Following legal advice the Council has now changed the wording in its Unilateral Undertakings to be CIL compliant. A completed unilateral undertaking has been received to secure the financial contribution required to mitigate against any recreational impact from the new dwelling and to ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Ecology and Biodiversity

- 6.39 Paragraph 174 of the National Planning Policy Framework 2019 requires Local Planning Authorities to protect and enhance biodiversity and geodiversity.
- 6.40 Saved Policies EN6 'Biodiversity' and EN6a 'Protected Species' of the adopted Tendring District Local Plan 2007 state that development proposals will not be granted planning permission unless existing local biodiversity and protected species are protected. These sentiments are carried forward within draft Policy PLA4 'Nature Conservation and Geo-Diversity' of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 6.41 Within the previous appeal, paragraph 22 of the Inspector's decision letter acknowledges:
'...concerns relating to clearance works being carried out on the site since the application was determined. However, some of these matters are covered by legislation outside of the planning acts and I have assessed the proposals presented for appeal against its planning

merits – which these matters are extraneous to’. The appeal statement acknowledges ‘the evidence relating to ecology, the Council has stated that it no longer contests this reason for refusal’.

- 6.42 ECC Ecology have provided comments on the application and requested a Great Crested Newt Survey, following this matter being highlighted by a local resident. A Great Crested Newt Survey was provided in May 2020 which stated that the results indicate that great crested newts (GCN) are likely absent from all surveyed ponds within 250m of the site. Reasonable survey effort has been made to determine the presence of GCN, and therefore no further survey or mitigation works are required with respect to GCN. ECC Ecology has considered the GCN Survey and concluded that:

‘We are satisfied that there is sufficient ecological information available for determination. This provides certainty for the LPA of the likely impacts on protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable. The mitigation measures identified in the Great Crested Newt Survey Report (Liz Lord Ecology, May 2020) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority Species Great Crested Newts.

- 6.43 It is therefore considered that subject to the conditions, the proposed development is acceptable in terms of ecology.

Drainage

- 6.44 As part of this application concerns have been raised in regards to drainage. The ‘original’ application form which was submitted as part of this application stated that the new dwelling would be connected to the mains sewer and the details to be submitted at building regulations stage. The Environment Agency (EA) were consulted on this application and provided guidance to the Council and the applicant on the issue of foul drainage. In line with the EA’s guidance the applicant was requested to provide more information regarding their plans for the drainage at this site by way of their ‘Foul Drainage Assessment Form’.
- 6.45 The applicant duly provided a completed ‘foul drainage assessment form’ and amended the submitted planning application form to state that the development would employ a private system in the form of a package treatment plant. The EA have provided their comments stating that as they have no holding objection they have no further comments to make on this application, albeit they have caveated this advice by setting out various requirements for the 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.
- 6.46 Whilst the regulations employed by the EA sit outside of planning regulations, given the local concerns on this issue and the potential uncertainty over the foul drainage approach for this site, a condition is recommended that will require a detailed foul drainage strategy is submitted and approved prior to commencement of development.

7 Conclusion

- 7.1 Appeal reference APP/P1560/W/18/3213632 was dismissed only on the lack of a satisfactory Unilateral Undertaking for RAMS. A UU has been completed to overcome the above concern. The principle of residential development in this location is acceptable and subject to conditions there is not considered to be any material visual harm, harm to neighbouring amenities, harm to ecology and biodiversity, harm to heritage assets or highway safety. Therefore the application is recommended for approval.

8 Recommendation

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions 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 and documents; drawing numbers CML -01 Revision E and Planning and Heritage Statement dated October 2017.

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

3. Prior to first occupation of the proposed dwelling, the proposed vehicular access shall be constructed to a width of 4.8m and shall be provided with an appropriately constructed connection to Mill Lane.

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

4. Prior to the proposed access to the proposed dwelling being brought into use, a 2.4m x 11m visibility splay in both directions, shall be provided on both sides of that access onto the Public Right of Way and shall be retained and maintained free from obstruction clear to ground thereafter. These splays must not form part of the vehicular surface of the access.

Reason - To ensure adequate inter-visibility between drivers of vehicles using the proposed access and pedestrians in the adjoining Public Right of Way, in the interests of highway safety.

5. No unbound materials shall be used in the surface treatment of the proposed vehicular access throughout.

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

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

7. Any new or proposed boundary hedge shall be planted a minimum of 1m back from the highway boundary and 1m behind any visibility splays which shall be maintained clear of the limits of the highway or visibility splays thereafter.

