

Tendring District Council



IAN DAVIDSON, CHIEF EXECUTIVE, TOWN HALL, STATION ROAD, CLACTON-ON-SEA, ESSEX, CO15 1SE. TELEPHONE (01255) 686868

PLANNING COMMITTEE

DATE: Tuesday, 22 September 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 Email: democraticservices@tendringdc.gov.uk or Telephone: on 01255686007

DATE OF PUBLICATION: Tuesday, 15 September 2020

Chief Executive
Ian Davidson

www.tendringdc.gov.uk
Minicom: 01255 475566



AGENDA

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 Wednesday, 2 September 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 Caravan/Chalet Sites Occupancy Restriction (Pages 23 - 32)

To update the Planning Committee on caravan and chalet sites occupancy including the result of planning and enforcement appeals as to planning breaches relating to occupancy conditions in Point Clear Bay and to secure support to progress further enforcement action.

6 A.2 PLANNING APPLICATION - 20/00239/FUL - GROUND FLOOR, 1 LANSWOOD PARK, BROOMFIELD ROAD, ELMSTEAD, COLCHESTER (Pages 33 - 84)

This application is referred to Planning Committee as it represents a departure from the adopted Tendring District Local Plan, proposing housing outside of any settlement development boundary in both the saved and emerging Local Plans.

This is a hybrid application which seeks outline planning permission (access included with appearance, landscaping, layout and scale reserved for later consideration) for up to 10,000 square metres of employment floor space within use classes B1 (business), B2 (general industrial) and B8 (storage and distribution); and 14 houses. Full planning permission is sought for 71 houses.

7 A.3 PLANNING APPLICATION - 20/00480/DETAIL - LAND EAST OF BROMLEY ROAD, LAWFORD, CO11 2HS (Pages 85 - 114)

Outline planning permission (all matters apart from access - reserved) was granted on 13th April 2017 for a mixed development of 360 houses and community facilities/open space on 22.76ha of land to the south of Lawford, under 15/00876/OUT. The current submission relates to phase 3 of the development, and is for the outstanding reserved matters.

In accordance with Members' request, the current submission has been brought to Planning Committee seeking consent with regard to the reserved matters of landscaping, layout, appearance and scale.

8 A.4 PLANNING APPLICATION - 20/00473/OUT - LAND ADJACENT 25 DOVER ROAD, BRIGHTLINGSEA, CO7 0PS (Pages 115 - 130)

This application is before Members as the application is being made by Tendring District Council.

The application seeks outline planning permission with all matters reserved for the erection of 1 detached dwelling.

9 Exemption of Press and Public

The Committee is asked to consider the following resolution:

"That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of Agenda Item 10 on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 5 of Part 1 of Schedule 12A, as amended, of the Act."

10 Land to the North of St Johns Road Clacton on Sea Public Inquiry - Legal Advice Update (Pages 131 - 136)

This matter is brought before the Planning Committee, as an urgent item, in order to meet the Planning Appeal timetable relating to the current Public Inquiry pertaining to the refusal of application 18/01779/FUL - Land to the North of St Johns Road, Clacton on Sea (St Johns Road Nursery). Appeal Reference 20/00051/REFUSE.

MEETING OVERRUN DATE

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

Date of the Next Scheduled Meeting

The next scheduled meeting of the Planning Committee is to be held at 6.00 pm on Tuesday, 20 October 2020.

Tendring **District Council**



PLANNING COMMITTEE MEETINGS PUBLIC SPEAKING SCHEME May 2017

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

TO WHICH MEETINGS DOES THIS SCHEME APPLY?

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

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

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

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

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

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

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

WHICH MATTERS ARE COVERED BY THIS SCHEME?

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

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

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

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

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

HOW DO I ARRANGE TO SPEAK AT THE MEETING?

You can:-

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

OR

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

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

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

WHAT WILL HAPPEN WHEN THE MATTER CONCERNED IS CONSIDERED?

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

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

WHAT SHOULD I SAY AT THE MEETING?

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

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

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

WHO DO I CONTACT FOR MORE INFORMATION?

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

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

2 September 2020

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON WEDNESDAY, 2ND SEPTEMBER, 2020 AT 6.00 PM
IN THE YOU CAN VIEW THIS ONLINE AT
[HTTPS://WWW.FACEBOOK.COM/TENDRINGDC/LIVE/](https://www.facebook.com/tendringdc/live/)**

Present:	Councillors White (Chairman), Bray (Vice-Chairman), Alexander, Cawthron, Casey, Codling, Fowler, Harris and Placey
Also Present:	Councillor Mick Barry
In Attendance:	Graham Nourse (Acting Assistant Director (Planning)), Leslie Roberts (Planning Solicitor), Trevor Faulkner (Planning Team Leader), Jon Doe (Agency Planner), Alison Cox (Planning Officer), Debbie Bunce (Legal and Governance Administration Officer), Keith Durran (Committee Services Officer) and Emma Haward (Leadership Support Officer)

36. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

37. MINUTES OF THE LAST MEETING

It was moved by Councillor Bray and seconded by Councillor Placey and **RESOLVED** that the minutes of the last meeting of the Committee held on Tuesday 11 August 2020 be approved as a correct record.

38. DECLARATIONS OF INTEREST

Councillor Harris declared a non-pecuniary interest in **Planning Application 20/00525/FUL – Land Adjacent 3 Bentley Road, Weeley, Clacton-on-Sea CO16 9DT** due to the fact that he had called in the application at the request of Weeley Parish Council. In addition, he was the Ward Member. He stated that he was not pre-determined on this application.

39. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were none on this occasion.

40. A.1 PLANNING APPLICATION - 19/00188/FUL - LOWER FARM EAST END GREEN BRIGHTLINGSEA COLCHESTER CO7 0SX

It was reported that this application had been referred to the Planning Committee as it represented a departure from the Local Plan. The development applied for related to the construction of 104 holiday lodges and an associated function/club house building, 36 retirement apartments for over 60yr olds, 5 private dwellings along with ancillary landscaping/engineering works, a glamping area, toilet facilities, boating jetties and children's play area.

Members were informed that the application site was situated on the north-eastern edge of Brightlingsea on land to the north of Robinson Road. The site comprised approximately 81 acres of former gravel workings which established a low-level restoration profile. The site had been left to self-seed, which had created areas of open scrub, grassland and woodland around three former silt lagoons, which had formed five open lakes. The site was located outside of the defined settlement boundary for Brightlingsea in both the saved and emerging Local Plan and within a coastal protection belt within the saved plan only.

In respect of the tourism use, Officers felt that the development of the Lower Farm Park site would offer the opportunity to deliver diversification from its current limited low-level use through its integrated connectivity into the local area. It would offer: both direct and indirect employment opportunities within the local area; attract both national and international tourism; and, promote economic growth of the immediate and local areas. The mixed-use proposals across the site had been designed to align themselves with the overarching objectives and policies of the emerging Local Plan and Tendring District Council's Tourism Strategy.

In terms of the private housing this was proposed to, in part, finance the tourism use and trigger points were proposed accordingly in order to ensure an appropriate provision of tourism lodges prior to the occupation of the residential elements of the site. In terms of the merits of the residential aspects of the scheme, the site was located on the edge of a smaller urban settlement with good access to local services/facilities and there was residential development on land directly to the south and south-west of the site. The site contained mature vegetation along its perimeters with Robinson Road. As a consequence Officers felt that there would be minimal landscape impact whilst sufficient spacing to existing residential properties were retained to safeguard amenity.

The Committee was aware that currently the Council could not demonstrate a 5 year housing supply and therefore in accordance with the provisions of the National Planning Policy Framework (NPPF) the presumption in favour of sustainable development applied. The mixed use development was considered by Officers to meet the economic, environmental and social strands of sustainability as outlined in the NPPF.

Subject to the applicant entering into a Section 106 agreement to cover the provision of an affordable housing contribution and public open space/RAMS contributions, the proposal was therefore considered to be acceptable with no material harm to visual or residential amenity, heritage assets, ecology interests or highway safety, and the application was therefore recommended 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 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:

- 1) Additional representations have been received from a local resident, raising the following comments on highways and heritage specific matters:

"Highways Issues

The site access plan for the development is not up to date or correct. Robinson Road at this point has been considerably altered and diverted, just prior to the access point of the site, into the Hopkins Homes Site. I do not believe that the original site access assessment is valid as this is a significant change, this is the one that I believe was assessed by ECC highways as I can find no amended plan on the portal.

There is now a built out and significant realignment of the road with a new give way from the unaltered area of Robinson Road. It is not comparable with the drawing provided. This junction should have been assessed for its acceptability in Highway Terms and for adequate visibility based on the agreed Hopkins homes layout. This layout was available with the Hopkins Homes application as this was a committed development prior to this application and the road was constructed months ago. I am unsure why the old Robinson Road plans are being used and confirmation is required that this new road layout and access arrangement has been assessed for the scheme by ECC highways with up to date drawings.

I would also like to draw your attention again to the Tennpenny Hill/Brightlingsea Road/Clacton Road/Station Road junction which the Tendring local plan modelling report has identified as being a key junction significantly over capacity. This junction modelling only considered 100 houses (Hopkins homes site) being built in the plan period in the assessment, the number of which has now been exceeded and fully built.

The application at Alresford Hall has now been approved by Tendring, this development will add traffic to this significantly over capacity junction both at peak and off peak times. The Colne Community School are looking to expand the school by 300 pupils by September 2021. This will affect this junction particularly as current advice is to not use public transport if possible. This is likely to result in a rise of car trips from next week and further expansion of the school will add to the existing traffic issues. I would suggest that the Committee need to consider whether the expansion of a local school is more beneficial to the community or a holiday development.

It is not possible to continue to add traffic to this this junction, it is a major issue for those living in Brightlingsea. This is also not in line with assessments for the Tendring local plan which also demonstrates that more traffic cannot be

continued to be added to this junction. Unless considerable mitigation at this junction is funded (not currently considered for the local plan) it has been demonstrated by the local plan documents that there will be significant issues on all entry points to this junction. A particular impact will be on Brightlingsea as there is no other choice of route for residents and businesses. The lower farm application did not assess this junction and any junctions in Brightlingsea. The recent junction assessment for the Alresford Hall application confirmed the Local Plan junction assessment and indicated significant delays and queues at this junction due to it being over capacity.

The cumulative effect of development on this junction cannot be continued to be ignored. More development over that which was tested for the one local plan accepted site in Brightlingsea has not been considered, largely due to the junction not being able to accommodate any further traffic.

It should also be noted that the peak times demonstrated for the Lower Farm development are the same as the school start and end times and access to the site is via the roads at the Colne where there are currently no formal crossing points for the students (Church Road, Batemans and Samsons)."

ECC County Highways response to the above representation on highways issues

"In relation to the realignment of Robinson Road this obviously formed part of the Hopkins Homes development and was proposed in advance of the Lower Farm application (details attached) and the proposed junction would need to tie in with the arrangement as part of a S278 agreement and as such would be subject to a stage 2 Road Safety Audit before it could be constructed.

However, on review of the currently recommended road junction condition (condition 14), it is suggested that it should be amended to read as follows:

No development shall commence until a revised road junction design with Robinson Road has been submitted with a Stage 1 Road Safety Audit and agreed in writing with the Local Planning Authority and in conjunction with the Highway Authority. The junction shall be constructed at right angles to the highway boundary and to the existing carriageway to a carriageway width of 5.5 metres with minimum radius kerbs of 6 metres; with a flanking single footway 2m. in width returned around the radius kerb only with tactile paving to provide a pedestrian link to the existing footway on the opposite side of Robinson Road.

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

In relation to the Tennpenny Hill/Brightlingsea Road/Clacton Road/Station Road junction what the objector has said is not incorrect but the junction may be at capacity at certain times but there is no long term improvement scheme

highlighted for the junction and the development is not likely to have a severe impact that would warrant refusal for an application of this kind.

You will be aware that back in May 2019 the Highway Authority's initial response was to recommend refusal in relation to this application as we were not satisfied with the information that had been supplied in support of the application; even though some of the matters we raised are contrary to the scoping response offered by ECC's Planning Services (17/30021/PREAPP) to the consultant; a copy of which is attached for ease of reference.

The areas to which we were not satisfied with related to the following areas:

- Site description.*
- Site assessment.*
- Site Access*
- Parking Provision*
- Sustainable Modes*
- Traffic Counts*
- Traffic Growth*
- Junction Assessment*
- Trip generation*

As a result of these points some of which had not been part of the original scoping response the client's consultant went away and undertook some further investigations into these areas. The consultant provided the following additional information on the following points:

Site Description:

The initial information had excluded details on the proposed glamping aspect of the proposals, the Highway Authority required further clarification and the following additional information was subsequently supplied:

- A maximum of 104 holiday lodges will be developed within the Site which will be complemented by Glamping with tents, tepees, glamping pods, yurts and other attractive and novel mid to high end temporary accommodation to enhance and attract visitors.*
- A discreet glamping area will be included within Lower Farm Park and maintained throughout the summer season. Glamping areas will be established with a low-density (5 to 7) pitching arrangement to offer privacy and exclusivity. It should be noted that Glamping would be complimentary to the proposed tourism uses across the Lower Farm Park site, i.e. offering alternative tourism accommodation to the holiday lodges.*

Site Assessment:

The Highway Authority were generally satisfied with the operation the proposed land uses but required further clarification of the following:

- Use as a corporate training/flexible venue facility, detailed in the planning statement and design and access statement could generate a significant amount of additional trips. All uses on the site need to be factored into the trip generation.*

- *All listed additional uses would require trip generation which has not been provided in the Transport Statement.*

The consultants advised that the corporate training use would only occur during the off-peak tourist season and would only be used by groups of 20 to 30 people and is envisaged to be used for team building exercises or similar. As such, it is considered that the traffic attraction calculations undertaken in the Transport Statement, which were undertaken on the basis of the peak season operation of the development, represent the worst case. For the avoidance of doubt, events and corporate training that are proposed across the Lower Farm Park site will provide out of season occupancy, with the holiday lodges offering the necessary accommodation. The consultants advised that the events and corporate training will not result in any additional vehicle movements to or from the site.

The Highway Authority are now satisfied regarding the site assessment.

Sustainable Modes:

The Highway Authority highlighted that local services and facilities were beyond the typical walking distances contained in the Institute of Highway and Transportation guidelines.

In their response the applicant acknowledges the IHT guidelines document, which was produced in 2000. However, as indicated within the Transport Statement it is fact that the results of the 2015 National Travel Survey (NTS) indicate that 76% of journeys less than one mile (1.6km) in length are undertaken on foot and it is therefore considered that this distance should be regarded as applicable in terms of defining the walk-in catchment of a development. In fact, the most recently available iteration of the NTS (2017) indicates that 81% of journeys under 1.6km are undertaken on foot.

We have used the 1.6km figure to confirm the walk-in catchment of development proposals in conjunction with planning applications throughout the country and to date it has rarely been contested and indeed why would it be as it is a fact derived from extensive National surveys. Furthermore, we would highlight that many of the walking distances quoted in Table 4.1 of the Transport Statement only exceed the 1.2km distance that you are advocating by between 100m and 200m. The top end of that range would only equate to in the order of 2.5 minutes walking time and therefore even if it was in addition to the clearly defined 1.6km threshold it would, in our opinion, be extremely unlikely to persuade people to choose a car trip over a walking trip.

As indicated above, please refer to paragraph 4.5 of the Transport Statement for details of the pedestrian links proposed in conjunction with the development.

Local access to the footway/public rights of way network has now been agreed with the applicant and secured through a planning condition. Additionally local services and facilities can be accessed by bike and ultimately if the private car is

used this is unlikely to impact adversely on the operation of the local highway network.

Traffic Counts/ Traffic Growth/ Junction Assessment:

It was agreed at the scoping stage of the project that a Transport Statement (Refer to the scoping response offered by ECC's Planning Services 17/30021/PREAPP) represented the appropriate form of submission for the proposal, therefore, there was no need for traffic counts, traffic growth or junction assessments to be undertaken.

Following further consideration of the proposals at the planning application stage the Highway Authority raised concerns over the operation of local junctions including Robinson Road/Chapel Road and Bateman Road/Church Road.

In the first instance the consultants were asked to review the Transport Assessment (TA) work submitted by Hopkins Homes for the two phases of their development which is located opposite the Lower Farm Park site.

The Hopkins Homes Phase 2 TA presents traffic data and junction capacity assessments for the following 2 junctions: -

- 1. Robinson Road / Chapel Road priority junction (Junction 1)*
- 2. Bateman Road / Church Road priority junction (Junction 2)*

They submitted a scan of the summary results page from the PICADY (priority junction assessment software) at each of the above junctions, which demonstrate that both are predicted to operate with ample spare capacity during the weekday AM and PM peak hours in 2022 with all development traffic (including committed development traffic) added.

At Junction 1 the maximum predicted Reference of Flow to Capacity (RFC) during either of the peak hours in 2022 with all development traffic scenario is 0.16, whilst the corresponding figure at Junction 2 is 0.53 and is forecast to occur during the weekday AM peak hour when the Lower Farm Park development is expected to attract a very modest 18 two way movements, i.e. only 1 vehicle movement every 3 minutes.

To set the predicted RFC values in context we would highlight that a value of 0.85 to 0.90 is normally regarded as the desirable maximum acceptable value, and the RFCs predicted at both Junction 1 and Junction 2 fall comfortably below that level. We would also highlight that the predicted queueing at both Junctions is also very modest with the maximum predicted queue at either Junction during the weekday peak hours being 1.1 vehicles only.

We consider that the results of the future year junction capacity assessments presented within the Hopkins Homes Phase 2 TA confirm that weekday peak hour junction / highway capacity within the vicinity of the Lower Farm Park site should not be an issue of concern. Furthermore, given the ample spare capacity forecast at both Junctions assessed within the Hopkins Homes Phase 2 TA, it is considered that they would continue to operate acceptably during the weekday

peak hours following the addition of the modest weekday peak hour traffic flows associated with the Lower Farm Park development proposals, i.e. 18 two way movements during the weekday AM peak hour and 35 two way movements during the weekday PM peak hour.

It was considered that the above reinforces the original Scoping Response offered by ECC Highways that a Transport Statement represented the appropriate transport / highway submission for the Lower Farm Park development proposals and further detailed traffic investigations in conjunction with the proposal are not warranted.

With regards to the Colne Community School looking to expand the school by 300 pupils by September 2021 this application has not been determined and would be considered on its merits, plus the nature of the Lower Farm application would mean the high season would co-inside with the school holidays minimising the potential impact in this area.

As a result the Highway Authority are now satisfied on these points."

Heritage Issues

"With regards to the Historic Buildings and Conservation advice regarding my property Marsh Farm house, I note that it is stated that 'the change in the setting in the immediate vicinity will be very apparent, making a change to the environment of the asset and the manner in which it is experienced'. It also states that paragraph 196 is relevant.

Paragraph 196 of the NPPF states that the harm of damage to the Heritage Asset should be weighed against the public benefits of the proposal including, where appropriate, securing the optimal viable use of that asset. Therefore, the applicant is required to provide evidence to demonstrate that there is no other viable use. Paragraph 195b of the NPPF states that appropriate marketing is required to demonstrate that there is no other viable use for the site that still provides for its conservation to some degree. I would argue that the current use of the site as a fishing lakes business is a viable use of the land. We would also be interested in buying the land to conserve it as it is and marry it back to the farm house, thus protecting the historic landscape, if this were marketed, we would have expressed an interest. I am also aware that Essex Wildlife Trust, the RSPB and a golf course owner were all interested in this site.

EWT and RSBP would promote both conservation of the site and tourism for both Brightlingsea and Tendring.

I would also like to reiterate again that there is no significant buffer or proposed planting between our property and the development site. As it has been demonstrated that 'the change in the setting in the immediate vicinity will be very apparent, making a change to the environment of the asset and the manner in which it is experienced' this should be provided as the cabins are just metres from our boundary. These cabins have not moved position in the plans to allow

for this after it was pointed out that the buffer they were providing was actually our property. All that has happened is the buffer has been removed. The previously refused holiday park application did demonstrate a significant buffer at the north of the site. This is imperative to protect the setting of our house and planting is required to visually shield and reduce noise and light pollution. I request that this is urgently considered as all other correspondence regarding this has not resulted in any amendments."

2) An Additional Third-Party letter:

"As I am not permitted to speak in person I would request that the following questions and statement is submitted to the committee meeting to discuss the above proposed development. This is in addition to my previous emailed statements and questions.

The development is promoting cycling and walking within the local are. What steps are proposed to prevent cycling along the designated foot only footpath along stoney lane? What contribution is going to be made for the upkeep of this footpath and the section passing through marsh farm house property, as at the moment I am paying for the upkeep of both and additional foot traffic will make a considerable difference to my upkeep costs.

What security measures will be in place to prevent visitors accessing my property?

What steps will be taken to ensure contaminants are not released (air Bourne or otherwise) during ground penetrating works on a designated land fill site. These works will include cable laying for huts and street lighting, pipe laying and road creation. Has an assessment of the thickness of the cap on the land fill been carried out?

What is the new buffer zone between the development and our property and how will it be screened? This has not been clearly defined on the latest drawings.

What is proposed to limit sound pollution from the site? The natural amphitheatre (as stated within the advertising for the site) created by the quarry works will focus all sound across to my home.

Will a new highways assessment be carried out on the access as the new road layout means that the entrance now sits on top of a t junction and there is no visibility to see oncoming traffic..

In conclusion:

The Lower Farm application, as based on my previous comments submitted, can be summarised as comprising of an inappropriate form, of development in respect of the principle of development (not allocated in the local plan and outside the development boundary), which would result in a significant detrimental effect on the character and appearance of the surrounding area, the

setting of a historic building, harm caused to the amenity of occupants of neighbouring dwellings, harm caused to ecology and protected surrounding areas and would significantly reduce highway safety and effect the traffic flow on the surrounding road network particularly as traffic will pass the Colne Community School and pass through residential roads and have no direct access to the primary road network.”

3) Additional third party representations

“I emailed Natural England about the existing right of way information in the Appropriate Assessment being misleading.

In their reply Julie Lunt from Natural England advised that I should raise my concerns with the Local Planning Authority.

I received no reply from case officer Mathew Lang in respect of his quote In the AA regarding access to Flag Creek.

For your ease, here are the quotes again:

“no easy pedestrian link to the designated site” Table 4.1 page 8

“no easy pedestrian link to the Colne Estuary SPA & RAMSAR and Essex Estuaries SAC. This further limits the recreational impact from the development alone.” 4.18 page 8

“The site currently has poor access to Flag Creek” Local Planning Authority Case Officer Comments page 14 of the HRA.

The existing right of way runs along the boundary of the proposed development, past the grade ii listed Marsh Farm and straight down to the creek. I would consider it a normal length walk from the proposed holiday development.

I discussed the issue with Mark Nowers, RSPB conservation officer for the Greater Thames Priority Landscape and he gave me this quote:

“We should all be deeply concerned about the state of our beach-nesting birds. Pressure from people is a present and increasing threat. The Colne Estuary is designated for its breeding Little Terns, but this year there were none. The designations across the Essex coast show that there should be at least 73 pairs of Little Terns from the Colne down to Foulness.””

Steven Smith, a local resident, spoke in support of the application.

Susie Jenkins, a local resident, spoke against the application.

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

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

Conditions and Reasons:

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

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

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

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

3. No above ground works shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837:2012 Trees in relation to design, demolition and construction."

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

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

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

5. Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate and

pumping station details, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme.

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

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

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure.
- Limiting discharge rates to 7.7l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that features are able to accommodate a 1 in 10 year storm events within 24 hours of a 1 in 100 year event plus climate change.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach within the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

Reason

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

7. No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction

works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

Reason - The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

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

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

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

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

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

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

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

11. No development shall commence, including any groundworks, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Construction Method Statement shall provide for:

- safe access to/from the site;
- the parking of vehicles of site operatives and visitors;
- the loading and unloading of plant and materials;
- the storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

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

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

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

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

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

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

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

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

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

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

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

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

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

17. The proposed development shall not be occupied until such time as the relevant vehicle parking areas indicated on the approved plans, including any parking spaces for the mobility impaired, have been hard surfaced, sealed and marked out in parking bays. The vehicle parking areas and associated turning area shall always be retained in this form. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The content of the LEMP shall include the following:

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

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

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

24. The hereby approved tourist lodges shall be occupied for holiday purposes only and shall not be occupied as a person's sole or main place of residence. The owners/operators of the site shall maintain an up to date register of the names of all owners/occupiers of holiday homes on site and of their main home addresses. The register shall be made available at all reasonable times for inspection by the local planning authority.

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

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

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

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

Reason – In the interests of visual amenity.

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

Reason – In the interests of sustainable transport.

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

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

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

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

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

Reason – In the interests of amenity and ecological reasons.

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

- IT1671/SK/01 Rev A
- 0/A000/LP/003 Rev A
- 0/A000/LP/010 Rev A
- 0/A000/PR/001
- 0/A000/LP/005
- 0/A000/LP/007
- 0/A000/LP/008
- 0/A000/LP/009
- 0/A100/PR/001 Rev B
- 0/A100/PR/004
- 0/A200/PR/001 Dwelling Elevations
- 0/A200/PR/001 Retirement Mews Elevations

- 0/A200/PR/002 The Barrow Elevations
- 0/A600/PR/002 Retirement Mews Section Plan
- 0/A600/PR/002 The Barrow Section Plan
- P130-02 Lower Farm Lighting Scheme
- TYP1 – 0/A200/PR/001
- TYP1 – 0/A600/PR/001
- TYP1 – 0/A600/PR/002
- TYP2 – 0/A200/PR/001
- TYP2 – 0/A600/PR/001
- TYP2 – 0/A600/PR/002
- TYP2 – 0/A600/PR/003
- TYP2 – 0/A600/PR/004
- TYP3 – 0/A200/PR/001
- TYP3 – 0/A600/PR/001
- TYP3 – 0/A600/PR/002
- TYP4 – 0/A200/PR/001
- TYP4 – 0/A600/PR/001
- TYP4 – 0/A600/PR/002
- TYP5 – 0/A200/PR/001 Rev A
- TYP5 – 0/A600/PR/002
- TYP5 – 0/A600/PR/003

Reason – For the avoidance of doubt.

-The Committee requested that upon any changes being made to conditions following approval, the application should to be brought back to Committee for its further consideration.

41. A.2 PLANNING APPLICATION - 20/00525/FUL - LAND ADJACENT 3 BENTLEY ROAD WEELEY CLACTON ON SEA CO16 9DT

Councillor Harris had earlier declared a non-pecuniary interest in **Planning Application 20/00525/FUL – Land Adjacent 3 Bentley Road, Weeley, Clacton-on-Sea CO16 9DT** due to the fact that he had called in the application at the request of Weeley Parish Council, and that, in addition, he was the Ward Member. He had stated however that he was not pre-determined on this application.

It was reported that the application had been referred to the Planning Committee at the request of Councillor Harris due to the Parish Council's concerns that the proposal represented backland development; overdevelopment of what was a very narrow site; did not meet policy regarding size criteria; provided inadequate parking for the proposed dwelling and 3 Bentley Road; would have a dangerous access to the road with poor visibility and limited room to manoeuvre; and therefore it did not have the support of Weeley Parish Council.

Members were made aware that the application site was formed from part of the rear garden of 3 Bentley Road, Weeley Heath. 3 Bentley Road was at a corner

of the junction of Bentley Road with Mill Lane. The site would have a frontage to Mill Lane.

The site was located within a Development Boundary for Weeley Heath as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017. The principle of residential development in this location was therefore considered to be acceptable by Officers subject to detailed design and impact considerations.

The application sought full planning permission for the erection of a three-bedroom detached bungalow with integral single garage and vehicular access onto Mill Lane for parking provision for the proposed bungalow and for two parking spaces for the existing property from which the site would be formed.

Officers felt that the proposed bungalow would be of a scale and form appropriate to its setting. The bungalow would not result in a material loss of residential amenities. The bungalow would have a private garden and parking in accordance with relevant standards.

Officers also felt that the proposed development was in a location supported by Local Plan policies and would not result in any material harm to the character of the area, residential amenities or highway safety. The application was therefore recommended by Officers for approval subject to conditions and in conjunction with a completed legal agreement.

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 subject to conditions and in conjunction with a completed legal agreement.

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

An update sheet had been circulated to the Committee prior to the meeting with details of three additional representations received:

"1) Letter of support received from occupier of 3 Bentley Road.

- *I would be most affected but see no problem;*
- *Space has not been utilised for a number of years now;*
- *One bungalow would not impact on area;*
- *It is not a greenfield site or backland;*
- *I have enjoyed easy access for parking from the street for my whole time here; and*
- *Infilling of this type should be promoted by the Council as it negates the need for more large developments*

2) Letter of support received from owner of 3b Bentley Road.

- *It would embellish a prominent part of the area which is currently unsightly due to a run down outbuilding for a single bungalow;*
- *This is not backland development; it fronts the road and already has access; and*
- *There are plenty of precedents where plots like this have been granted planning permission*

3) ***Letter of comment received from occupier of 64 Bentley Road.***

- *Weeley Heath is in danger of losing its identity;*
- *Proposal should be viewed positively as it removes what is essentially an eyesore;*
- *The plot though small is not out of keeping with similar developments;*
- *It is not backland development but has a full road frontage and is essentially infill;*
- *It will enhance the streetscene;*
- *It is within the accepted development area and appears to be sympathetic to adjacent properties;*
- *It uses an existing highway access; and*
- *We cannot be against all developments or we will lose our ability to be taken seriously when trying to object to large scale incursions which would have a dramatic effect on the landscape”*

Colin Crane, a local resident, spoke against the application.

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

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

- The design of the bungalow, by reasons of its position, scale and massing in relation to the cramped nature of the plot and failure to relate well to surrounding development in terms of the grain and rhythm of built forms, fails to represent good design as required by paragraph 124 of the National Planning Policy Framework and is contrary to Policies QL9 and HG14 of the adopted Local Plan and Policy SPL3 of the emerging Local Plan.

- The design of the bungalow, involving bedroom windows looking onto side boundaries, would create development with insufficient amenity for future occupiers and a loss of privacy for occupiers of neighbouring properties and as such is contrary to Policies QL10 (v) and QL11 (ii) of the adopted Local Plan and Policy SPL3 of the emerging Local Plan.

- In the opinion of the local planning authority the proposal would cause a hazard and inconvenience to the public by reason of the four parking spaces directly accessing onto a highway in proximity to a junction and as such the proposal is contrary to Policies TR1a and QL10 (i) and Policy CP2 of the emerging Local Plan.

42. A.3 PLANNING APPLICATION - 20/00603/FUL - 34 DE VERE ESTATE GREAT BENTLEY COLCHESTER CO7 8QA

It was reported that this application had been referred to the Planning Committee as the applicant was Tendring District Council.

The application involved adaptations to the dwelling for a mobility-impaired person; those adaptations included a single-storey side extension, an enlarged kitchen and ramped-access to the main entrance and a new dropped kerb to facilitate off-street parking.

Officers felt that the proposal would not result in harm to the host dwelling or wider street scene in general in regards to the siting, scale or external appearance of the development, nor any material harm to residential amenity nor highway safety.

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

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

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

Conditions and Reasons:

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans:- A2020-34-02, received 13th May 2020.

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

PLANNING COMMITTEE**22nd SEPTEMBER, 2020****REPORT OF THE ASSISTANT DIRECTOR PLANNING****A.1 Caravan/Chalet Sites Occupancy Restriction****PART 1 – KEY INFORMATION****PURPOSE OF THE REPORT**

To update the Planning Committee on caravan and chalet sites occupancy including the result of planning and enforcement appeals as to planning breaches relating to occupancy conditions in Point Clear Bay and to secure support to progress further enforcement action.

EXECUTIVE SUMMARY

Cabinet received a report on 13th December 2013, which outlined the outcome of an initial review of seasonal occupancy restrictions on holiday parks/homes across the district. Cabinet supported an on-going review and made recommendations as to its progress.

Cabinet received an update at its meeting in June 2014 on each of its previous recommendations including

- liaison with the Environment Agency to understand flood risk issues on a site by site basis;
- working with the sites' owners and operators and individuals affected to improve emergency planning procedures;
- analysis of appeal decisions; and
- monitoring of compliance with conditions on sites in Tendring district.

Decisions relating to planning enforcement come within the terms of reference of the Planning Committee and subsequently, a further report was presented to the Committee on 2 February 2016 detailing the outcome of the review at that time. The Planning Committee resolved that it:

1. Notes the outcome of the review, including the monitoring of sites and the potential breaches of planning controls that have been identified;
2. Supports the principle of seeking voluntary compliance with planning controls relating to holiday caravan and chalet occupancy, and where this is not successful to serve Planning Enforcement Notices, giving priority to breaches at Point Clear Bay, Clear Springs and Bel Air; and
3. Receives an update report in relation to this enforcement action early in 2017.

In accordance with this decision, work has continued and this report provides updates on:

- Action taken to resolve breaches at Clear Springs, Point Clear Bay and Bel Air through voluntary compliance;
- Formal action taken at Clear Springs and Point Clear including the outcomes of appeals against enforcement notices.

And the report seeks agreement to:

- Undertake further monitoring of compliance at caravan and chalet sites.

RECOMMENDATIONS

It is recommended that the Planning Committee:

1. Notes the contents of this report, and the action taken to date;
2. Requires the Assistant Director Planning to formally write to each of the Appellants for Point Clear proceedings, as soon as possible to confirm the outcome of their appeal and where compliance with the Enforcement Notice is still required, the date by which this takes effect; and
3. Supports the carrying out of further planning enforcement investigations as necessary at other sites with other winter occupation restrictions in areas at high risk of flooding and where voluntary compliance cannot be achieved, taking formal action as necessary.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The aims of the review reflect the Council's priorities contained within the Corporate Plan. In particular the review will reflect the Council's priorities – 'Community Leadership' and 'Tending 4 Growth'.

The Council's priorities are to put community leadership at the heart of everything we do through delivery of high quality, affordable services and working positively with others.

FINANCE, OTHER RESOURCES AND RISK

Financial

Important financial issues including new homes bonus, council tax and local council tax support scheme were described in the 13 December 2013 report which is a Background paper to this report. In addition, if appeals are lodged against any Enforcement Notices served, there will be associated costs to defend them.

Flood risk

Issues relating to flood risk were described in the reports to Cabinet on 13 December 2013 and 13 June 2014.

The number of people living lawfully in high flood risk areas and unsustainable locations, contrary to Council policy, will be increased if compliance (probably through formal enforcement action) with the planning regulations is not achieved. This would be contrary to the National Planning Policy Framework (the Framework), the Environment Agency's and Council's policies. It would place an increased pressure and risk on emergency services, when carrying out rescue operations, increased pressure on local services and unknown effects on areas of nature conservation. Delays in taking action will result in an increased immunity from enforcement action and greater likelihood of successful applications for Certificates of Lawful Use.

LEGAL

A breach of planning control is defined in Section 171A of the Town and Country Planning Act 1990 (TCPA 1990) as:

- the carrying out of development without the required planning permission; or
- failing to comply with any condition or limitation subject to which planning permission has been granted.

Local planning authorities (LPA) have responsibility for taking whatever enforcement action may be necessary, in the public interest, in their administrative areas. There is a range of ways of tackling alleged breaches of planning control, and local planning authorities should act in a proportionate way.

In accordance with the Town and Country Planning Act and planning guidance, local planning authorities (LPA) have discretion to take enforcement action, when they regard it as expedient to do so having regard to the development plan and any other material considerations.

In considering any enforcement action, the LPA should have regard to the National Planning Policy Framework, in particular paragraph 58:

58. Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.

The Council Corporate Enforcement Strategy 2017 accords with the government's 'Better Regulation Agenda'. Specifically, it implements good practice recommended by the Cabinet Office Enforcement Concordat, the Regulators' Code; and the regulatory principles required under the Legislative and Regulatory Reform Act 2006 ("the 2006 Act"),

In achieving compliance, we will work within the principles of good enforcement and exercise our regulatory activities in a way which delivers certain principles, including guidance on consistency and proportionality.

The provisions of the European Convention on Human Rights such as Article 1 of the First Protocol, Article 8 and Article 14 are relevant when considering enforcement action. There is a clear public interest in pursuing a legitimate aim, by enforcing planning law and planning regulation in a proportionate way. In deciding whether enforcement action is taken, local planning authorities should, where relevant, have regard to the potential impact on the health, housing needs and welfare of those affected by the proposed action, and those who are affected by a breach of planning control.

10 YEAR RULE

Section 171B TCPA 1990 provides for two different limitation periods for enforcement action.

- Four years is the time an authority has to take enforcement action where the breach of planning control comprises either operational development or the change of use

of any building to use as a single dwelling house.

- Ten years is the time allowed for any other breach of planning control.

The 10 year rule relates to the period of time which may have elapsed when enforcement action occurs. In the case of conditions preventing winter occupation no further formal action to enforce conditions may be possible once they have been continuously breached for over 10 years. Whether that has happened or not can lead to matters in dispute which need to be settled at appeal.

OTHER IMPLICATIONS

Other implications in relation to flooding, housing, local services, local economy, education, health, housing, human rights, European Nature Conservation Sites, caravan site licensing and public consultation, past planning histories and the Council's emergency planning team, were all described in the 13 December 2013 and 13 June 2014 report to Cabinet and the 9 December 2014 report to Planning Committee.

Prior to Enforcement Notices being served, each case is considered separately with an individual risk assessment, taking into account the personal circumstances known at the time.

PART 3 – SUPPORTING INFORMATION

BACKGROUND

Reports to Cabinet were presented in December 2013 and June 2014, details are summarised within the Executive Summary and are background papers to this Report. A report to Planning Committee was also made on 2 February 2016

HOLIDAY OCUPANCY

There are many developments in the Tendring District that would not have been granted planning permission if it were not for the fact that the developments had been restricted for holiday purposes only. The developments were to provide self-catering accommodation in the form of caravans, cabins and chalets. These planning conditions were to ensure that the accommodation does not become the person's sole or main residence. If they were to become residential then it could put undue pressures on services and be contrary to long-established planning policies to protect the countryside and to deliver sustainability objectives and the positive impact on the economy that tourism provides would be lost.

CURRENT POSITION/UPDATE

The Planning Committee held on 02 February 2016 resolved that it:

1. Notes the outcome of the review, including the monitoring of sites and the potential breaches of planning controls that have been identified;
2. Supports the principle of seeking voluntary compliance with planning controls relating to holiday caravan and chalet occupancy, and where this is not successful to serve Planning Enforcement Notices, giving priority to breaches at Point Clear Bay, Clear Springs and Bel Air; and
3. Receives an update report in relation to this enforcement action early in 2017.