Reason - To ensure that the future outward growth of the hedge does not encroach upon the highway or interfere with the passage of users of the highway and to preserve the integrity of the highway, in the interests of highway safety.

8. Prior to the occupation of the proposed development, the developer shall make good and effect any repairs necessary to the surface and sub surface of Mill Lane, Public Footpath No11 (Thorpe Le Soke) which have been unavoidably caused by the

construction and fitting out phases of the proposed development to the specifications of the highway Authority entirely at the developers own expense.

Reason - To ensure the continued safe passage of pedestrians on the definitive right of way

9. No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. wheel and underbody washing facilities

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

10. The public's rights and ease of passage over public footpath No.11 (Thorpe Le Soken) shall be maintained free and unobstructed at all times.

Reason - To ensure the continued safe passage of the public on the definitive right of way and accessibility.

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

Reason - To enhance the visual impact of the proposed works

12. 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 that the landscaping scheme is suitably implemented within an appropriate timescale.

13. The mature hedgerow along the south western boundary of the site which is adjacent to Little Thatch shall be retained.

Reason - To ensure retention of the mature hedgerow in the interests of visual amenity.

14. The removal of any vegetation for site access/site clearance shall only be carried out by hand stripping and not by using mechanical machinery.

Reason - To protect any wildlife within the site.

15. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), the two windows proposed on the south western side elevation shown on Drawing No. CML 01 Revision E shall be non-opening and glazed in obscure glass and shall thereafter be permanently retained in this approved form.

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

16. Notwithstanding the details shown on the approved drawings, no development shall take place until a plan indicating the positions, design, materials and type of boundary treatments to be erected shall be submitted to and approved by the Local Planning Authority. The approved boundary treatments shall be implemented before the dwellings hereby permitted are occupied.

Reason – In the interests of residential amenities and visual amenity.

17. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Great Crested Newt Survey Report (Liz Lord Ecology, May 2020) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.”

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

- 18 Prior to commencement of works, “A Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority.

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

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

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

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

- 19 No development shall commence until a detailed foul water strategy has been submitted to and approved in writing by the Local Planning Authority. The dwelling shall not be occupied until the works have been carried out in accordance with the foul water strategy as approved.

Reason – To prevent environmental and amenity problems, including any ground water pollution, arising from the system of foul water drainage employed on the site.

Positive and Proactive Statement

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

Legal Agreement Informative - Recreational Impact Mitigation

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

Highways

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

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

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

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

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

Environmental Permitting

The applicant may be able to discharge sewage effluent under the General Binding Rules (GBR). This would be classed as a new discharge so additional rules would need to be complied with. The GBR can be found at:

<https://www.gov.uk/government/publications/small-sewage-discharges-in-england-general-binding-rules>.

If the applicant can't comply with the GBR they would need to apply for an Environmental Permit. The Environment Agency can provide basic pre-application advice for free to help with the permit application. A chargeable service is available if more in-depth advice is required. Pre-application advice can be obtained via this online form:

<https://www.gov.uk/government/publications/environmental-permit-pre-application-advice-form>.

A permit application can't be pre-determined so the applicant should not automatically assume that a permit will be issued. The applicant should also be aware that the granting of Planning Permission or Building Regulation approval does not guarantee the granting of an Environmental Permit.

The applicant will need to obtain separate permissions/easements to cross or use third party land if this is relevant to their proposal.

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.

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

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- 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