The action taken at the three sites given priority for action by the Planning Committee is summarised below followed by an overview of other sites:

Clear Springs

This site comprises 20 chalets constructed circa 1963 originally as part of a holiday camp. The chalets have since become dwellings. Conditions prevent winter occupation between 14 January and 1 March each year. The majority of the chalets are in Environment Agency Flood Zone 3 with escape routes also in Flood Zone 3. The Council undertook winter monitoring of the site between 2013 and 2016 as a result of which Planning Contravention Notices were served on those chalets which appeared to be occupied during the winter break. The service of these Notices did not resolve matters and therefore a number of chalets were served with Planning Enforcement Notices on 5 August 2016.

Two types of Notice were served; one alleging a change of use as the last known lawful use was as part of a motel and the other alleging breach of the winter occupation conditions. Nine chalets lodged enforcement appeals against various notices.

A decision was issued by the Planning Inspectorate on 12 December 2017. The Inspector quashed those notices alleging a change of use as she found that the chalets had been dwellings both before and after the alleged change of use. In one case she also found that the alleged breach of the winter occupation conditions had not taken place.

However in the other appeals against the breach of winter occupation condition Notices she dismissed the appeals and refused to grant planning permission for all year round occupation on the grounds of high flood risk. The Inspector set a period of four months after 12 December 2017 to meet the Notices. In practical terms this made 14 January 2018 the first winter closed season to which the Notices applied

The Council has written to those occupiers receiving Enforcement Notices giving them details of the date for compliance with the Notices. The site has been monitored in the 2018, 2019 and 2020 closed seasons. In the 2018 closed season warning letters were sent to those chalets which were found to be occupied during the closed period, but these were in the minority. In the 2019 closed season warning letters were again sent to those chalets found to be occupied in the closed season but these were less than in the 2018 closed season. In the most recent monitoring 2020 visit it appeared that only 4 chalets out of 20 were occupied during the winter season. Two appear to be let out for short periods on Airbnb type arrangements to casual occupiers with two found to be let out to casual occupiers. Further action seeking full compliance is being undertaken.

Point Clear Bay

Informal Action

Informal action has mostly related to the exchange of letters with local residents and the residents' association between 2013 and 2017. Residents denied that the Council was able to take further formal action as to breaches of winter occupation conditions arguing this would infringe their human rights. The Council also warned of further formal action through the service of Planning Contravention Notices but this did not result in matters being resolved. Planning Enforcement Notices were therefore served as all year round occupation continued.

Notices Served

Notices were served in relation to 78 properties of the 148 investigated in Point Clear Bay. Appeals were lodged against 47 notices,

Appeals Lodged

Appeals were lodged on the grounds that:

- Planning permission should be granted for the development, known as ground (a) and much like determining a planning application. All of these appeals were dismissed primarily on flood risk grounds;
- The Council was too late to take the enforcement action, known as ground (d). Not all of these appeals were allowed but 17 succeeded;
- The requirements of the notices were excessive, known as ground (f). All 8 appeals made on this ground failed; and
- The period for compliance was too short, known as ground (g). The time period for compliance was varied by the inspector to allow 14 months for compliance, as described above.

Appeal Decisions

30 appeals were dismissed and 17 were allowed. Overall, 61 of the 78 enforcement notices served remain in place (31 were not appealed and 30 appeals were dismissed).

The Inspector's decision letters provide useful guidance to the Council in dealing with the occupancy conditions in areas of high flood risk. Key comments from the decision letters include those set out below.

Planning inspector's general comments:

The Inspector stated that deciding whether planning permission is granted is whether winter occupation conditions remain reasonable having regard to flood risk and the location of the property outside a defined settlement boundary and its proximity to services and facilities.

She concluded that the condition preventing winter occupation remains reasonable and necessary having regard to the location of the appeal properties in Flood Zone 3 and the risk of flooding during winter months

Comments in relation to appeals dismissed

The development is one to be avoided in Flood Zone 3 and the Inspector sees the use as a dwelling in considering flood risk in an area where a breach in defences would be extreme (dangerous) for all for both residents and emergency services. The Inspector acknowledges the risk of deep flood water if this happens and it could be as deep as 3m with a possibility of 4m in places. No Flood Risk Assessments to show how chalets could be made safe were submitted by Appellants nor is it likely that these plans could achieve success.

The Inspector supports the Council's pragmatic approach in granting planning permission for a flood resilient dwelling at 138 Colne Way in 2018 as a replacement for a chalet as an

alternative to other measures to protect chalets.

Importantly, the lack of a five year housing supply does not engage the tilted balance in presumption of planning applications here as there are important reasons not to engage it due to flood risk. This dismisses the argument put forward by the agent in one case arguing that appeals be allowed due to the lack of a five year housing supply

Dismissing appeals would not make residents homeless as there are similar properties to buy or rent in the area. Here it appears the Inspector refers to the Tendring area and not Point Clear specifically.

Very limited weight can be given to concerns about crime or house insurance if properties are left vacant.

Dismissal of the appeals would be proportionate and necessary interference with the appellants' human rights as to private property and family life on the grounds of public safety due to compelling evidence as to flood risk in winter months

Where appeals are dismissed Notices will now allow 14 months for compliance from 18/12/2019 i.e. up to 18/2/2021. 01/11/2021 will be the start of the first full period when the occupiers must leave until 01/03/2022 to meet notices. However, there will first be a two week period, 18/02/2021 – 01/03/2021 when occupation will not be allowed.

The Inspector rejected arguments that notices should be quashed due to possible issues about plans or properties having two different versions of their address. She found no hardship to appellants in making minor corrections to notices before moving on to decide whether appeals were then allowed or dismissed.

Planning inspector's comments on Appeals Allowed

The Inspector allowed three appeals and quashed notices on the grounds the Council were out of time for action because the winter occupation restrictions had been breached for more than 10 years continuously. Council Tax evidence was unable to contradict this. The Appellants' evidence was produced very late in the day at the Inquiry itself in most of these cases and would not have been produced except for the service of the Enforcement Notice and appeal. Nevertheless, the Inspector saw the evidence as truthful.

30 appeals included ground (d) that the Council was too late to take action, and 17 of the appeals including ground (d) were allowed. In these cases the Council has often served a prior Breach of Conditions Notice or Enforcement Notice in 1999-2012. It was argued by the appellants that the latest Enforcement Notice was now out of time due to 10 years continuous breach of the condition prior to its service. The Council said case law defeated this argument as not meeting older notices was a criminal offence. However, the inspector rejected this argument which relates to the drafting of various sections of the Town and Country Planning Act 1990 and case law.

The Inspector believes the Council may still be able to take action as to the earlier notices served in 1999-2012 to prevent winter occupation so these may be cases where all year round occupation can still be prevented. Further legal advice has been obtained and alternative steps may be preferable.

14 appeals were made on the ground that the time period for compliance should be longer. The inspector varied notices to allow 14 months from the decision for compliance, as set out above.

Appeals at two properties were allowed, despite previous information being supplied to the Council being shown to be incorrect through the Inquiry . Upon receipt of further legal advice no further action has been taken in this regard.

Next steps at Point Clear Bay

1. Meet with the Environment Agency to discuss the appeal decisions as they are very important as to flood issues and subsequent planning applications in high risk zones.
2. Ongoing engagement with residents whose appeals were dismissed to confirm the revised compliance date and to request that they meet the requirements of the enforcement notices by the relevant date.
3. Monitoring of the site in the 2020/2021 and 2021/2022 closed period to ensure that notices have been met. Not all the notices served were appealed and in those cases the compliance period will be earlier than those notices appealed.
4. Consider alternative legal steps to prosecution as to those properties served with Breach of Condition Notices in 2012.

Bel Air Chalet Estate

Update at Bel Air

The appeal decisions received at Point Clear now provide helpful guidance and relevant considerations to taking planning enforcement action in high risk areas. This site is also within Environment Agency Flood Zone 3 overall and the same high risk of flooding is a factor as to winter occupation. It has a different planning history to Point Clear. The Council has already been monitoring the site in winter closed seasons and is now identifying those properties where further formal action may be needed as to all year round occupation in breach of planning conditions.

Unlike Point Clear there is an overall landlord for the site where chalets are mostly leasehold or held on licences and further discussion will take place as to whether action by the landlord against those occupying chalets all year round is also likely. However, the Council can also consider whether enforcement action against the landlord is also justified.

Prior to taking any formal enforcement action, individual decisions are required following a detailed risk harm assessment.

Next Steps at Bel Air

- Complete assessment of chalet occupancy, including serving of Planning Contravention Notices as necessary.
- Serve planning enforcement notices where appropriate.

BACKGROUND PAPERS FOR THE DECISION

- Report to Cabinet (13 December 2013)

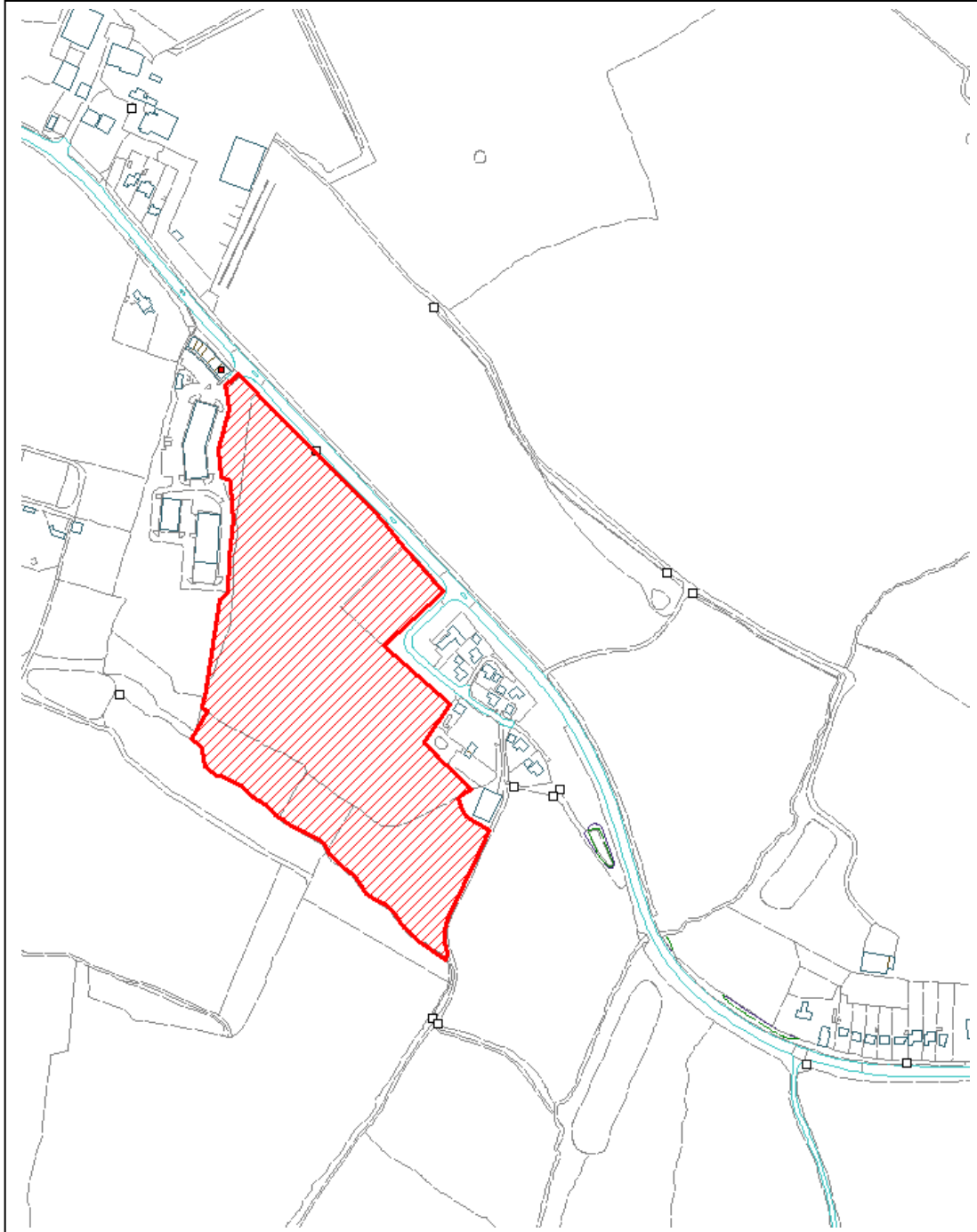
- Report to Cabinet (13 June 2014)
- Report to Local Plan Committee (21 October 2014)
- Report to Planning Committee (9 December 2014)
- Report to Planning Committee (2 February 2016)

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PLANNING COMMITTEE

22ND SEPTEMBER 2020

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

**A.2 PLANNING APPLICATION – 20/00239/FUL – GROUND FLOOR, 1 LANSWOOD PARK,
BROOMFIELD ROAD, ELMSTEAD, COLCHESTER**

DO NOT SCALE

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Application: 20/00239/FUL

Town / Parish: Elmstead Market Parish Council

Applicant: Mr Shaikly - Lanswood Limited

Address: Ground Floor, 1 Lanswood Park, Broomfield Road, Elmstead, Colchester

Development: Hybrid planning application comprising Outline Application for up to 10,000sqm of new mixed use (B1, B2, B8) commercial space and 14 houses, and Full Permission for 71 houses. Existing access amended and new residential access to Clacton Road.

1. Executive Summary

- 1.1 This application is referred to Planning Committee as it represents a departure from the adopted Tendring District Local Plan, proposing housing outside of any settlement development boundary in both the saved and emerging Local Plans.
- 1.2 This is a hybrid application which seeks outline planning permission (access included with appearance, landscaping, layout and scale reserved for later consideration) for up to 10,000 square metres of employment floor space within use classes B1 (business), B2 (general industrial) and B8 (storage and distribution); and 14 houses. Full planning permission is sought for 71 houses.
- 1.3 The application was originally submitted for a total of 72 dwellings and was increased to a total of 85 dwellings in late July, the proposed employment floor space remains unchanged. This change was subject to reconsultation with necessary consultees and neighbours which has now expired. The number of dwellings was increased in order to provide the £430,000 to fund a 3G artificial grass pitch on Charity Field. The Supplementary Planning Document supporting saved Policy COM6 confirms the open space contribution in this case amounts to £205,024.00. In addition to this the applicant is offering an additional contribution of £224,976.00 which combined with the above open space contribution would provide the full cost of providing the 3G artificial grass pitch. This is a departure from saved Policy COM6 and is offered by the applicant in acknowledgement of the scale of the proposed development and its impact upon the Parish of Elmstead Market.
- 1.4 The proposal seeks to use the 71 dwellings seeking full planning permission to “enable” the expansion of the existing Lanswood Business Park due to infrastructure servicing the site reaching capacity as acknowledged in the supporting text to Draft Policy SAE3 (Lanswood Park). The viability of the proposal has been independently assessed and confirms that the proposal cannot provide the £955,835.20 requested by Essex County Council Education or the 26 affordable dwellings. In terms of S106 contributions the applicant offers £430,000 to fund a 3G artificial grass pitch on Charity Field (£205,024 open space contribution and additional contribution of £224,976.00); the required RAMS contribution of £10,674.30 (£125.58 per dwelling); and £50,000 towards the upgrade of the traffic signals and introduction of MOVA (movement sensor traffic light signals) for the A133 Clacton Road junction with Bromley Road.
- 1.5 The report confirms that this is a sustainable location for development and the significant economic benefits of the proposal in providing up to 10,000 square metres of employment floor space, estimated to provide around 600 jobs, are considered to outweigh the modest landscape harm in this context of mixed residential and commercial development. The proposal does not provide the required contributions towards affordable housing or education on the grounds of viability and this is clearly a negative factor in terms of social sustainability and needs to be balanced against the significant economic benefits of the proposal. Officers

are of the opinion that the economic benefits of the proposal, and the viability evidence provided, overrides the absence of contributions towards education and affordable housing.

- 1.6 The proposal, subject to the recommended conditions, is also considered acceptable in terms of highway safety; residential amenity; ecology; heritage assets; archaeology; drainage; and detailed design, scale and layout.

Recommendation: Full and Outline Approval

That the Assistant Director for Planning be authorised to grant full and outline planning permission for the development subject to:-

- a) **Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):**
 - **Financial Contribution towards RAMS**
 - **Open Space contribution of £430,000 for 3G artificial grass pitch at Charity Field**
 - **Financial contribution of £50,000 towards the upgrade of the traffic signals and introduction of MOVA for the A133 Clacton Road junction with Bromley Road**
 - **Workplace travel plan monitoring fee of £6,000**
 - **Limit occupation of the proposed houses (e.g. 50% occupation until half of the infrastructure improvements have been completed, and 75% occupation until all of the infrastructure improvements have been completed) until the infrastructure improvements are complete and supplied to the site of the proposed Business Park expansion**
- b) Subject to the conditions stated in section 8.2
- c) That the Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

2. Planning Policy

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

**National Planning Policy Framework 2019 (NPPF)
National Planning Practice Guidance**

Adopted Local Plan Policies (2007)

QL1	Spatial Strategy
QL2	Promoting Transport Choice
QL3	Minimising and Managing Flood Risk
QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
QL12	Planning Obligations
HG1	Housing Provision
HG3A	Mixed Communities
HG6	Dwelling Size and Type

HG7	Residential Densities
HG9	Private Amenity Space
HG13	Backland Residential Development
COM1	Access for All
COM31a:	Sewerage and Sewage Disposal
EN1:	Landscape Character
EN6:	Biodiversity
EN6a:	Protected Species
EN6b:	Habitat Creation
EN11A	Protection of International Sites European Sites and RAMSAR Sites
EN23	Development within the proximity of a listed building
TR1a:	Development Affecting Highways
TR7	Vehicle Parking at New Development

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

SP1	Presumption in Favour of Sustainable Development
SP2	Spatial Strategy for North Essex
SP4	Providing for Employment & Retail
SP5	Infrastructure & Connectivity
SP6	Place Shaping Principles
SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP3	Green Infrastructure
LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
LP8	Backland development
PPL1	Development and Flood Risk
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL9	Listed Buildings
CP1	Sustainable Transport and Accessibility
CP3	Improving the Telecommunications Network
SAE3	Lanswood Park

Local Planning Guidance

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

Status of the Local Plan

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

further hearing sessions in January 2020. The Inspector issued his findings in respect of the legal compliance and soundness of the Section 1 Plan in May 2020. He confirmed that the plan was legally compliant and that the housing and employment targets for each of the North Essex Authorities, including Tendring, were sound. However, he has recommended that for the plan to proceed to adoption, modifications will be required – including the removal of two of the three Garden Communities ‘Garden Communities’ proposed along the A120 (to the West of Braintree and on the Colchester/Braintree Border) that were designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033.

- 2.4 The three North Essex Authorities are currently considering the Inspector’s advice and the implications of such modifications with a view to agreeing a way forward for the Local Plan. With the Local Plan requiring modifications which, in due course, will be the subject of consultation on their own right, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications – increasing with each stage of the plan-making process.
- 2.5 The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will progress once modifications to the Section 1 have been consulted upon and agreed by the Inspector. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.
- 2.6 In relation to housing supply:

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

At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF (which applies until such time that the figures in the new Local Plan are adopted).

In addition, the actual need for housing (as set out in the emerging Local Plan) was found to be much less than the figure produced by the standard method when tested at the recent Examination in Public of the Local Plan, as recently endorsed by the Local Plan Inspector. Therefore, in weighing the benefits of residential development against the harm, the Inspector’s endorsement of the lower housing requirement figure is a strong material consideration which tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing to address the perceived shortfall – given that, against the Local Plan housing requirement there is, in fact, a surplus of supply as opposed to a shortfall.