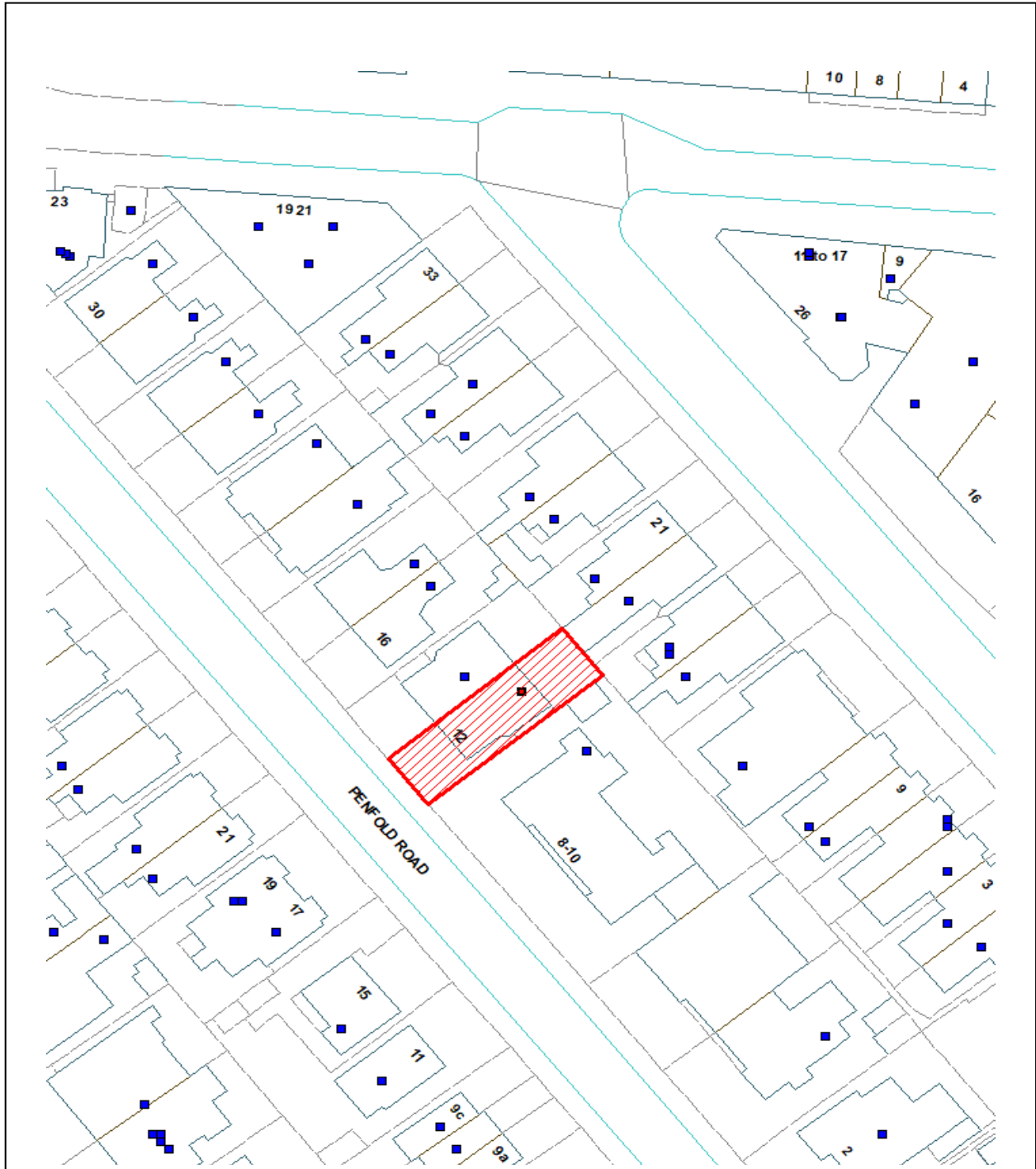
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PLANNING COMMITTEE

11TH AUGUST 2020

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

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



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Application: 20/00520/FUL

Town / Parish: Clacton Non Parished

Applicant: Mr Jonathan Smith - CF Support Services Limited

Address: 12 Penfold Road Clacton On Sea CO15 1JN

Development: Proposed change of use from dwelling (C3) to children's home (C2) for 2 children.

1. **Executive Summary**

- 1.1 The application is put 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.
- 1.2 The site falls 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 are not generally supported in recognition that concentrating such accommodation in small areas can lead to various problems, including the cumulative effect such developments can have on the 'image' and tourism function of the resort concerned. Furthermore, such uses can 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.
- 1.3 Notwithstanding, the policy position prescribed in Policy COM5 of the adopted Local Plan, Policy LP10 (Care, Independent Assisted Living) of the emerging Local Plan sets 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 does not seek to replicate the previous areas of control for Residential Institutional Uses.
- 1.4 The application proposes changing the existing four-bedroom domestic dwellinghouse (which has a Use defined as C3) to a property which uses two of the available bedrooms to accommodate children between the ages of 7 and 15 who are under the care of Essex County Council ('Looked After Children').
- 1.5 Officers consider that by reason of the small-scale nature of this proposal, being to accommodate only two children, in a four bedroom dwellinghouse, that it would not materially conflict with the overall aims of policies which govern the provision of residential uses. Further, the development would result in offering two place within the District – which currently has a very high proportion of children who are placed outside the District due to the limited places available. Placing children outside areas they are familiar can 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 is considered that this application can be supported.