3. **Relevant Planning History**

08/01426/FUL	Erection of 4 no. buildings to be occupied as B1, B2 and B8 business units including ancillary A1 and A3 units (existing buildings to be demolished); and construction of new vehicular and pedestrian accesses.	Approved	31.03.2009
09/01284/NM A	Realignment of access road, creation of loop road (south east corner) to meet highway authority requirements, removal of existing tree (T30), provision of replacement heavy standard oak tree, associated parking layout amendment as detailed on drawing no. 4055/01L.	Refused	30.12.2009
10/00448/FUL	Erection of building to be occupied as A1, A2, A3, B1, B2, B8 and D1 (day nursery) (existing buildings to be demolished).	Approved	29.07.2010
15/00364/DIS CON	Discharge of condition 10 (materials) of planning permission 08/01426/FUL.	Approved	24.04.2015
16/00126/NM A	Non-material amendment of planning permission 08/01426/FUL for a new monopitch roof design and squared footprint to building 2 and realignment of road and parking to east boundary and parking surrounding building.	Approved	18.03.2016
17/00785/OUT	Hybrid submission for outline permission for the provision of proposed buildings 7, 8, & 9. Variation of approved planning application 08/01426/FUL to provide two smaller footprint and smaller scale office buildings identified as 5 & 6 as replacement for original single building.	Approved	09.10.2017
18/00901/NM A	Non material amendment to application to 17/00785/OUT - Reposition plots 5 and 6 90 degrees, minor amendments to road and parking layout.	Approved	04.07.2018
18/30205/PRE APP	Mixed use development.	Support	22.08.2019
19/01178/EIA SCR	Request for an EIA Screening Opinion.	Not EIA development	20.08.2019

4. Consultations

ECC Archaeology

This planning application has been identified as having the potential to harm non-designated heritage assets with archaeological interest. The Essex Historic Environment Record identified the potential for below ground archaeological deposits in this area indicated by cropmark evidence and evaluation within the adjacent site.

In advance of a decision on the above application a programme of

archaeological evaluation was requested. The work specified included a programme of aerial rectification of the cropmark features shown on the EHER followed by a targeted trial trench investigation. The evaluation has succeeded in locating most of the cropmark features identified and provided sufficient evidence to determine the nature and significance of the archaeological remains and to make recommendations. A further phase of fieldwork will be required, by condition, for the above application once permission is gained.

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

RECOMMENDATION: Archaeological excavation

1. No development or preliminary groundworks can commence until a mitigation strategy detailing the excavation / preservation strategy shall be submitted to the local planning authority.
2. No development or preliminary groundworks can commence on those areas containing archaeological deposits 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.

ECC Highways Dept

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

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

v. prior to the commencement of any work on the site, a joint inspection of the route to be used by construction vehicles should be carried out by the Applicant and the Highway Authority, including photographic evidence.

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

2. A financial contribution of **£50,000 (index linked)** towards the upgrade of the traffic signals and introduction of MOVA for the A133 Clacton Road junction with Bromley Road.

Reason: In the interests of highway safety and efficiency.

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

- a) A preliminary design and Stage 1 Road Safety Audit outlining the proposed junction proposal for the residential development with Grange Farm Close and office development proposed opposite Grange Farm Close. (details shall be agreed with the Local Planning Authority prior to commencement of the development).
- b) For the residential development an affective 2 metre footway shall be provided from the development to the two new bus stops on A133 Clacton Road. (Where possible any new section of footway adjacent to the A133 should be set back from the edge of carriageway so pedestrians don't have to walk adjacent to the carriageway).
- c) For the residential development two new bus stops on A133 Clacton Road to be provided near Grange Farm Close junction to include but not restricted to shelter (x2) with bus stop flag, Kassel Kerbs and bus timetables.
- d) Alterations to the existing refuge island near the Grange Farm Close junction to provide a crossing point for pedestrians to the new bus stop on the south-eastbound side with drop kerbs/ tactile paving and an affective 2-metre-wide footway to the bus stop.
- e) The upgrade of the two closest bus stops (known as Beth Chatto Gardens) on the A133 Clacton Road near Lanswood Park the improvements to include but not restricted to: bus stop flags, bus timetables, Kassel Kerbs and drop kerbs/tactile paving (x2) for the pedestrian crossing points.

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.

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

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

5. Prior to occupation 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.

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

Reason: To ensure appropriate cycle / powered two-wheeler parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

7. 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.

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

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.

Notes:

- The above requirements should be imposed by way of negative planning conditions or planning obligation agreements as appropriate.
- In making this recommendation the Highway Authority has treated all planning application drawings relating to the internal layout of the proposal site as illustrative only.
- Prior to any works taking place in the highway the developer should enter into an S278 agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.
- All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible)

ECC Heritage	No objection.
NHS East Essex CCG	On further review, the healthcare situation has not changed since the last consultation in March 2020 and therefore we will not be seeking a healthcare contribution as the impacted Practice (within the vicinity of the application site) is not currently over capacity.
UU Open Spaces	There is currently a deficit of 4.51 hectares of equipped play/formal open space in Elmstead Market. A contribution towards play and open space is justified and relevant to this planning application. The Parish Council wish to build a 3G artificial grass pitch with sports lighting (61 x 43 m), 2623msq, at the site known as Charity Fields on School Road.
ECC Ecology	<p>No objection subject to securing</p> <p>a) a proportionate financial contribution towards visitor management in line with Essex Coast RAMS and b) ecological mitigation and biodiversity enhancement measures</p> <p>We have reviewed the Preliminary Ecological Appraisal (Hybrid Ecology, February 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 designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.</p> <p>We note that Tendring DC have prepared a project level HRA Appropriate Assessment which identifies that the development is approximately 3.4km from the Colne Estuary SPA and Ramsar site. 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 proposal 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 of £125.58 per dwelling under a legal agreement.</p> <p>The mitigation measures identified in the Preliminary Ecological Appraisal (Hybrid Ecology, February 2020) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority Species. We recommend that a Construction Environmental Management Plans (Biodiversity) CEMP is also submitted to the LPA, prior to commencement. This should detail the protection measures for the woodland onsite, a biosecurity protocol for the identified American Skunk Cabbage, as well as suitable additional precautionary mitigation measures for protected and Priority species.</p> <p>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</p>

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.

Recommended conditions:

Full application

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 Preliminary Ecological Appraisal (Hybrid Ecology, February 2020) 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 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

2. PRIOR TO COMMENCEMENT: ADDITIONAL MEASURES FOR BADGERS

"No development shall take place (including any demolition, ground works, site clearance) until a further badger survey and updated mitigation statement has been submitted to and approved in writing by the local planning authority. This further survey shall be undertaken to identify whether any Badger activity has changed since the previous surveys were undertaken and whether further mitigation and/or works are required for badgers during the construction phase. 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 species and allow the LPA to discharge its duties under the Badger Protection Act 1992 and s17 Crime & Disorder Act 1998.

3. PRIOR TO COMMENCEMENT: CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN (BIODIVERSITY)

"A construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority.

The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Containment, control and removal of any Invasive non-native species present on site

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority"

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

4. PRIOR TO SLAB LEVEL: BIODIVERSITY ENHANCEMENT LAYOUT

"A Biodiversity Enhancement Layout providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (Hybrid Ecology, February 2020), 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 & habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

5. PRIOR TO OCCUPATION: 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 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species)

Outline application

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 Preliminary Ecological Appraisal (Hybrid Ecology, February 2020) 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 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

2. CONCURRENT WITH RESERVED MATTERS PRIOR TO COMMENCEMENT: ADDITIONAL MEASURES FOR BADGERS

"No development shall take place (including any demolition, ground works, site clearance) until a further badger survey and updated mitigation statement has been submitted to and approved in writing by the local planning authority.

This further survey shall be undertaken to identify whether any Badger activity has changed since the previous surveys were undertaken and whether further mitigation and/or works are required for badgers during the construction phase. 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 species and allow the LPA to discharge its duties under the Badger Protection Act 1992 and s17 Crime & Disorder Act 1998.

3. CONCURRENT WITH RESERVED MATTERS: CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN (BIODIVERSITY)

"A construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority.

The CEMP (Biodiversity) shall include the following.

- j) Risk assessment of potentially damaging construction activities.
- k) Identification of "biodiversity protection zones".
- l) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- m) The location and timing of sensitive works to avoid harm to biodiversity features.
- n) The times during construction when specialist ecologists need to be present on site to oversee works.
- o) Responsible persons and lines of communication.
- p) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- q) Use of protective fences, exclusion barriers and warning signs.
- r) Containment, control and removal of any Invasive non-native species present on site

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority"

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

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"A Biodiversity Enhancement Layout providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (Hybrid Ecology, February 2020), 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 & habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

5. CONCURRENT WITH RESERVED MATTERS: 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 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species)

TDC Environmental Protection

Have reviewed the Contaminated Land Assessment and satisfied with the findings.

Due to the residential areas close proximity to the proposed commercial units, prior to commencement of the development a Noise Impact Assessment should be submitted to the Local Planning Authority.

In order to minimise potential nuisance to nearby existing residents caused by construction works, Environmental Protection ask that the following is conditioned:

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

ECC SuDS Consultee

Having reviewed the FRA Addendum, ECC SuDS are happy that the originally recommended pre-commencement conditions can be applied to this application.

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 conditions:

1: 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 to 3.3 l/s (greenfield 1 in 1 year rate which should be confirmed by greenfield calculations) for the residential 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. Discharge via infiltration for the commercial site for all storm events up to and including the 1 in 100 year rate plus 20% allowance for climate change.
- Final modelling and calculations for all areas of the drainage system.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance

routes, FFL and ground levels, and location and sizing of any drainage features.

- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

Reason

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

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.

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.

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.

Anglian Water Services
Ltd

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

Section 2 - Wastewater Treatment

The foul drainage from this development is in the catchment of Thorrington Water Recycling Centre that will have available capacity for these flows

Section 3 - Used Water Network

Development may lead to an unacceptable risk of flooding downstream. Anglian Water will need to plan effectively for the proposed development, if permission is granted. We will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development. There has been no foul water strategy submitted in support of this application. We therefore request a condition requiring an on-site drainage strategy.

Section 4 - Surface Water Disposal

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

From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be reconsulted to ensure that an effective surface water

drainage strategy is prepared and implemented.

Section 5 - Trade Effluent

The planning application includes employment/commercial use. To discharge trade effluent from trade premises to a public sewer vested in Anglian Water requires our consent. It is an offence under section 118 of the Water Industry Act 1991 to discharge trade effluent to sewer without consent. Anglian Water would ask that the following text be included within your Notice should permission be granted.

"An application to discharge trade effluent must be made to Anglian Water and must have been obtained before any discharge of trade effluent can be made to the public sewer.

Anglian Water recommends that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of such facilities could result in pollution of the local watercourse and may constitute an offence.

Section 6 - Suggested Planning Conditions

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

Used Water Sewerage Network (Section 3)

We have no objection subject to the following condition: Condition Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme. Reason To prevent environmental and amenity problems arising from flooding.

TDC Housing Services

The application proposes 85 dwellings in total and as such, the affordable housing requirements in the emerging Local Plan will apply. The emerging Local Plan requires that 30% of the dwellings on eligible sites should be delivered as affordable housing so on this application this equates to 26 dwellings (25.5 rounding up).

There remains a high demand for housing in Elmstead Market and there are currently the following number of households on the housing register seeking accommodation in the village:

2 bed - 97 households
3 bed - 68 households
4 bed - 28 households

Given the demand for housing, TDC Housing would prefer to see the affordable dwellings delivered on-site. TDC Housing would prefer that another registered provider is sought to take on the affordable

dwellings.

ECC Schools Service

Details of the proposed mix have not been provided; therefore ECC Schools have assessed the application on the basis that all of these units are homes with two or more bedrooms. A development of this size can be expected to generate the need for up to 7.65 Early Years and Childcare (EY&C) places; 25.5 primary school, and 17 secondary school places.

Please note that any developer contribution figures referred to in this letter are calculations only, and that final payments will be based on the actual dwelling unit mix and the inclusion of indexation.

Early Years and Childcare

Essex County Council has a statutory duty under the Childcare Act 2006 to ensure that there is sufficient and accessible high-quality early years and childcare provision to meet local demand. This includes provision of childcare places for children aged between 0-5 years as well as wrap around provision for school aged children (5-11 or up to 19 with additional needs).

The proposed development is located within Alresford and Elmstead ward (postcode CO7 7FD). According to latest available childcare sufficiency data, there are 13 early years and childcare providers within a 3 mile radius. There are unfilled places recorded as well as a nursery expansion project planned with S106 funding that has already been allocated. As there are sufficient places available in the area, a developers' contribution towards new childcare places will not be required for this application.

Primary Education

This development sits within the priority admissions area of Elmstead Primary School, which currently has an official total capacity of 208 places. As of January, the school had 217 pupils on roll, with 33 children in one class. According to the Essex School Organisation Service's 'Ten Year Plan' to meet demand for school places, the local group of schools (Tendring Primary Planning Group 3) are already under pressure. Forecasts suggest growing demand for places over the Plan period with a potential need for around two forms of entry of additional capacity by 2028/29. The demand generated by this development would be in addition to this demand, therefore a developer contribution of £440,334, index linked to April 2020, is sought to mitigate its impact on local primary school provision. This equates to £17,268 per place.

Secondary Education

With regards to secondary school provision, the local school would be Colne Community School and College, which has a Published Admission Number of 248 pupils per year. As of January, the school were full in three of the five statutory age year groups, including the cohort admitted last September. Forecasts, set out in the 10 Year Plan, suggest the school will again be full this coming September with increasing demand there-on-in. In response, a two form entry expansion is proposed. The demand generated by this development would be in addition to this demand, therefore a developer contribution of £404,175 index linked to April 2020, is sought to

mitigate its impact on local secondary school provision. This equates to £23,775 per place.

School Transport

Having reviewed the proximity of the site to the nearest primary school, Essex County Council will not be seeking a primary school transport contribution, however, the developer should ensure that safe direct walking and cycling routes to local schools are available.

Having reviewed the proximity of the site to the nearest secondary school, Essex County Council will be seeking a secondary school transport contribution. The cost of providing this is £85,595 Index Linked to April 2020.

Libraries

ECC may seek contributions to support the expansion of the library service to meet customer needs generated by residential developments of 20+ homes. The provision of a Library Service is a statutory duty under the 1964 Public Libraries and Museums Act and it's increasingly become a shared gateway for other services such as for accessing digital information and communications. In this case the suggested population increase brought about by the proposed development is expected to create additional usage of Wivenhoe library. As outlined in the adopted Essex Developers' Guide to Infrastructure Contributions (2016), a contribution is therefore considered necessary to improve, enhance and extend the facilities and services statutorily provided to account for the expected increase in number using these facilities. The requested contribution is based on the following calculation: Average. RICS East of England Library tender value cost per m² for library provision x 30m² / 1000 x av. household occupants + av. fitting out costs of a new provision in Essex + provision of stock per dwelling. In this case, and taking the above into account, it is calculated that a contribution of £25,731.20 is requested and should be included in any Section 106 Agreement should the Council be minded to grant permission.

In view of the above, it is requested on behalf of Essex County Council that if planning permission for this development is granted it should be subject to a section 106 agreement to mitigate its impact on primary and secondary education, secondary school transport and libraries. The contributions requested have been considered in connection with the CIL Regulations 2010 (as Amended) and are CIL compliant. Our standard formula s106 agreement clauses that ensure the contribution would be necessary and fairly and reasonably related in scale and kind to the development are available from Essex Legal Services.

If your council were minded to turn down the application, it would be gratefully requested that the lack of surplus primary and secondary education, secondary school transport and library provision in the area to accommodate the proposed new homes be noted as an additional reason for refusal, and that ECC are automatically consulted on any appeal or further application relating to the site.

TDC Regeneration

TDC Regeneration understand that the hybrid planning application seeks detailed planning permission for 85 residential units and outline planning consent for up to 10,000 sq m of B1, B2, B8 commercial employment space – the residential component being enabling development to help meet the cost of servicing the commercial site with the required utilities (there is understood to be significant capacity issues vis-à-vis the supply of power to the East of Elmstead Market).

It is understood that the commercial development is expected to provide capacity for circa 600 jobs.

Commentary is confined to those aspects of the application that focus on the provision of employment space.

Lanswood Park has established a deserved reputation for providing high quality commercial space and as such has quickly become the primary focus for commercial activity in the West of the district. The existing commercial site has also come to set the benchmark for commercial development in Tendring, and responds directly to the growing demand for both incubation and move-on space in the district. The development has a strong track record in capturing inward investment with established and successful businesses (with an agenda for growth) moving to the site from outside of the district. The indicative design for the commercial buildings is in keeping with the existing units, and together with the proposed site landscaping will only add to the quality feel of the established commercial development.

The site enjoys good access to the A133 and via Frating to the A120. Its location as a commercial centre is therefore supported by the existing transport network and further enhanced by the bus services that travel along it.

Given the success of the existing Lanswood Park development, and the growing demand for commercial space in the district, the Council's Regeneration Service has no hesitation in supporting this application and in so doing acknowledge the symbiotic relationship the commercial aspects of the application must have with the proposed residential development.

Essex Police

In order to comply with Tendring's Consultation document to the formation of Tendring Local Plan to 2033 - Policy PL4 - Housing Layout - 'minimise the opportunities for crime and antisocial behaviour by ensuring good surveillance, clear definition between public and private spaces', by way of, for example, uniform lighting without dark areas, having effective physical security on each dwelling, positioning garden gates sited as near as possible to the front of the property, Essex Police would like to see this developer seek to achieve a Secured by Design award in respect of this development. The proposed site plan does show most of the dwellings seem to be positioned well for good natural surveillance while protecting the vulnerable rear of the properties by having the gardens backing directly onto other gardens. The applicant did not seek pre-application consultation as referenced in NPPF.

- Essex Police notes that plots 1-9 and 70-72 have a rear parking

courtyard however these are to be discouraged as they introduce access to the vulnerable rear elevations of dwellings where the majority of burglary is perpetrated, are often left unlit and therefore increase the fear of crime plus courtyards provide areas of concealment which can encourage antisocial behaviour. To counteract the negative impact of rear parking courtyards, there are simple security measures available, e.g. key to key lockable rear garden gates, appropriate lighting and lower rear fencing topped with wooden trellis that allows for informal observation from the resident.

5. **Representations**

5.1 Elmstead Parish Council (comments on amended proposal) is in favour of this application subject to the S106 offer as stated in the letter dated 21st July 2020 reference 19.003 from ABC Planning to Alison Newland.

5.2 Original proposal: 7 objections received summarised below:

- Over development in the Elmstead area through recent permissions;
- Increased pressure on local amenities such as schools, doctors and transport infrastructure;
- Further encroachment on green belt land that currently provides buffer area between villages;
- Loss of view of the woodland from neighbouring properties;
- Increased traffic compromising car and pedestrian safety;
- Heavy machinery will cause noise and dust pollution to local residents;
- Overlooking existing cottages which compromises resident privacy;
- Drainage and sewage issues for new development and existing dwellings with cesspits;
- Out of character;
- Over bearing;
- Poor design and scale consideration;
- Noise, artificial light and property depreciation;
- Environmental concerns/Wildlife and countryside;
- Dangerous site entrance - unlit carriageway, brow of hill and history of collisions;
- Lack of access and private road use;
- Abundance of wildlife already under threat from overdevelopment of the local area;
- Two dwellings at Grange Farm Bungalow have been refused and objected to by Elmstead Parish Council due to being out of character;
- Visitor parking insufficient will create overspill to neighbouring roads;
- Disappointed with the applicant's pre-consultation meeting;
- Existing footpaths are poorly maintained;
- Wildlife will be hugely impacted with no visible work done to assess/protect the protected species this would disrupt;
- Currently the village has circa 800 established residential dwellings with another 290 with the status of approved and/or under construction - by granting approval for another 72 in addition to this equates to almost a 10 percent increase on established dwellings and a combined increase with approved/under construction by a massive 45% increase; and
- Disruption during construction.

5.3 Original proposal: 2 comments of support summarised below:

- Occupy largest single unit on the site and currently employ 16 people and this will allow us to expand by around 100%;

- Good road access for businesses;
- Aesthetically pleasing design;
- Well thought out proposal allowing growth in a village that has been in decline for many years;
- Adds to an existing small crop of new houses which currently look out of place;
- Lanswood has a very popular cafe which is well used by locals and passing traffic alike which again appears to be a boost to the area and could be developed in a nice setting;
- The quality of the additional business space coupled with the housing opportunities will make us a more attractive employer and should help in attracting the right type of candidates.

5.4 Amended proposal: 2 objections summarised below:

- The access linking the site to the main road is a private road, maintained and paid for by 9 existing households so would be subject to various legal challenges if planning was accepted. They should use the existing commercial access;
- Access is not included to the 71 houses;
- Feel that the impact of this large scale build, on top of an additional 14 houses will have a considerable health risk to our village;
- Appreciate two additional bus stop with shelters, new footway and junction improvements to A133/B1029;
- No objection to Lanswood Park increasing their office space but with their housing proposal still object.

6. **Assessment**

Site Context

- 6.1 The site comprises vacant agricultural land and lies to the east of the existing Lanswood Park Business Centre which is proposed under this application for expansion, beyond that to the east lies Beth Chattos Gardens which has recently been added to Historic England's Register of Parks and Gardens of Special Historic Interest in England. To the north-eastern site boundary lies Clacton Road (A133). The main residential part of the proposal is separated from Clacton Road by an office development and dwellings at Grange Farm Close. The eastern boundary of the main residential area is open arable farmland with a large agricultural building at the north east corner. The southern boundary is woodland and Elmstead Brook with farmland beyond.
- 6.2 The main area of the site has a flat to gently sloping gradient towards the south, this is most pronounced from Clacton Road looking south west. The south/south-east section of site is at a lower ground level, this exposes the site to longer distance views, particularly to the East on Clacton Road. The site is not subject to any landscape designations.
- 6.3 The context of the site has changed significantly over recent years with development and extant permissions for residential and commercial development occupying this south side of Clacton Road.

Planning History

- 6.4 The detailed history above confirms the redevelopment of this site to Lanswood Business Centre with permissions starting from 2009. The existing buildings benefit from a variety of uses with use classes B1 (business), B2 (general industrial) and B8 (storage and distribution)

dominating but also including A1 (retail), A2 (financial and professional services), A3 (restaurants and cafés), and D1 (day nursery) uses/permissions.

- 6.5 10/00488/FUL approved a building for A1, A2, A3, B1, B2, B8 and D1 day nursery following demolition of the existing garden centre. The garden centre has been demolished but the building has not been erected.
- 6.6 In the immediate area there have been seven new dwellings approved and built at Grange Farm Close to the immediate north of the proposed main residential area under references 17/01617/OUT and 18/00003/DETAIL, and 16/00724/OUT and 18/00004/DETAIL. These permissions are adjacent to the existing dwellings at Grange Farm Bungalow, Grange Farm Cottage and Blue Barn Farm Cottages.
- 6.7 Site to the immediate west of the access from the main residential area onto the A133: 18/01858/OUT and 19/01140/DETAIL approved 'Proposed office development of up to 929sqm B1 office with associated car parking, infrastructure and landscaping' to the immediate north of the proposed main residential area.
- 6.8 Site to the immediate east of the access from the main residential area onto the A133: 18/00644/OUT was refused in June 2018 and dismissed at appeal (APP/P1560/W/18/3208427) in July 2019 for 'Demolition of existing bungalow and erection of up to nine dwellings and associated garaging' at Grange Farm Bungalow. The Inspector confirmed the site is sustainably located and also referred to the changed character of the site: "Directly southeast of the site is a development of dwellings that have recently been constructed. These dwellings are all detached and display a degree of openness and spaciousness about them. Immediately to the northwest of the site permission has also been granted for an office development which is currently under construction. Thus, I do not consider that a development of additional dwellings between these two sites would fail to respect the character of the area, which has been the subject of change in the recent past." That appeal was dismissed solely in the absence of a legal agreement securing a RAMS contribution.
- 6.9 19/01031/OUT was a resubmission for the same description of development which was refused October 2019 and is currently at appeal (APP/P1560/W/20/3248849). The reason for refusal related solely to the absence of a legal agreement to provide for RAMS, affordable housing and public open space contributions.

Proposal

- 6.10 The application seeks outline planning permission (access included with appearance, landscaping, layout and scale reserved for later consideration) for up to 10,000 square metres of employment floor space within use classes B1 (business), B2 (general industrial) and B8 (storage and distribution); and 14 houses (plots 72-85). Full planning permission is also sought for 71 houses (plots 1-71).
- 6.11 The application was originally submitted for a total of 72 dwellings and was increased to 85 dwellings in late July, the proposed employment floor space remains unchanged. This change was subject to re-consultation with necessary consultees, and neighbours which has now expired. The number of dwellings was increased in order to provide the £430,000 to fund a 3G artificial grass pitch on Charity Field.
- 6.12 The housing mix for the 71 dwellings seeking full planning permission is 6 two bed houses, 44 three bed houses, 7 three bed bungalows, 11 four bed houses and 3 five bed houses. The indicative mix for the outline element is 3 two bed houses, 7 three bed houses, and 4 four bed houses.

- 6.13 An amended site plan and certificate was received on 27th August 2020 including the full vehicular access from the residential element linking to Clacton Road.

Principle of Development

- 6.14 The site lies outside of any settlement development boundary in both the adopted 2007 Tendring District Local Plan and the emerging 2017 Local Plan. The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.
- 6.15 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).
- 6.16 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.
- 6.17 Whilst it is recognised that there would be conflict with Saved Policy QL1 and Emerging Policy SPL1 in terms of the site being sited outside the settlement development boundary, as stated above, in the context of the 5 year housing land supply paragraph 11 d) of the NPPF requires applications for housing development to be assessed on their merits, whether sites are allocated for development in the Local Plan or not and it is important to consider whether any circumstances outweigh this conflict.
- 6.18 While the NPPF advocates a plan-led approach, it is important to consider whether any circumstances outweigh the conflict. Development should be plan led unless material considerations indicate otherwise.
- 6.19 In line with Paragraph 8 of the National Planning Policy Framework (2019), achieving sustainable development means meeting an economic objective, a social objective and an environmental objective. These are assessed below. The sustainability of the application site is therefore of particular importance.

Economic

- 6.20 Paragraph 80 of the NPPF states *"Planning policies and 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. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.”

- 6.21 Paragraph 84 of the NPPF states *“Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.”*
- 6.22 The site is now an established employment site (although not allocated as an existing employment site within either the adopted or emerging local plan) and the proposal represents an expansion to an existing employment use. Saved Policy ER7 supports business, industrial and warehouse proposals where they comply with 8 criteria a) scale and nature is appropriate to the locality; b) no unacceptable impact upon amenity; c) satisfactory vehicular access and parking is provided; d) mains water with mains sewage and/or adequate waste water and trade effluent treatment facilities can be made available; e) acceptable storage with no open storage where visually intrusive; f) in relation to a change of use, that the existing premises are suitable for the purpose; g) in relation to new sites, the need for a comprehensive Design Brief, including a landscaping scheme has been considered and where necessary prepared; and; h) opportunities for promoting rail freight or through the District's ports are in no way compromised. These matters are all addressed in the report below and deemed to be acceptable except e) where a condition is recommended relating to open storage and outside working; and h) the site is not close to a railway line or port.
- 6.23 Draft Policy PP7 identifies the rear section of the site (where the attenuation pond and buildings 7, 8 and 9 are located approved under 17/00785/OUT) as an employment allocation to provide for B1, B2 and B8 uses confirming that these uses will be supported in order to provide job opportunities for residents in the District. Draft Policy SAE3 relates to the allocation of that rear section of the site for 1.2 hectares of employment land. The supporting text to Draft Policy SAE3 states *“It is recognised that further development at this site will require a major infrastructure investment to provide an electricity connection to Alresford as the electricity grid capacity has been reached. This is an abnormal cost and yields realised from employment sites in Tendring may not be sufficient to bear this cost and therefore it may make the further phases unviable. In this case the Council will consider an open book appraisal of any enabling development to secure the uplift in land value to fund the electricity cabling works to Alresford.”*
- 6.24 The application seeks outline planning permission for up to 10,000 square metres of employment floor space within use classes B1 (business), B2 (general industrial) and B8 (storage and distribution). It is estimated this would provide around 600 full time jobs. Lanswood Business Centre has grown over recent years and is a significant local employer (stated to be around 400 existing employees), the proposal represents an expansion to this existing site. Indicative layout and elevations have been provided which illustrate how this floor space could be provided on site in a similar manner to the existing Lanswood Business Centre.
- 6.25 The Council's Regeneration Team support the proposal stating that Lanswood Park has established a deserved reputation for providing high quality commercial space and as such has quickly become the primary focus for commercial activity in the West of the District. The existing commercial site has also come to set the benchmark for commercial development in

Tendring, and responds directly to the growing demand for both incubation and move-on space in the District. The development has a strong track record in capturing inward investment with established and successful businesses (with an agenda for growth) moving to the site from outside of the District. The site enjoys good access to the A133 and via Frating to the A120. Its location as a commercial centre is therefore supported by the existing transport network and further enhanced by the bus services that travel along it. Given the success of the existing Lanswood Park development, and the growing demand for commercial space in the District, the Council's Regeneration Service has no hesitation in supporting this application and in so doing acknowledge the symbiotic relationship the commercial aspects of the application must have with the proposed residential development.

- 6.26 It is also considered that the provision of 85 dwellings would contribute economically to the area, by providing employment during the construction of the properties and from future occupants utilising local services.
- 6.27 The proposal therefore performs very strongly in terms of economic sustainability.

Social

- 6.28 Emerging Policy SPL1 of the Publication Draft of the Local Plan 2017 includes a 'settlement hierarchy' aimed at categorising the District's towns and villages and providing a framework for directing development toward the most sustainable locations therefore being in line with the aims of the aforementioned paragraph 8 of the NPPF. This is the emerging policy equivalent to Saved Policy QL1 of the adopted Tendring District Local Plan 2007 which states that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan.
- 6.29 Elmstead Market is categorised in emerging Policy SPL1 as a 'Rural Service Centre' in recognition of its size and range of local services. For this scale of settlement the Local Plan identifies opportunities for smaller-scale growth. The site in question has not been allocated for such growth in the emerging Local Plan and is outside the defined settlement boundaries in both the draft and emerging Local Plans.
- 6.30 The site lies around a mile from the edge of the settlement of Elmstead Market linked by a footpath. There are also bus stops in close proximity that provide regular services to Wivenhoe, Clacton and Colchester. The site is therefore considered to be within a reasonable, and safe, walking distance of the range of services and facilities within Elmstead Market, including schools, shops and employment and is therefore sustainably located as confirmed by planning and appeal decisions for neighbouring sites as detailed under the Planning History section of this report. The location therefore meets the social objective of sustainable development.
- 6.31 The proposal does not include the required contributions towards affordable housing or education on the grounds of viability as considered in detail below. This clearly is a negative factor in terms of social sustainability and needs to be balanced against the significant economic benefits of the proposal. Officers are of the opinion that the economic benefits of the proposal, and the viability evidence detailed below, overrides any harm from the location of housing outside of the settlement development boundary and the absence of contributions towards education and affordable housing.

Environmental

- 6.32 The environmental role is about contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy. As discussed under 'Landscaping' and 'Biodiversity' below,

subject to the recommended conditions and adequate detailed design and soft landscaping, the economic benefits of the proposal would override any environmental harm.

Viability

- 6.33 Paragraph 57 of the NPPF states *“Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.”*
- 6.34 The applicant submitted a pre-application enquiry 18/30205/PREAPP to consider viability at an early stage in this process due to abnormal infrastructure costs required to enable the business park expansion. These costs relate to securing electricity, gas, and water connections due to significant capacity issues. The supporting text to Draft Policy SAE3 Lanswood Park acknowledges these constraints and states *“It is recognised that further development at this site will require a major infrastructure investment to provide an electricity connection to Alresford as the electricity grid capacity has been reached. This is an abnormal cost and yields realised from employment sites in Tendring may not be sufficient to bear this cost and therefore it may make the further phases unviable. In this case the Council will consider an open book appraisal of any enabling development to secure the uplift in land value to fund the electricity cabling works to Alresford.”* The abnormal costs also included £100,000 for highway works, £9,050.00 for RAMS, and £97,146 for education.
- 6.35 These abnormal costs were reviewed at pre-application stage by Quantity Surveyors at the District Valuers on the Council’s behalf and were accepted as reasonable, the abnormal costs remain unchanged under the current proposal. The Council’s viability assessor for the current application was therefore instructed to adopt these costs. The £97,146 allocated to education was an estimate from the applicant at the time and is no longer relevant, please see S106 section for up to date details.
- 6.36 The application was originally submitted for a total of 72 dwellings. However in order to provide the £430,000 to fund a 3G artificial grass pitch on Charity Field the number of dwellings was increased by 13 to a total of 85 dwellings (71 for full planning permission and 14 for outline planning permission).
- 6.37 The viability assessment was undertaken and independently reviewed on the Council’s behalf for 72 dwellings. The amended plans result in one of those dwellings being lost to provide access to the residential area containing the 14 dwellings seeking outline planning permission. The employment floor space proposed remains unchanged. This reduces the profitability of the proposal for the applicant by one dwelling and therefore represents a detriment to their stated profit. The original viability assessment is therefore considered acceptable in relation to the amended proposal.
- 6.38 The applicant concludes their proposed scheme generates a deficit of around £1.37million. The Council’s viability assessor concluded in March 2020 that the proposed scheme generates a residual land value of around £4.04 million and when benchmarked against a site value of around £3.10 million the proposed scheme generates a surplus of around £0.94 million.
- 6.39 Following further discussion, primarily in relation to construction costs, an amended viability assessment was provided in May 2020. The Council’s assessor adopted a general estate

housing BCIS (Building Cost Information Service) cost rate due to the limited sample size of detached dwellings within the 5 year BCIS. However, they reflected upon this issue and as there is a greater range of data for detached housing within the Applicant's 15 year BCIS analysis they subsequently adopted the Applicant's cost rates.

- 6.40 The amended appraisal generates a residual land value of around £3 million and when benchmarked against a site value of around £3.10 million the proposed scheme generates a deficit of around £0.10 million. (This deficit is addressed by the £97,146 originally offered for education in the 'abnormals'). Consequently, the Council's assessor concluded that the proposed scheme cannot support any affordable housing. As detailed under the S106 section below the proposal also cannot support the requested education contribution which totals £955,835.20.
- 6.41 A clause in the S106 legal agreement will be required to limit occupation of the proposed houses until the abnormal infrastructure improvements are complete and supplied to the site of the proposed Business Park expansion.

Appearance

- 6.42 71 of the proposed houses are subject of a 'full' planning application. There is a variety of house types proposed which are all well proportioned with attractive design features such as brick detailing and plinths, projecting gables, chimneys, glazing bars, and porches. The materials comprise a traditional mix of red and buff brick, black boarding, with red and grey plain tiles. The detailed design and materials proposed are acceptable.
- 6.43 Up to 10,000sqm of commercial buildings and 14 dwellings seek outline planning permission with appearance reserved for later consideration. The indicative layout suggests these dwellings will use the same house types as the dwellings seeking full planning permission which would raise no concern. Indicative elevations of the commercial buildings show two storey (9 metres high), shallow pitched buildings with glazed entrances constructed of white render and grey roofing and cladding panels. Their design reflects the wider Lanswood Business Centre and represents an acceptable design in this mixed residential and commercial area.

Layout

- 6.44 71 of the proposed dwellings seek full planning permission. The site is accessed from Grange Farm Close to the North and from this access point a view through to the woodland in the south of the site is retained. The layout maximises the benefits of the existing woodland with all properties in the south of the site fronting the open space and woodland beyond. The layout is spacious reflecting the location of the site with soft landscaping and tree planting adjacent to the roads to soften the appearance of the development.
- 6.45 The residential development is accessed through Grange Farm Close and does not have a frontage to Clacton Road. Saved Policy HG13 (echoed in emerging policy LP8) states proposals for the residential development of backland sites must comply with the following criteria:
- i. the site lies within a defined settlement development boundary and does not comprise land allocated or safeguarded for purposes other than a residential use;
 - ii. where a proposal includes existing private garden land which would not result in less satisfactory access or off-street parking arrangements, an unacceptable reduction in existing private amenity space or any other unreasonable loss of amenity to existing dwellings;
 - iii. a safe and convenient means of vehicular and pedestrian access/egress can be provided that is not likely to cause undue disturbance or loss of privacy to

- neighbouring residents or visual detriment to the street scene. Long or narrow driveways will be discouraged;
- iv. the proposal does not involve "tandem" development using a shared access;
- v. the site does not comprise an awkwardly shaped or fragmented parcel of land likely to be difficult to develop in isolation or involve development which could prejudice a more appropriate comprehensive development solution;
- vi. the site is not on the edge of defined settlements and likely to produce a hard urban edge or other form of development out of character in its particular setting; and
- vii. the proposal would not be out of character with the area or set a harmful precedent for other similar forms of development.

- 6.46 The main problems that can arise as a result of backland development include undermining the established character of an area; dwelling plots appearing cramped relative to their surroundings; the fragmentation of established gardens with a loss of mature landscaping; and the infringement of neighbouring residents' amenities. Development behind an established building line can also appear incongruous, particularly with isolated dwellings.
- 6.47 However, as this proposal represents a comprehensive development it does not raise the usual concerns. There is a proper means of access which is considered safe and convenient for both drivers and pedestrians with turning areas to avoid the need for vehicles to reverse onto a public highway. As addressed elsewhere in this report the location of the site, although outside a settlement development boundary is considered sustainable and is not safeguarded for other uses. There is no material harm in relation to residential amenity, landscape harm or material harm to the character of the surrounding area as considered elsewhere within this report and the proposed development not having a frontage to Clacton Road does not therefore raise any material objection.
- 6.48 Initial concerns were raised in relation to separation distances between some of the plots and some undersized gardens. The general principle set out within the Essex Design Guide (EDG) is that where the rear facades of properties face each other, a minimum spacing of 25m is required. The plans were amended and adequate rear separation is now provided.
- 6.49 Adopted Policy HG9 requires the following standards of private amenity space: three or more bedroom house minimum of 100sqm, two bedroom house minimum of 75sqm. Plots below this threshold are two bedroom Plots 1 (73sqm) and 2 (74sqm); and three bedroom plots 5 (91sqm), 6 (90sqm), 7 (93sqm), and 8 (92sqm). However, all other plots comply and a large proportion significantly exceed the standard with many around double the standard and some plots around four times the standard. The provision of private amenity space is therefore acceptable.
- 6.50 The layout confirms that each dwelling is provided with adequate private amenity space, off street parking and separation to prevent the development appearing cramped or overdeveloped. Soft landscaping of public areas around the site softens the appearance of the dwellings in the streetscene.
- 6.51 Up to 10,000sqm of commercial buildings and 14 dwellings seek outline planning permission with layout reserved for later consideration. The indicative layout provided reflects the main residential proposal, and the existing Lanswood Business Centre and raises no concerns at this time.