Recommendation: Full Approval

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 February 2019
National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy
QL6 Urban Regeneration Area
QL9 Design of New Development
QL10 Designing New Development to Meet Functional Needs
QL11 Environmental Impacts and Compatibility of Uses
COM5 Residential Institutional Uses
TR7 Vehicle Parking at New Development

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

SP1 Presumption in Favour of Sustainable Development
SPL1 Managing Growth
SPL2 Settlement Development Boundaries
SPL3 Sustainable Design
LP10 Care, Independent Assisted Living
PP14 Priority Areas for Regeneration

Local Planning Guidance

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

Status of the Local Plan

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

| | | |
|--------------|---|---------|
| 20/00520/FUL | Proposed change of use from dwelling (C3) to children's home (C2) for 2 children. | Current |
|--------------|---|---------|

4. **Consultations**

| | |
|--------------|--|
| ECC Highways | The consultation response and any suggested conditions will be reported by way of Late Observations. |
|--------------|--|

5. **Representations**

- 5.1 No comments were received in response to the publicity of the application which included writing directly to the occupiers of nine properties within the vicinity of the site or from the site notice which was displayed on 3rd June 2020.
- 5.2 A letter of support has been received from Essex County Council Children and Young People Procurement Service which confirms that the applicant has been awarded a contract to provide Children's home placements within Essex. As part of this contract the expectation is for the contract holder to develop their service offer and increase the number of placements available. The County are aware that the applicant has secured a property for this use. To clarify, there remains an increased need for this service in Essex and Essex County Council intend to place more young people within the County. Once (subject to planning) the property is open, this will be another option that can be considered when referrals are received by the County. Furthermore, the County has confirmed that the applicant is a care provider for whom they have a long relationship and they want this to continue under the terms of the current residential framework.

6. **Assessment**

Site Context

- 6.1 No.12 Penfold Road is a five-bedroom Victorian semi-detached villa style property currently in residential use. It is arranged over two floors, with a large kitchen, lounge and dining room on the ground floor; five bedrooms on the first floor; with a family bathroom and ensuite shower room to the master bedroom.
- 6.2 The property is a short distance from the sea and all the amenities of Clacton town centre. Penfold Road contains a mix of properties including two other care establishments. Nos. 4-6 is an adult care home for the elderly and Nos. 7-12 (the immediate neighbour) is a registered care home for the rehabilitation of people with mental health conditions.

- 6.3 The site is in a central location close to schools, shops and amenities. It is also close to the beach and the pier.

Planning History

- 6.4 There is no relevant planning history for the application site.
- 6.5 Nos 8-10 Penfold Road were, from the early 1970's until the late 1980's, owned by the London Borough of Hackney as a Hotel specifically catering for those with C2 needs, no other residents were permitted to stay there unless recommended by the London Borough of Hackney. A lawful development certificate (10 year rule) was granted for this use in 1993.
- 6.6 Nos 4-6 Penfold Road appears to have been granted retrospectively as an Elderly Care facility in 1988.

Proposal

- 6.7 The proposal is for a change of use of the property to Class C2 use. This would allow the house to be used as a dual placement, short term and emergency care home for young people within the Essex area. The primary difference between a Class C3 (Residential Dwelling) and Class C2 (Residential Institution) is the element of care required for the occupiers.
- 6.8 The home will be OFSTED regulated and help fill a significant gap in care provision for young people within Essex. Nationally 41% of all Looked After Children [source: The Department of Education's report on Children looked after in England (including adoption), year ending 31 March 2019] are housed outside of the County (see paragraph 10.2 for the report). As a County, Essex - at 45% - have above the national average of Looked After Children placed outside the County. This figure is provided directly from the Category and Contract Manager (Children and Young People) at Essex County Council.
- 6.9 The building lends itself to a dual placement home. Two bedrooms on the first floor are ideally sized for a children's home, providing bright and comfortable accommodation. These would provide accommodation and support for two children aged between 7 and 15. The children would share the family bathroom. The remaining bedrooms would be used as an office and for staff accommodation.
- 6.10 Apart from renewing the windows and redecorating where required, the children's home use will not require any changes to the appearance of the property. It will continue to function and look exactly like any other single family dwelling. An express grant of planning permission is not required for renewing the windows and redecorating. No signage would be required.

Principle of Development

- 6.11 The site is located within the Development Boundary, therefore there is no principle objection to the proposal, subject to the detailed considerations discussed below.

Urban Regeneration

- 6.12 Urban regeneration is a top priority for the Council to improve quality of life, stimulate investment and local economic development.