Scale

- 6.52 The housing mix for the 71 dwellings seeking full planning permission is 6 two bed houses, 44 three bed houses, 7 three bed bungalows, 11 four bed houses and 3 five bed houses. The indicative mix for the outline element is 3 two bed houses, 7 three bed houses, and 4 four bed houses.

- 6.53 The development comprises predominantly two storey dwellings, in keeping with the scale of existing dwellings and commercial buildings in the locality. The site is on a slope and street scene drawings and levels details have been provided to show how the development would sit in the landscape. At the lowest part of the site (east) there are bungalows and the details provided show how the development would sit acceptably in this sloping landscape.
- 6.54 Up to 10,000sqm of commercial buildings and 14 dwellings seek outline planning permission with scale reserved for later consideration. None of the indicative details provided raise any concern in relation to scale.

Highway Safety/Parking

- 6.55 71 houses seek full planning permission with separate access onto Clacton Road past Grange Farm Bungalow and the approved office development. Up to 10,000sqm of commercial buildings and 14 dwellings seek outline planning permission with access included for consideration.
- 6.56 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.
- 6.57 The vehicular access serving the outline element of the proposal is included for consideration and comprises the existing access into Lanswood Business Centre for the employment units, and an access from within the main residential element for the 14 dwellings seeking outline planning permission. The detailed layout, appearance and parking for those 14 dwellings will be considered at reserved matters stage but the indicative layout raises no concern at this stage.
- 6.58 An amended site plan has been received which includes the access north of the proposed dwellings linking past Grange Farm Bungalow to the Clacton Road. Notice has been served on the landowners (J and T Hills). The applicant confirms the adjacent houses have rights of access and pay to maintain this road, which Hills then maintain so it is a private road but the neighbouring houses do not own it. The applicant adds if approved then the cost of the road would become liable across all the new dwellings it follows therefore that the existing properties would pay significantly less. These comments notwithstanding, this is a private issue outside of the grant of planning permission. The required certificate has been provided serving notice on the owners of the access road and that is all that is required for the planning application to be considered valid. Should planning permission be granted then the ownership of the access remains a civil issue to be resolved between the landowner and the developer and is not a consideration in the grant of planning permission.
- 6.59 The application has been submitted with a Transport Assessment to assess the impact of both the commercial proposal and the residential proposal on the existing highway network.
- 6.60 Essex County Council Highways has commented on the proposal and have no objection subject to conditions and a legal agreement to secure a financial contribution of £50,000 towards the upgrade of the traffic signals and introduction of MOVA for the A133 Clacton Road junction with Bromley Road; and £6000 workplace travel plan monitoring fee. MOVA (Microprocessor Optimised Vehicle Actuation) is a method of controlling the traffic signals based on the presence of vehicles detected on the approach to a signalised junction.

- 6.61 The conditions require: construction management plan; a preliminary design and Stage 1 Road Safety Audit outlining the proposed junction proposal for the residential development with Grange Farm Close and office development proposed opposite Grange Farm Close; 2 metre footway from the development to the two new bus stops on A133 Clacton Road; two new bus stops on A133 Clacton Road to be provided near Grange Farm Close junction to include but not restricted to shelter (x2) with bus stop flag, Kassel Kerbs and bus timetables; alterations to the existing refuge island near the Grange Farm Close junction to provide a crossing point for pedestrians to the new bus stop on the south-eastbound side with drop kerbs/ tactile paving and an affective 2-metre-wide footway to the bus stop; the upgrade of the two closest bus stops (known as Beth Chatto Gardens) on the A133 Clacton Road near Lanswood Park the improvements to include but not restricted to: bus stop flags, bus timetables, Kassel Kerbs and drop kerbs/tactile paving (x2) for the pedestrian crossing points; no discharge of surface water onto the Highway; car and cycle parking provided prior to occupation; workplace travel plan; and residential travel information packs.
- 6.62 These requirements are all secured within the recommended conditions in the interests of highway safety. The required footway, bus stops and refuge island upgrade are all in the highway so can be secured by condition and would also be covered by a S278 agreement with the Highway Authority.
- 6.63 Each dwelling is provided with two off street parking spaces, either on the driveway or in a garage, in accordance with the parking standards. 18 visitor car parking spaces as required are also provided to serve the 71 dwellings seeking full planning permission.

Landscaping

- 6.64 Saved Policy QL9 and EN1 of the Tendring District Local Plan (2007) and Policy SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape.
- 6.65 The application site comprises agricultural land and is not subject to any landscape designations. The northern boundary of the application site adjacent to the A133 is demarcated by an established, but gappy, hedgerow comprising primarily Elm, Hawthorn, Elder and Bramble. The most visually prominent tree on the application site is the Oak tree close to the existing access to Lanswood Park. On the western boundary there are 3 Lombardy Poplar and there is an established area of woodland, adjacent to Elmstead Brook on the southern part of the application site.
- 6.66 In order to show extent of the constraint that the existing trees, hedgerows and woodland have on the development potential of the land the applicant has provided a tree survey and report. In terms of the impact of the development proposal on the existing vegetation the proposals show that the boundary hedgerow will be retained and strengthened by new planting. The Oak at the front and the woodland to the south will be retained with the woodland potentially being improved by increased maintenance. It appears that the implementation of the development proposals will necessitate the removal of 3 Lombardy Poplar although this is not clear from the information provided. As they are located with the proposed commercial area layout and landscaping are reserved for later consideration so this can be addressed at that time. Whilst the retention of these trees would be desirable the contribution that they make to the amenity of the locality is only moderate and could be relatively easily replaced and improved upon by new soft landscaping.
- 6.67 With regard to the potential impact and effects of the development of the land on the local landscape character the applicant has submitted a Landscape and Visual Impact Assessment

(LVIA). This quantifies the degree to which the change of use of the land associated with the development will cause harm to the local landscape character and sets out measures to mitigate that harm. The LVIA describes the impact and effects immediately following completion of the development and after a period of 15 years. In the Summary and Conclusion it states that: 'The landscape led approach to the development, including the protection and enhancement of existing site features, the design of buildings, and integration of strategic planting will ensure that the proposals will have a minimal residual effect on the landscape character of the area.'

- 6.68 This landscape led approach will contribute to the mitigation of harm resulting from this relatively large scale commercial and residential proposal. As confirmed in the Planning History section there have been residential refusals in this immediate area based upon landscape harm. However this harm has not been deemed grounds for dismissal by Inspectors at appeal. The site to the immediate east of the access from the main residential area onto the A133 had 18/00644/OUT refused in June 2018 and dismissed at appeal (APP/P1560/W/18/3208427) in July 2019 for 'Demolition of existing bungalow and erection of up to nine dwellings and associated garaging' at Grange Farm Bungalow. The Inspector confirmed the site is sustainably located and also referred to the changed character of the site: "Directly southeast of the site is a development of dwellings that have recently been constructed. These dwellings are all detached and display a degree of openness and spaciousness about them. Immediately to the northwest of the site permission has also been granted for an office development which is currently under construction. Thus, I do not consider that a development of additional dwellings between these two sites would fail to respect the character of the area, which has been the subject of change in the recent past." That appeal was dismissed solely in the absence of a legal agreement securing a RAMS contribution. The context of the site has changed significantly over recent years with planning permissions and allowed appeals for residential and commercial development and the proposal will be seen in that context. It is therefore not considered that a landscape harm objection could be sustained, particularly in light of the significant benefits of the proposal in terms of employment creation and new housing.
- 6.69 Full details of the hard and soft landscaping for the full permission (71 dwellings) are required by recommended condition, landscaping is a reserved matter so will be addressed at a later stage for the outline permission element

Biodiversity

- 6.70 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. A similar approach is taken in draft Policy PPL4 Biodiversity and Geodiversity of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 6.71 Paragraph 170 of the National Planning Policy Framework 2019 require that Local Planning Authorities contribute to and enhance sites of biodiversity or geological value whilst paragraph 174 requires Local Planning Authorities to safeguard components of local wildlife-rich habitats.
- 6.72 The site comprises predominantly agricultural land but abuts a woodland (Priority Habitat "lowland deciduous woodland") and has mature vegetation to the site boundaries. The woodland edge has been subject to an Arboricultural Impact Assessment and protective measures are recommended. The applicant has submitted a Preliminary Ecological Appraisal to assess the biodiversity value of the site and the impact upon any protected species.
- 6.73 The site is former farmland of moderate quality, with a species-poor hedgerow along the frontage, ornamental hedge along the eastern boundary and individual trees scattered to the

west. Elmstead Brook, a shallow stream, flows along the southern boundary. The woodland to the immediate south is damp in character and consists of alder, ash, willow with occasional hawthorn and cherry. It represents a good resource for a wide range of legally protected species and wildlife generally and provides good onward habitat connectivity. The proposal is unlikely to directly impact this woodland. Mitigation measures, including protection of trees during construction, control of external lighting and managed public access are required to ensure a sustainable relationship with the development.

- 6.74 The agricultural barn beyond the north-eastern corner of the site has two bat boxes installed on the south-facing external wall. The mature oak tree to be retained on the north-western corner of the site contains several suitable bat roost features. Several trees within the wet woodland contain potential roost features. This woodland is likely to be unchanged as a result of the development. The hedgerow along the site frontage is likely to support nesting birds. The woodland will also support nesting birds in high numbers. The report confirms that potential for legally protected species on the development site is limited to nesting birds and badger (all setts are over 20 metres from the development site). American skunk cabbage an invasive non-native species was identified in the woodland. It is notable for its ability to out compete other plants, particularly in wet woodland. Once established the plant is very invasive, forming dense colonies which can spread by rhizome seed, water currents, birds and mammals. The development presents an opportunity for woodland management which could include the remediation of invasive species by licensed contractors.
- 6.75 Essex County Council Ecology have reviewed the proposal and have no objection subject to securing the RAMS contribution and conditions which form part of the recommendation. They 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 recommended conditions secure: compliance with the Preliminary Ecological Appraisal; A further badger survey and updated mitigation statement to identify whether any Badger activity has changed since the previous surveys were undertaken and whether further mitigation and/or works are required for badgers during the construction phase; submission of a CEMP (construction environmental management plan); submission of a Biodiversity Enhancement Layout; and submission of a wildlife sensitive lighting scheme which identifies those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging.
- 6.76 Subject to the recommended conditions the application is acceptable in relation to ecology and biodiversity.

Heritage

- 6.77 Policy EN23 Development within the Proximity of a Listed Building sets out that proposals for development that would adversely affect the setting of a Listed Building will not be permitted. This includes long distance views.
- 6.78 The listed buildings in closest proximity of the site are Hill Farmhouse (Grade II) located approximately 350m to the south east. To the south of Hill Farmhouse on the verge at the junction of Church Road is a late C19 cast iron metal Guide Post for the Parish of Frating (Grade II). Grove Farmhouse (Grade II) is located 800m to the west.
- 6.79 Hill Farmhouse is viewed in conjunction with the site at a distance of around 350 metres away. It is visible beyond the dwellings at Grange Farm Close when looking east along Clacton Road. When looking west from Hill Farmhouse there is a large amount of mature screening through which glimpses of the site will be possible. In the context of the existing office and residential development between the site and Clacton Road and the existing Lanswood Business Centre behind, the separation distance to the Grade II listed Hill Farmhouse, and the existing and proposed planting there would be no material harm to long distance views of the

listed building or Guide Post on Frating Hill. Grove Farmhouse (Grade II) is 800 metres to the west and its setting will be unaffected by the proposal due to intervening buildings and mature vegetation.

- 6.80 Essex County Council Heritage have been consulted on the proposal and raise no objection.
- 6.81 Beth Chattos Gardens was added to Historic England's Register of Parks and Gardens of Special Historic Interest in England on 18th August 2020. The site is separated from these gardens by the existing Lanswood Business Park so would have no adverse impact upon the setting of the Grade II listed gardens.

Impact on Residential Amenity

- 6.82 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.
- 6.83 In terms of the future occupiers of the proposed dwellings they are provided with adequate private amenity space and separation distances to prevent any material loss of light, outlook or privacy.
- 6.84 The seven dwellings in Grange Farm Close are a minimum of 23 metres from the site boundary and a minimum of 56 metres from the closest proposed dwelling (Plot 7). Grange Farm Bungalow is 34 metres from the site boundary and 54 metres from the closest proposed dwelling (Plot 1). Grange Farm Cottage and Blue Barn Farm Cottages are semi-detached with a large detached outbuilding and frontage turning area and are located in the north eastern corner of the site. Their front elevation is around 36 metres from the site boundary and 42 metres from the closest proposed dwelling (Plot 9). The southern end elevation is around 20 metres from the site boundary and around 34 metres from the rear elevation of Plots 12 and 13. Existing dwellings are therefore adequately separated from the proposed dwellings to ensure adequate outlook, light and privacy which significantly exceeds the separation distances specified in the Essex Design Guide.
- 6.85 The access serving the residential element of the proposal for all 85 dwellings passes Grange Farm Bungalow at a separation distance of around 10 metres. Given the existing speed and noise generated by traffic on Clacton Road it is not considered that the use of the access would result in any material harm in terms of disturbance to justify refusing planning permission on these grounds.
- 6.86 The commercial element utilises the existing vehicular access between the existing and proposed commercial units and therefore is well separated from the nearest dwelling to the west which is around 100 metres from the commercial access.
- 6.87 The boundary treatment condition also requires provision of rear access lockable gates for plots 1-9 and 68-70 which have rear parking courtyards in the interests of increasing the safety and convenience of the rear parking areas.
- 6.88 Environmental Pollution have considered the proposal and are satisfied with the Contaminated Land Assessment which indicates that the risk of encountering contamination during development is low. As a result, no further work is recommended with respect to soil contamination. Due to the proposed dwellings close proximity to the proposed commercial development they request submission of a Noise Impact Assessment. A condition requiring

submission of a construction method statement is also imposed in the interests of minimising disruption and pollution during construction.

Drainage

- 6.89 The site lies in Flood Zone 1 and the development area amounts to 8.37 hectares. Paragraph 163 of the National Planning Policy Framework 2019 (NPPF) states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere and that major applications comprising a site area of 1 hectare or more should be supported by a site-specific flood-risk assessment (FRA). Paragraph 165 of the NPPF goes on to state that major developments should incorporate sustainable drainage systems.
- 6.90 Saved Policy QL3 of the adopted Tendring District Local Plan (2007) seeks to minimise and manage flood risk. In addition Saved Policy EN13 of the adopted Local Plan states that development proposals should incorporate measures for the conservation and sustainable use of water. These aims are carried forward into draft Policy PPL5 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).
- 6.91 Essex County Council SUDS as Lead Local Flood Authority have reviewed the submitted Flood Risk Assessment and have no objection subject to the recommended conditions.
- 6.92 The application proposes foul sewage to the main sewer. Anglian Water confirm the foul drainage from this development is in the catchment of Thorrington Water Recycling Centre that will have available capacity for these flows.
- 6.93 As no foul water strategy has been submitted with the application Anglian Water request a condition requiring an on-site drainage strategy to ensure the development does not lead to an unacceptable risk of flooding downstream.
- 6.94 Subject to the recommended conditions relating to foul and surface water the drainage aspects of the development are acceptable.

Section 106 of the Town and Country Planning Act 1990

- 6.95 The NPPF states that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be sought where they meet all the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. These are set out and addressed below under the relevant sub-headings:
- 6.96 - Recreational Disturbance

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.

The application scheme proposes new dwellings on a site that lies within the Zone of Influence (ZoI) being approximately 3400 metres from the Colne Estuary SPA and Essex Estuaries SAC. New housing development within the ZoI would be likely to increase the number of recreational visitors to these designated sites; and, in combination with other developments it is likely that the proposal would have significant effects on the designated sites. Mitigation measures must therefore be secured prior to occupation.

The applicant has agreed to provide the required proportionate financial contribution (£10,674.30) in a legal agreement still to be completed. This will provide certainty that the development would not adversely affect the integrity of Habitats sites.

6.97 - Open Space and Play Space

Saved Policy COM6 and emerging Policy HP5 state that for residential development on a site of 1.5ha and above, where existing public open space and/or play equipment are inadequate, shall provide appropriate provision on-site or by way of a financial contribution towards the provision of new or improved off-site facilities to meet the projected needs of future occupiers of the development.

There is currently a deficit of 4.51 hectares of equipped play/formal open space in Elmstead Market. A contribution towards play and open space is justified and relevant to this planning application. The Parish Council wish to build a 3G artificial grass pitch with sports lighting (61 x 43 m), 2623msq, at the site known as Charity Fields on School Road. Costings and specification have been provided from the Sport England website with the total cost of an U9/ U10/ training 60-65 mm 3G pitch, fenced, sports lighting (61 x 43 m) of £430,000.

The Supplementary Planning Document supporting saved Policy COM6 provides a calculation for the open space contribution based on the bedroom size of each proposed dwelling. In this case this amounts to £205,024.00.

In addition to this the applicant is offering an additional contribution of £224,976.00 which combined with the above open space contribution would provide the full cost of providing the 3G artificial grass pitch. This is a departure from saved Policy COM6 and is offered by the applicant in acknowledgement of the scale of the proposed development and its impact upon the Parish of Elmstead Market.

The applicant has agreed to provide the financial contributions in a legal agreement still to be completed.

6.98 - Affordable Housing

Saved Policy HG4 of the Tendring District Local Plan (2007) requires up to 40% of new dwellings on residential schemes of 5 or more units to be provided in the form of affordable housing to meet the needs of people that are unable to access property on the open market. Emerging Policy LP5 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) which is based on more up-to-date evidence of housing need and viability, requires for developments of 11 or more dwellings, the Council expect 30% of new dwellings to be made available to Tendring District Council or an alternative provider to acquire at a proportionate discounted value for use as affordable housing.

There remains a high demand for housing in Elmstead Market and there are currently the following number of households on the housing register seeking accommodation in the village: 2 bed - 97 households, 3 bed - 68 households and 4 bed - 28 households.

30% equates to 26 dwellings. Given the demand for housing, the Council would prefer to see the 26 affordable dwellings delivered on site.

As confirmed by the viability assessment the proposal cannot provide any contribution towards affordable housing.

6.99 - Healthcare

Policy HP1 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft states that the Council will seek contributions towards new or enhanced health facilities from developers where new housing development would result in a shortfall or worsening of health provision.

NHS East Essex CCG were consulted on both the original and amended proposal and confirm they are not seeking a healthcare contribution as the impacted Practice (within the vicinity of the application site) is not currently over capacity.

6.100 - Education

Policy COM26 of the Tendring District Local Plan 2007 states where necessary planning permission will only be granted for residential developments of 12 or more dwellings if land and/or financial contributions are made to provide the additional school places that will be needed to service the development. Policy PP12 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 states planning permission will not be granted for new residential development unless the individual or cumulative impacts of development on education provision can be addressed, at the developer's cost, either on-site or through financial contributions towards off-site improvements.

Essex County Council request that if planning permission is granted it should be subject to a section 106 agreement to mitigate its impact on primary (£440,334) and secondary (£404,175) education, secondary school transport (£85,595), and libraries (£25,731.20). The total contribution requested is £955,835.20 as detailed below:

Essex County Council confirm a development of this size can be expected to generate the need for up to 7.65 Early Years and Childcare (EY&C) places; 25.5 primary school, and 17 secondary school places.

Early Years and Childcare As there are sufficient places available in the area, a developers' contribution towards new childcare places is not required for this application.

Primary Education This development sits within the priority admissions area of Elmstead Primary School. According to the Essex School Organisation Service's 'Ten Year Plan' to meet demand for school places, the local group of schools (Tendring Primary Planning Group 3) are already under pressure. Forecasts suggest growing demand for places over the Plan period with a potential need for around two forms of entry of additional capacity by 2028/29. The demand generated by this development would be in addition to this demand, therefore a developer contribution of £440,334 is sought to mitigate its impact on local primary school provision.

Secondary Education The local school would be Colne Community School and College, which has a Published Admission Number of 248 pupils per year. As of January, the school were full in three of the five statutory age year groups, including the cohort admitted last September. Forecasts, set out in the 10 Year Plan, suggest the school will again be full this coming September with increasing demand there-on-in. In response, a two form entry expansion is proposed. The demand generated by this development would be in addition to this demand, therefore a developer contribution of £404,175 is sought to mitigate its impact on local secondary school provision.

School Transport Given the proximity of the site to the nearest primary school, a primary school transport contribution is not sought and there is a public footpath linking the development to this primary school. Having reviewed the proximity of the site to the nearest secondary school, Essex County Council seek a secondary school transport contribution of £85,595.

Libraries

ECC may seek contributions to support the expansion of the library service to meet customer needs generated by residential developments of 20+ homes. The provision of a Library Service is a statutory duty under the 1964 Public Libraries and Museums Act and it's increasingly become a shared gateway for other services such as for accessing digital information and communications. In this case the suggested population increase brought about by the proposed development is expected to create additional usage of Wivenhoe library. As outlined in the adopted Essex Developers' Guide to Infrastructure Contributions (2016), a contribution is therefore considered necessary to improve, enhance and extend the facilities and services statutorily provided to account for the expected increase in number using these facilities. The requested contribution is £25,731.20.

As confirmed by the viability assessment the proposal cannot provide any contribution towards education.

6.101 - Highways

Essex County Council Highways has commented on the proposal and have no objection subject to conditions and a legal agreement to secure a financial contribution of £50,000 towards the upgrade of the traffic signals and introduction of MOVA for the A133 Clacton Road junction with Bromley Road. MOVA (Microprocessor Optimised Vehicle Actuation) is a method of controlling the traffic signals based on the presence of vehicles detected on the approach to a signalised junction.

6.102 - Provision of the abnormal infrastructure improvements

As detailed under the Viability section, a clause in the S106 legal agreement will be required to limit occupation of the proposed houses until the infrastructure improvements are complete (e.g. 50% occupation until half of the infrastructure improvements have been completed, and 75% occupation until all of the infrastructure improvements have been completed) and supplied to the site of the proposed Business Park expansion.

Archaeology

- 6.103 ECC Archaeology confirmed that the proposal has the potential to harm non-designated heritage assets with archaeological interest with cropmark evidence and evaluation within the adjacent site. The applicants were therefore required to carry out a programme of archaeological evaluation before the application could be determined. The evaluation succeeded in locating most of the cropmark features identified and provided sufficient evidence to determine the nature and significance of the archaeological remains and to make recommendations. A further phase of fieldwork and recording is required by condition in the recommendation.

7 Conclusion

- 7.1 This hybrid application seeks outline planning permission (access included with appearance, landscaping, layout and scale reserved for later consideration) for up to 10,000 square metres of employment floor space within use classes B1 (business), B2 (general industrial) and B8 (storage and distribution); and 14 houses. Full planning permission is sought for 71 houses.
- 7.2 The proposal seeks to use the 71 dwellings seeking full planning permission to "enable" the expansion of the existing Lanswood Business Park due to infrastructure servicing the site reaching capacity. The viability of the proposal has been independently assessed and confirms that the proposal cannot provide the £955,835.20 education contribution or the 26 affordable dwellings. However, the applicant offers £430,000 to fund a 3G artificial grass pitch on Charity

Field (£205,024 open space contribution and additional contribution of £224,976.00); the required RAMS contribution of £10,674.30 (£125.58 per dwelling); and £50,000 towards the upgrade of traffic signals.

- 7.3 The report confirms that this is a sustainable location for development and the significant economic benefits of the proposal in providing up to 10,000 square metres of employment floor space, estimated to provide around 600 jobs, are considered to outweigh the modest landscape harm in this context of mixed residential and commercial development. The proposal does not provide the required contributions towards affordable housing or education on the grounds of viability and this is clearly a negative factor in terms of social sustainability and needs to be balanced against the significant economic benefits of the proposal. However, Officers are of the opinion that the economic benefits of the proposal, and the viability evidence provided, overrides the absence of contributions towards education and affordable housing and recommend that full and outline planning permission is granted.

8 **Recommendation**

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

CATEGORY	TERMS
Financial contribution towards RAMS.	£10,674.30 (£125.58 per dwelling)
Open Space	£430,000 for 3G artificial grass pitch at Charity Field
Highways	Financial contribution of £50,000 towards the upgrade of the traffic signals and introduction of MOVA for the A133 Clacton Road junction with Bromley Road
Highways	workplace travel plan monitoring fee £6,000
Provision of abnormals	Limit occupation of the proposed houses until the infrastructure improvements are complete (e.g. 50% occupation until half of the infrastructure improvements have been completed, and 75% occupation until all of the infrastructure improvements have been completed) and supplied to the site of the proposed Business Park expansion

8.2 **Conditions and Reasons**

8.3 **Full planning permission**

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:

Layout plan: PA_10_10 E.

House types: PA_20 01, PA_20 02, PA_20 03, PA_20 04, PA_20 04, PA_20 06, PA_20 07, PA_20 08, PA_20 09, PA_20 10, PA_20 11, PA_20 12, and PA_20 13.

Garages: PA_20 20, PA_20 21, PA_20 22, and PA_20 23.

Street scenes: PA_30 01 A and PA_30 02 A.

Section: PA_40 01 A

Transport Assessment dated February 2020 and Transport Assessment Addendum dated 21/07/2020 by Richard Jackson Ltd.

Preliminary Ecological Appraisal dated February 2020 by Hybrid-Ecology Ltd.

Landscape and Visual Appraisal dated February 2020 by SES.

Arboricultural Impact Assessment and Preliminary Method Statements dated 10/02/2020 by Tree Planning Solutions.

Site Specific Flood Risk Assessment dated February 2020 and Flood Risk Assessment Addendum dated 21/07/2020 by Richard Jackson Ltd.

Contaminated Land and Geotechnical Assessment dated 07/02/2020 by Nott Group.

Development Viability report by Fenn Wright dated January 2020 and addendum letter dated 07/04/2020.

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

3. No occupation of the development shall take place until the following have been provided or completed:
 - a) A preliminary design and Stage 1 Road Safety Audit outlining the proposed junction proposal for the residential development with Grange Farm Close. Details of which shall have been previously agreed in writing with the Local Planning Authority prior to commencement of the development.
 - b) An affective 2 metre footway shall be provided from the development to the two new bus stops on A133 Clacton Road.
 - c) Two new bus stops on A133 Clacton Road to be provided near Grange Farm Close junction to include but not restricted to shelter (x2) with bus stop flag, Kassel Kerbs and bus timetables.
 - d) Alterations to the existing refuge island near the Grange Farm Close junction to provide a crossing point for pedestrians to the new bus stop on the south-eastbound side with drop kerbs/ tactile paving and an affective 2-metre-wide footway to the bus stop.
 - e) The upgrade of the two closest bus stops (known as Beth Chatto Gardens) on the A133 Clacton Road near Lanswood Park the improvements to include but not restricted to: bus stop flags, bus timetables, Kassel Kerbs and drop kerbs/tactile paving (x2) for the pedestrian crossing points.

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.

4. Prior to occupation the vehicle parking area (garage and/or driveway) serving that dwelling as indicated on the approved plans, shall have been provided. The vehicle parking area and associated turning areas and visitor parking shall thereafter be retained in the approved 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.

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.

5. Details of cycle parking for every dwelling without a garage shall be submitted to and approved in writing by the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

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

6. Prior to occupation the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, the details of which shall have been previously submitted to and approved in writing by the Local Planning Authority. The travel packs shall include six one day travel vouchers for use with the relevant local public transport operator.

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

7. Prior to commencement of any above ground works precise details of the provision, siting, design and materials of screen walls and fences shall have been submitted to and approved in writing by the Local Planning Authority. The approved screen walls and fences shall be erected prior to the dwellings to which they relate being occupied and thereafter be retained in the approved form. Boundary treatments facing the highway or open spaces will be expected to be of high quality e.g. brick walls. This shall include rear access lockable gates for plots 1-9 and 68-70 which have rear parking courtyards.

Reason - In the interests of visual and residential amenity.

8. Details of the infrastructure improvements serving the business park expansion hereby granted outline planning permission shall be submitted to and approved in writing by the Local Planning Authority. The infrastructure improvements, as approved, shall be completed in accordance with the provisions of the S106 legal agreement.

Reason – The dwellings are approved in association with viability evidence on the basis that they fund the infrastructure improvements to serve the business park expansion.

9. Prior to commencement of any above ground works details of the proposed facing and roofing materials shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason – Insufficient details have been provided with the application, in the interests of visual amenity.

10. No above ground works shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection

which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 - Trees in relation to design, demolition and construction "

Reason - This is a publicly visible site where an appropriate landscaping scheme is a visually essential requirement.

11. 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 maintenance of the approved landscaping scheme for a period of five years in the interests of the character of the surrounding area.

8.4 Outline planning permission

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

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

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

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

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

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

15. The development hereby permitted in relation to access only shall be carried out in accordance with the following approved plans and documents:

Layout plan: PA_10_10 E.

Transport Assessment dated February 2020 and Transport Assessment Addendum dated 21/07/2020 by Richard Jackson Ltd.

Preliminary Ecological Appraisal dated February 2020 by Hybrid-Ecology Ltd.

Landscape and Visual Appraisal dated February 2020 by SES.

Arboricultural Impact Assessment and Preliminary Method Statements dated 10/02/2020 by Tree Planning Solutions.

Site Specific Flood Risk Assessment dated February 2020 and Flood Risk Assessment Addendum dated 21/07/2020 by Richard Jackson Ltd.

Contaminated Land and Geotechnical Assessment dated 07/02/2020 by Nott Group.

Development Viability report by Fenn Wright dated January 2020 and addendum letter dated 07/04/2020.

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

16. No occupation of the development shall take place until the following have been provided or completed:
- a) Alterations to the existing refuge island near the Grange Farm Close junction to provide a crossing point for pedestrians to the new bus stop on the south-eastbound side with drop kerbs/ tactile paving and an affective 2-metre-wide footway to the bus stop.
 - b) The upgrade of the two closest bus stops (known as Beth Chatto Gardens) on the A133 Clacton Road near Lanswood Park the improvements to include but not restricted to: bus stop flags, bus timetables, Kassel Kerbs and drop kerbs/tactile paving (x2) for the pedestrian crossing points.

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.

17. Prior to occupation a workplace travel plan shall have been submitted to and approved in writing by the Local Planning Authority. Such approved travel plan shall be actively implemented for a minimum period of 5 years.

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

18. No goods, materials or containers shall be stored, stacked or deposited on the site outside the buildings, nor shall any commercial/manufacturing activities or processes (except for the loading and unloading of vehicles) be carried on outside the buildings, unless otherwise agreed in writing with the Local Planning Authority.

Reason - To protect the character and appearance of the area in the interests of visual amenity and the amenity of residents in the locality.

8.5 Both full and outline planning permissions

19. No development or preliminary groundworks can commence until a mitigation strategy detailing the excavation / preservation strategy has been submitted to and approved in writing by the local planning authority.

Reason – Because the proposal has the potential to harm non-designated heritage assets with archaeological interest.

20. No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been approved in writing by the local planning authority.

Reason - Because the proposal has the potential to harm non-designated heritage assets with archaeological interest.

21. A post excavation assessment shall be submitted to the local planning authority for approval (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Local 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 - Because the proposal has the potential to harm non-designated heritage assets with archaeological interest.

22. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:
- i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. wheel and underbody washing facilities
 - v. prior to the commencement of any work on the site, a joint inspection of the route to be used by construction vehicles should be carried out by the Applicant and the Highway Authority, including photographic evidence.

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.

23. 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.

24. 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:

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

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

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

25. Prior to commencement of any above ground works a Noise Impact Assessment shall be submitted to and approved in writing by the Local Planning Authority. The Noise Impact Assessment shall assess the impact of the proposed commercial units upon the neighbouring dwellings hereby granted full and outline planning permission. Any necessary mitigation measures shall be detailed within the Noise Impact Assessment and implemented prior to occupation of the affected dwellings and retained as approved thereafter.

Reason - Due to the residential areas close proximity to the proposed commercial units.

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

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

27. 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 to 3.3 l/s (greenfield 1 in 1 year rate which should be confirmed by greenfield calculations) for the residential 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.
 - Discharge via infiltration for the commercial site for all storm events up to and including the 1 in 100 year rate plus 20% allowance for climate change.
 - Final modelling and calculations for all areas of the drainage system.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

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

28. 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.

29. Prior to occupation of any phase a maintenance plan detailing the maintenance arrangements for that phase including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, shall have 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.

30. 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.

31. Prior to commencement of any above ground works precise details of the existing site levels, proposed site levels and finished floor level and eaves and ridge heights of the hereby permitted buildings in relation to site levels within adjacent sites and floors, eaves and ridge levels of neighbouring property shall be submitted to and approved in writing by the Local Planning Authority, and shall be implemented as approved unless the Local Planning Authority first gives written approval to any variation.

Reason - In the interests of visual amenity and privacy.

32. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Hybrid Ecology, February 2020). 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 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

33. No development shall take place (including any demolition, ground works, site clearance) until a further badger survey and updated mitigation statement has been submitted to and approved in writing by the local planning authority. This further survey shall be undertaken to identify whether any Badger activity has changed since the previous surveys were undertaken and whether further mitigation and/or works are required for badgers during the construction phase. 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 species and allow the LPA to discharge its duties under the Badger Protection Act 1992 and s17 Crime & Disorder Act 1998.

34. No development shall take place (including any demolition, ground works, site clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.
- a) Risk assessment of potentially damaging construction activities.
 - b) Identification of "biodiversity protection zones".
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
 - d) The location and timing of sensitive works to avoid harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.
 - f) Responsible persons and lines of communication.
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - h) Use of protective fences, exclusion barriers and warning signs.
 - i) Containment, control and removal of any Invasive non-native species present on site

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

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

35. Prior to commencement of any above ground works a Biodiversity Enhancement Layout providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (Hybrid Ecology, February 2020), shall have 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 & habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

36. Prior to occupation a lighting design scheme for biodiversity shall have 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 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species)

37. Works shall be carried out in full accordance with the Arboricultural Impact Assessment and Preliminary Method Statements dated 10/02/2020 by Tree Planning Solutions unless otherwise agreed in writing by the Local Planning Authority.

Reason – To protect existing mature vegetation on site.

8.6 Informatives

Highway Informatives

1. Prior to any works taking place in the highway the developer should enter into an S278 agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.
2. All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible)
3. Where possible any new section of footway adjacent to the A133 should be set back from the edge of carriageway so pedestrians don't have to walk adjacent to the carriageway.
4. 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.

Anglian Water informatives

1. Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.
2. Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.
3. Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.
4. Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087
5. The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.
6. An application to discharge trade effluent must be made to Anglian Water and must have been obtained before any discharge of trade effluent can be made to the public sewer.
7. In relation to the foul water condition the following will be required: Feasible drainage strategy agreed with Anglian Water detailing the discharge solution including: Development size. Proposed discharge rate (Should you require a pumped connection, please note that our minimum pumped discharge rate is 3.8l/s). Connecting manhole discharge location (No connections can be made into a public rising main). Notification of intention to connect to the public sewer under S106 of the Water Industry Act. Feasible mitigation strategy in agreement with Anglian Water (if required).

SUDS Informatives

1. Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
2. Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
3. It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.

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: Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) financial contribution, open space financial contribution, highway works including work place travel plan monitoring fee, and phased restriction on occupancy until infrastructure improvements are complete.

9 Additional Considerations

Public Sector Equality Duty (PSED)

- 9.5 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:
 - 9.6 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - 9.7 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
 - 9.8 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.9 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.
- 9.10 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.
- 9.11 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

- 9.12 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.

- 9.13 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).
- 9.14 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

- 9.15 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.
- 9.16 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

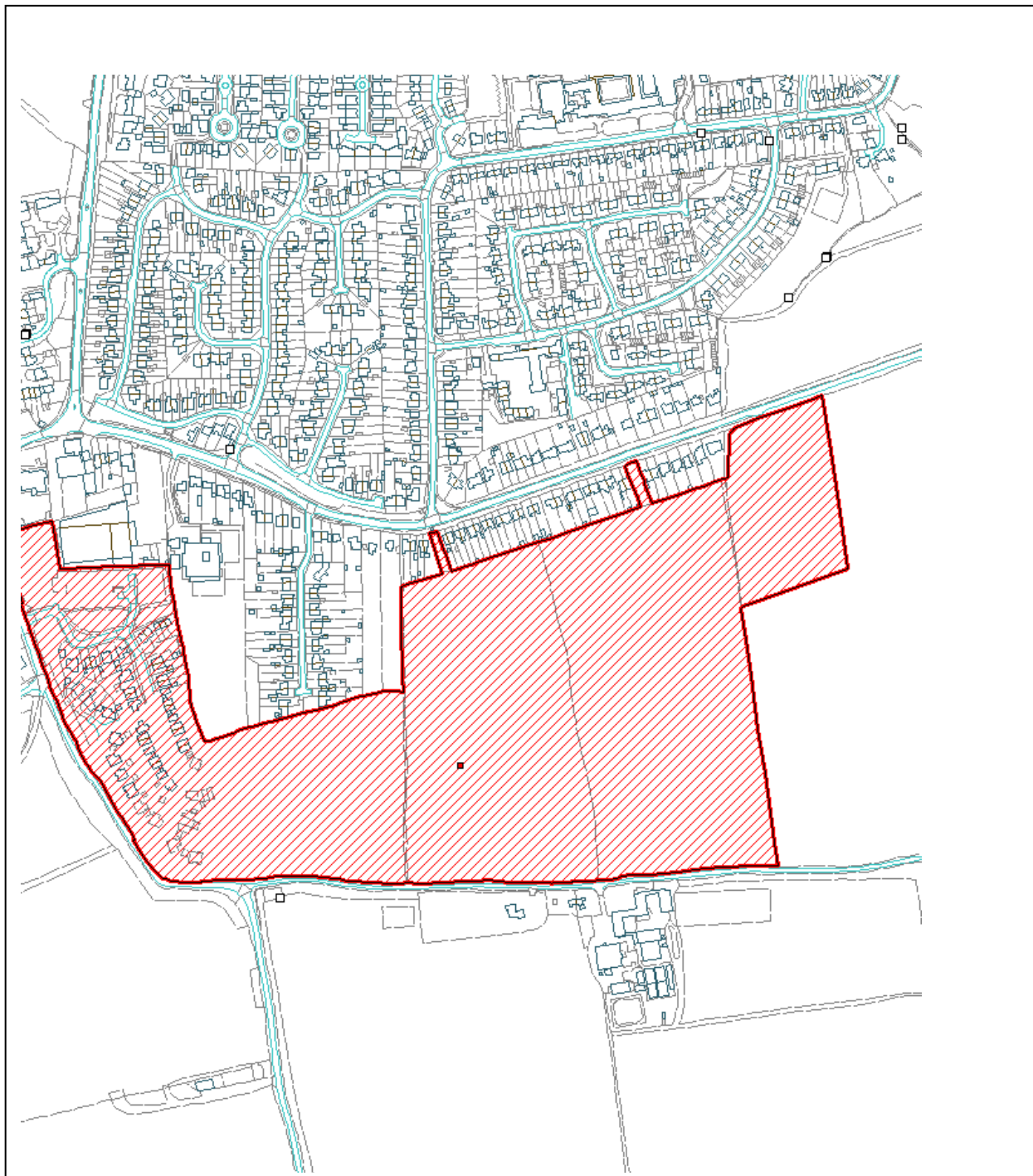
- 10.5 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

22ND SEPTEMBER 2020

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.3 PLANNING APPLICATION – 20/00480/DETAIL – LAND EAST OF BROMLEY ROAD, LAWFORD, CO11 2HS

DO NOT SCALE

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Application: 20/00480/DETAIL

Town / Parish: Lawford Parish Council

Applicant: Mr Steven Rose - Rose Builders (Properties) Ltd

Address: Land East of Bromley Road, Lawford, CO11 2HS

Development: Reserved matters application with details of appearance, landscaping, layout and scale pursuant to Phase 3 of outline permission (15/00876/OUT) including 100 dwellings, associated hardstanding, boundary treatments, landscaping and drainage.