- 6.13 In all cases development should be designed to build on local strengths. In these locations the focus will be on encouraging mixed-use developments, and enhancing vitality and viability, environmental quality, community safety, accessibility and links between the tourism and shopping cores.
- 6.14 Saved Policy QL6 states that, within these Urban Regeneration Areas permission will be granted for development that reinforces and/or enhances the function, character and appearance of the area and contributes towards regeneration and renewal. In particular, the Urban Regeneration Areas will be the focus for:- investment in social, economic and transportation infrastructure; and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety and accessibility.
- 6.15 The property would be managed by an OFSTED accredited Registered Manager (RM); the RM would be supported by two senior support workers, also existing employees of the business, and would recruit an additional seven full and part time workers to complete the 24/7 shift pattern.
- 6.16 There is an economic benefit of a home of this size to the surrounding area. Not only will the applicant look to recruit local staff (this will be a team of up to ten people), the proposal will also help generate local spending in terms of the staff and cared for children, shopping, eating and spending money in the local area. The children will be taken out every day and will use the extensive amenities in Clacton to entertain and reward the children as part of the applicant's care process.

Residential Institutional Uses

- 6.17 Residential institutional uses include care homes, nursing homes and other non-custodial institutions. Housing provision should be geared towards particular groups in the population who have special needs, including the elderly, people with disabilities and the homeless. The District Council support the provision of accommodation to meet special needs, but recognises that concentrating such accommodation in small areas can lead to various problems, including the cumulative effect such developments can have on the "image" and tourism function of the resorts concerned. Residential institutions have the potential to accommodate a significant number of residents, employ substantial numbers of staff and receive visits from friends and family. Therefore, they are best located in accessible locations, ideally within the settlement development boundaries of the District's more Sustainable Urban Settlements.
- 6.18 Saved Policy COM5 states that the development of new residential institutions and changes of use of existing properties to residential institutions will not be permitted within the '*Control of Residential Institutional Uses Areas in Clacton and Frinton*' as defined on the Proposals Map Insets. Around the seafront and town centre areas of Clacton and Frinton there have been a substantial number of changes of use of properties from residential or holiday use to residential institutions. This concentration of such uses puts pressure on local medical and support services. It has also led to a loss of visitor accommodation and an erosion of local character through the conversion of front gardens to forecourt parking. The District Council has therefore identified areas in Clacton and Frinton where such development has occurred and where the development of new residential institutions and the conversion of existing properties to such uses will be resisted in order to avoid a further increase in concentrations. The site is located in an area of Clacton which is covered by this control.
- 6.19 In the preamble to emerging Policy LP10 reference is made to the demographic projections suggesting that, by the end of the plan period in 2033 "*around 60% of our residents could be over the age of 65*" – the remainder of the preamble makes reference to "*future generations of older and disabled residents*". The Policy makes no specific reference to the need for considering younger children in the looked-after system, nor does the emerging

policy restrict or prevent the siting of residential institutions in Clacton or Frinton. As such, as the site is within the Settlement Boundary the only requirement of Policy LP10 is that all new care homes and extra care housing must offer a high quality, safe, secure and attractive environment for their residents and provide sufficient external space to accommodate the normal recreation and other needs of residents, visitors or employees.

- 6.20 It is considered that a unique set of circumstances co-exist for the Local Planning Authority to consider recommending approval for this application contrary to the requirements of the Development Plan.
- 6.21 Due to the limited availability of appropriate placements for 'Looked after Children' (LAC) within the district, a high level (circa 45%) of children are placed outside of the District.
- 6.22 OFSTED reported in April 2014 [source: From a distance Looked after children living away from their home area, April 2014, see paragraph 10.3 for the report) that evidence available to inspectors showed that the further away from home children live, the less likely it is that their health and education needs will be met. In nearly half of the 92 cases tracked, children and young people arrived in new areas without the right specialist support being in place for them, with poor information sharing leading to potentially damaging delays in their care. In a third of cases, the quality of the support and help offered by services out of area had not been properly considered.
- 6.23 The [then] National Director for Social Care observed in response to the report that becoming looked after is difficult enough for any young person, even more so when they move away from their family, friends, and familiar surroundings to an unfamiliar place, without proper access to the help and support they so desperately need. Given the serious risks sometimes associated with out of area placements, corporate parents must prioritise and understand the needs of this group – particularly as the numbers of looked after children living out of area are only set to rise. Some young people experienced serious deficiencies in their education, while others – nearly a third of tracked cases – had difficulty accessing health care, most commonly from Child and Adolescent Mental Health Services (CAMHS). These delays usually resulted of poor liaison between different local authorities and agencies, a lack of capacity, or disputes about funding.
- 6.24 The crux of the Control of Residential Institutions in the Clacton area focuses on the concentration of such uses putting pressure on local medical and support services. It has also led to a loss of visitor accommodation and an erosion of local character through the conversion of front gardens to forecourt parking. In response to this, and the particular circumstances of this application, it should be noted that:
- The proposal would result in two children being placed and, in comparison to the potential number of occupants of the existing family home being much greater, the pressures on local medical and support services are likely to be reduced;
 - It is acknowledged that there would be a loss of visitor accommodation; however the property is a four-bedroomed family home and unlikely therefore to be viable as visitor accommodation; and
 - The property already has off-street parking and the local character would therefore be no further affected than existing.
- 6.25 Overall, whilst a proposal for a change of use to a Residential Institution would normally be considered unacceptable for conflicting with Policy COM5, the small scale nature of this proposal does not conflict with the overall aims of providing a range of residential institutions in the District.

Highway Safety/Parking

- 6.26 Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users.
- 6.27 Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 6.28 The parking required for Use Class C2 as set out within the Essex County Council Parking Standards 2009 is 1 space per full time equivalent staff + 1 visitor space per 3 beds.
- 6.29 The Planning Statement suggests that, for the majority of the time, it is envisaged that the two children will be supported by three members of staff. There are four off-street spaces available and the proposed level of parking is considered satisfactory (in addition to the site being in a highly sustainable edge of town centre location).
- 6.30 The Planning Statement also claims that the applicant operates green travel plans as part of their sustainability policy, recruiting local staff wherever possible and encouraging the use of public transport and car sharing. They would also purchase season tickets for permanent staff who need to drive to work in the Agate Road car park, a short walk from the premises. The likelihood is therefore that parking and vehicle movements will reduce.

Impact on Residential Amenity

- 6.31 The NPPF, at paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.32 The proposal is for a change of use, as such with respect to privacy and daylight the proposal would have no greater impact on the occupiers of nearby properties than the existing use.
- 6.33 In terms of amenity; the existing rear garden has an area just less than 60sqm which falls a little short of the requirement for a minimum of 75 square metres for a two-bedroom property. Notwithstanding this; the matter of minimum levels of amenity space relate to new dwellings only. Policy COM5 simply requires there would be sufficient external space in the proposal to accommodate the normal recreation and other needs of residents, visitors or employees without impacting on highway safety, or the residential amenities enjoyed by adjoining properties. In regards to noise and disturbance, the Planning Statement confirms that, for the majority of the time, the applicant envisages that the two children will be supported by three members of staff. This means five people would be present at the property. This is the same as the number of occupants currently in residence at the property. It is very important that the children attend school and this may mean there are only two people in the property during the day. In regards to shift patterns, shift changeovers are designed to avoid any disturbance to neighbours. Staff work predominantly 24 hour shifts which changeover after breakfast between 8.00am and 9.00am. Where 12 hour shifts are scheduled these will always change over after tea in the evening. No staff movements will take place during the period 21:00- 08.00.

Recreational Disturbance

- 6.34 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'.
- 6.35 This residential development lies within the Zone of Influence. The site is not within or directly adjacent to one of the European designated sites, but is approximately 3.3 km away from the Essex Estuaries SAC (Special Area of Conservation).
- 6.36 In this instance, given that the number of residents proposed is not excessive and is directly comparable to the number of people who currently occupy the property, the Local Planning Authority consider it would be unreasonable to request a financial contribution toward recreational disturbance as the number of visitors to the protected sites is unlikely to increase as a result of the development.

7. Conclusion

- 7.1 The very small scale of the proposed use, being limited to two children only, whilst being located in an area where residential institutions are restricted, is unlikely to result in a use which causes harm to the character of the area. The development would facilitate a much-needed placement for two Looked after Children in the District. The proposed limitations on shift hand-over and small number of children is unlikely to impact upon neighbouring amenities and the parking provision is unlikely to have any adverse impact on highway safety.

8. Recommendation

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

8.2 Conditions and Reasons

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

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

- 2 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.

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
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- 10.2 The Department of Education's report on Children looked after in England (including adoption), year ending 31 March 2019:-
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/850306/Children_looked_after_in_England_2019_Text.pdf
- 10.3 OFSTED report April 2014:- From a distance Looked after children living away from their home area:-
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/419070/From_a_distance_Looked_after_children_living_away_from_their_home_area.pdf

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