1. **Executive Summary**

- 1.1 Outline planning permission (all matters apart from access - reserved) was granted on 13th April 2017 for a mixed development of 360 houses and community facilities/open space on 22.76ha of land to the south of Lawford, under 15/00876/OUT. The current submission relates to phase 3 of the development, and is for the outstanding reserved matters.
- 1.2 In accordance with Members' request, the current submission has been brought to Planning Committee seeking consent with regard to the reserved matters of landscaping, layout, appearance and scale.
- 1.3 The site lies outside the defined settlement boundary of the saved Local Plan but within the settlement boundary of the emerging Local Plan. The principle of residential development has been accepted by the granting of outline planning permission, which also established the position of the access.
- 1.4 The site – being the eastern third of the outline permission - is accessed from Long Road with 32 dwellings north of the estate road and 68 dwellings to the south. The scheme retains the substantial hedge to the eastern boundary and to the south adjacent to Dead Lane.
- 1.5 The detailed plans comply with the outline requirements, and the usual design parameters (garden sizes, distance between dwellings and level of parking) and the reserved matters are considered acceptable with no material harm to visual or residential amenity, or highway safety.
- 1.6 A legal agreement is required for this application to secure a financial contribution towards Essex Coast Recreational Disturbance and Avoidance and Mitigation Strategy (RAMS).

Recommendation: Approval

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

- a) **Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):**
 - **Financial Contribution of £125.58 per new dwelling towards RAMS**
- b) Subject to the conditions stated in section 8.2
- c) That the Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

2. **Planning Policy**

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

NPPF National Planning Policy Framework 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1	Spatial Strategy
QL2	Promoting Transport Choice
QL3	Minimising and Managing Flood Risk
QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
QL12	Planning Obligations
HG1	Housing Provision
HG3	Residential Development within Defined Settlements
HG3A	Mixed Communities
HG4	Affordable Housing in New Developments
HG6	Dwelling Size and Type
HG7	Residential Densities

HG9	Private Amenity Space
HG14	Side Isolation
COM2	Community Safety
COM4	New Community Facilities (Including Built Sports and Recreation Facilities)
COM6	Provision of Recreational Open Space for New Residential Development
COM21	Light Pollution
COM23	General Pollution
COM26	Contributions to Education Provision
COM29	Utilities
COM31A	Sewerage and Sewage Disposal
EN1	Landscape Character
EN2	Local Green Gaps
EN4	Protection of the Best and Most Versatile Agricultural Land
EN5	Areas of Outstanding Natural Beauty (AONB's)
EN6	Biodiversity
EN6A	Protected Species
EN6B	Habitat Creation
EN11A	Protection of International Sites European Sites and RAMSAR Sites
EN11B	Protection of National Sites SSSI's, National Nature Reserves, Nature Conservation Review Sites, Geological Conservation Review Sites
EN12	Design and Access Statements
EN13	Sustainable Drainage Systems
EN23	Development Within the Proximity of a Listed Building
EN29	Archaeology
TR1A	Development Affecting Highways
TR4	Safeguarding and Improving Public Rights of Way
TR5	Provision for Cycling
TR6	Provision for Public Transport Use

TR7 Vehicle Parking at New Development

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

SP1 Presumption in Favour of Sustainable Development

SP2 Spatial Strategy for North Essex

SP5 Infrastructure & Connectivity

SP6 Place Shaping Principles

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP1 Improving Health and Wellbeing

HP2 Community Facilities

HP3 Green Infrastructure

HP4 Safeguarded Local Greenspace

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP5 Affordable and Council Housing

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL6 Strategic Green Gaps

PPL7 Archaeology

PPL9 Listed Buildings

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

CP3 Improving the Telecommunications Network

Other Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide for Residential and Mixed-Use Areas.

Essex Design Guide (2005)

Urban Place Supplement (2007)

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 full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for

housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

- 2.8 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**

15/30021/PREAPP	Screening Opinion request for mixed use development including community building, school access with drop off and pick up area, village green, parking and residential development (360 dwellings).		06.02.2015
15/00876/OUT	The erection of 360 houses (including Lawford Enterprise Trust Housing), with associated garages on 22.76ha with two vehicular access points, site roads, pedestrian and cycle routes, a new primary school access with off-road pickup and drop-off parking, a community building with public access toilets, a junior camping field, village green, public open space, structural landscaping and playground.	Approved	13.04.2017
17/01527/DETAIL	Reserved matters application with details of appearance, landscaping, layout and scale pursuant to Phase 1 of outline permission (15/00876/OUT) including 120 dwellings, community building with parking, junior camping field, village green, structural landscaping and playground.	Approved	14.03.2018
18/00304/DISCON	Discharge of conditions 3 (Masterplan), 7 (Construction Management Plan), 12 (Surface Water Drainage Scheme), 13 (Foul Water Strategy), 14 (Hard and Soft Landscaping), 16 (Ecological and Management Plan), 17 (Tree Protection	Approved	30.10.2018

	Measures), 19 (Refuse/Storage points, Dwelling External Materials), 20 (construction Management Statement), 21 (Broadband Connection) and 23 (Water, Energy and Resource Efficiency Measures) of approved planning application 15/00876/OUT		
18/00750/DISCON	Discharge of conditions 18 (Archaeology), 22 (Local Recruitment Strategy), 24 (Contamination) of approved planning application 15/00876/OUT.	Approved	02.07.2018
18/01094/DISCON	Discharge of Condition 19 (street lighting) of 15/00876/OUT.	Approved	17.08.2018
18/01548/DISCON	Discharge of condition 7) Construction Management Plan - to approved Planning Application 15/00876/OUT.	Approved	11.02.2019
19/00211/FUL	Re-location of approved electrical substation (retrospective) and parking spaces.	Approved	07.06.2019
19/00274/DISCON	Discharge of Condition 18C (Archaeological Excavation Report) of application 15/00876/OUT.	Approved	28.03.2019
19/00900/DISCON	Discharge of Condition 14 (Landscaping) of application 15/00876/OUT.	Approved	12.07.2019
19/01475/DETAIL	Reserved matters application with details of appearance, landscaping, layout and scale pursuant to Phase 2 of outline permission (15/00876/OUT) including 140 dwellings, associated hardstanding, boundary treatments, landscaping and drainage.	Approved	09.07.2020
19/01498/NMA	Non Material Amendment to approval of 15/00876/OUT for substitution of "Cornelia" house type for "Barbier" house type at plots 86-87, 90-93, 100-101. Proposed substitution of "Cornelia" house type for "Cornelia Variation" housetype at plots 54-57. Change of rear and side elevations, and internal layout to "Alexander" house type at plots 75-79.		04.11.2019
19/01698/DISCON	Discharge of condition 07 (construction Management Plan) 12	Approved	29.05.2020

	(Surface Water Drainage) 13 (Foul Water Strategy) 14 (soft Landscaping) 16 (Ecological mitigation scheme) 18 (Archaeology WSI) 19 (Refuse and external materials) 20 (construction Method Statement) and 24 (Remediation) of planning permission 15/00876/OUT.		
19/01751/DETAIL	Reserved matters application following outline permission 15/00876/OUT - Application to substitute "Cornelia" house type for "Barbier" house type at plots 86-87, 90-93, 100-101 as previously approved by 17/01527/DETAIL. Proposed substitution of "Cornelia" house type for "Cornelia Variation" house type at plots 54-57. Change of rear and side elevations, and internal layout to "Alexander" house type at plots 75-79.	Approved	28.08.2020
20/00178/NMA	Non Material Amendment to approval of 15/00876/OUT for substitution of plots 39, 60 and 81 from "Braithewaite Variation" house type to "Braithewaite" house type. Hand plot 63.	Approved	25.03.2020
20/00458/OUT	Variation of condition 9 of 15/00876/OUT amending the delivery requirement of the spine road before the 201st occupation.	Current	
20/00707/DISCON	Discharge of conditions (phase 3) 12 (Surface Water), 13 (Foul Water), 14 (Landscaping), 16 (Ecology Mitigation), 17 (Tree Protection), 19 (Refuse Collections and Materials Only), (phase 3 and 5) 18 (Archaeology) and 24 (Contamination) of planning permission 15/00876/OUT.	Approved	18.06.2020
20/00773/DISCON	Discharge of conditions (phase 3) 12 (Surface Water), 13 (Foul Water), 14 (Landscaping), 16 (Ecology Mitigation), 17 (Tree Protection), 19 (Refuse Collections and Materials Only), (phase 3 and 5) 18 (Archaeology) and 24 (Contamination) of planning permission 15/00876/OUT.	Current	

4. Consultations

ECC
Highways
11.08.2020

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

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 occupation of any of the proposed development the internal road and footway layout shall be provided in principal and accord with Drawing Number:

- 981s ph3 . I . 004 a Proposed block plan.

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

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

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety and in accordance with Policy DM 1 and 6.

3. The development shall not be occupied until such time as a car parking and turning area has been provided in accord with current Parking Standards. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

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

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

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

5. All single garages should have a minimum internal measurement of 7m x 3m and all double garages should have a minimum internal measurement of 7m x 5.5m.

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8.

6. The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

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

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

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

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

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

Essex Wildlife Trust
17.08.2020

No comments

Tree Landscape Officer
15.06.2020

In order to show the impact of the development proposal on the trees and other vegetation on the application site the applicant has provided a tree survey and report. This information is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations.

The report accurately describes the health, condition and amenity value of the trees and other vegetation on the land. The implementation of the

development proposal will not adversely affect any significant trees but will necessitate the removal of a section of hedgerow.

Taking into account new soft landscaping associated with the development of the land the removal of part of hedgerow will not cause significant long term harm to either the character or appearance of the area.

In terms of new planting the applicant has provided comprehensive and detailed soft landscaping proposals that will both soften and enhance its appearance.

The information provided is sufficient to secure an appropriate level of soft landscaping.

Waste
Management
11.06.2020

Bin collection points to be of adequate size to accommodate 180L wheeled bin, 55 Ltr recycling boxes and 23Ltr food caddy per household. Private drive to be of hard standing construction suitable for the movement of wheeled bins and all access road built to suitable construction to allow access to 23 tonne refuse and recycling vehicles and 26 tonne garden waste vehicle.

ECC SuDS
04.06.2020

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:

- This application does not relate to drainage. However, it should be subject to the drainage conditions put on the application at outline stage.

ECC Ecology
02.09.2020

No objection subject to securing

a. A proportionate financial contribution in line with the Essex Coast RAMS tariff to deliver mitigation measures to avoid adverse effects on the integrity of the Essex Estuaries SAC and the Stour and Orwell SPA and Ramsar

b. mitigation and enhancement measures

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 Badger Survey Report (Geosphere Environmental Limited, November 2019), the Ecological Mitigation and Management Plan (Geosphere Environmental Limited, July 2019) and the Updated Ecological Survey (Geosphere Environmental Limited, June 2019) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

2. PRIOR TO COMMENCEMENT: ADDITIONAL MEASURES FOR BADGERS

"No development shall take place (including any demolition, ground works, site clearance) until a further badger survey and updated mitigation statement has been submitted to and approved in writing by the local planning authority. This further survey shall be undertaken to identify whether any Badger activity has changed since the previous surveys were undertaken and whether further mitigation and/or works are required for badgers during the construction phase. 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 species and allow the LPA to discharge its duties under the Badger Protection Act 1992 and s17 Crime & Disorder Act 1998.

3. PRIOR TO COMMENCEMENT: LANDSCAPE AND ECOLOGICAL MANAGEMENT PLAN

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

The content of the LEMP shall include the following:

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

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

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

5. Representations

- 5.1 Lawford Parish Council – No Objections
- 5.2 No neighbour or third party comments were received.

6. Assessment

Site Context

- 6.1 The host site is on the southern side of Lawford, and forms Phase 3 of outline planning permission, (Ref:15/00876/OUT). Development for the approved outline was split in 3 phases; Phase 1 was the western side of the site; Phase 2 is the central area and Phase 3 is the eastern side.
- 6.2 The entire site is 22.76 ha, Phase 3 is approximately a quarter of this total size (6.3 hectares) encompassing 100 dwellings when completed. Phase 3 is an rectangular shaped parcel of land fronting on to Dead Lane to the south; Long Road is some 120 metres to the north and Bromley Road over 700 metres to the west.
- 6.3 The western boundary of Phase 3 connects with approved Phase 2. The northern edge of the Phase 3 is located some 100 metres south of the existing established residential dwellings on Long Road. Essentially, the Phase 3 red line leaves space (3.4 hectares) in the northern and north eastern section of the site for possible further developments. The red line for Phase 3 also includes space to connect the central access road that runs through the wider outline site to Long Road in the north east corner.
- 6.4 The site lies outside the defined settlement boundary of the saved Local Plan but within the settlement boundary of the emerging Local Plan. The topography of the land is flat and comprises open arable farmland, to the south and east there are associated field boundaries that are marked by hedgerows and trees. A public footpath (No. 12) crosses the Outline site, running from Long Road to Dead Lane and forms the western boundary of Phase 2.
- 6.5 The site is within a Zone of Consideration in relation to a Site of Special Scientific Interest (SSSI) to the north. There is also an Area of Outstanding Natural Beauty (AONB) to the north-west of the site. Although no Listed Building or Conservation Area are affected by the proposal and there are no protected trees on site.
- 6.6 Development on Phase 1 of the site is well underway with approximately 47 units completed with many plots sold and occupied. The western side of the wider outline site therefore now resembles a largely finished new housing development. The eastern side is as yet undeveloped open countryside.
- 6.7 Immediately east of the application site is an expanse of open countryside that has planning approval for the erection of up to 300 dwellings, up to 2 hectares of employment land (A2/A3/B1/D1 uses), with associated public open space and infrastructure, via application (Ref: 15/00761/OUT).

Planning History

- 6.8 The original outline permission (Ref: 15/00876/OUT), included the Reserve Matter 'access'. This confirmed access to the site from both Bromley Road and Long Road. The Long Road access will not be provided until the 201st dwelling is occupied. However, there is a live application (Ref: 20/00458/OUT) that seeks to vary this condition to the 261st occupation.
- 6.9 The remaining Reserve Matters for Phase 3 therefore relate only to appearance, landscaping, layout and scale.
- 6.10 As part on the original outline approval there were 24 planning conditions attached. These were often pre commencement conditions and involving matters such as; an agreed Master Plan, Phasing Schedule, Construction Management details, Landscaping, Lighting, Drainage and various highway related on-site and off-site improvements. Importantly, these conditions related to each separate phase of the development. The conditions cover ground that could be considered by Reserve Matters, such as drainage, tree protection and lighting. Hence a tandem application has been submitted 20/00773/DISCON. However, this Reserve Matters application has to be decided first, due primarily to agreeing to a 'layout' on site.

OUTLINE APPLICATION CONDITIONS 15/00876/OUT		Timing
1	Time Frame	By 13/04/2020
2	Time Frame For Reserved Matters	By 13/04/2022
3	Master Plan	Reserved Matter
4	Reserved Matters	Reserved Matter
5	Land Use Audit	No discharge required
6	Maximum number of dwellings	No discharge required
7	Wheel Cleaning	Prior to Commencement
8	Access Details and Off Site Highway Improvements	Prior to Occupation
9	Off Site Highway Improvements	Prior to 201st Occupation
10	A137 Cox's Hill/Long Road/Wignall Street mini roundabout	Prior to 31st Occupation
11	Residential Travel Information Pack	Prior to Occupation
12	Surface water drainage	Prior to Commencement
13	Foul Water	Prior to Commencement
14	Hard and soft landscaping	Prior to Commencement
15	Replace failed Trees within 5 years	First planting season
16	Ecological Mitigation and Enhancement Plan	Prior to Commencement
17	Tree protection measures	Prior to Commencement
18	Archaeological Investigation	Prior to Commencement
19	Lighting, refuse	Prior to Commencement
20	Construction management plan	Prior to Commencement
21	High Speed Broadband	Prior to Occupation
22	Local Recruitment Strategy	Prior to Commencement
23	Resource efficiency measures	Prior to Commencement
24	Contamination	Prior to Commencement

- 6.11 As mentioned the outline conditions are required for each phase. The applicant has advanced the relevant discharge of the outline conditions, completely in phase 1 and partially in phase 2.
- 6.12 The original outline application was also approved with a signed Section 106 document to secure:
- On-site Council Housing/Affordable Housing (14 Houses 'Gifted' to TDC, these are within Phase 2);
 - Education contribution and/or land for school expansion;
 - Health contribution;
 - Community facilities;
 - Completion and transfer of public open space;
 - Contribution towards off-site traffic management measures at the A137 railway crossing; and
 - Contribution towards monitoring impacts on the Stour Estuary. Access was also considered and approved as part of the outline application
- 6.13 Phase 1 Reserve Matters (Ref: 17/01527/DETAIL), involved 120 dwellings, this was approved on 14/03/2018.
- 6.14 Phase 2 Reserve Matters (Ref: 19/01475/DETAIL), involving 140 dwellings, was approved on 09/07/2020.

Proposal

- 6.15 This is a Reserved Matters application (appearance, landscaping, layout and scale) for phase 3 of the approved outline consent, and consists of the final 100 dwellings of the original outline approval.
- 6.16 The proposed dwellings vary in size from 2-bedroom flats to 5-bedroom homes. Most are 2-storey houses although there are 2 chalet bungalows (known as 'Alexander') and 3 flats over garages, or 'FOGS' (known as 'Ruben'). The proposed mix of housing is as follows:

House Size	No.	Percentage
2 Bed	13	13%
3 Bed	47	47%
4 Bed	40	40%
5 Bed	0	0%
Total	100	100%

Beds	House Type	Sq Ft	No.	Total Sq Ft
2-Bed	Hebe	714	6	4,284
2-Bed	Ruben	762	3	2,286
2-Bed	Amber	802	2	1,604
2-Bed	Grace	833	2	1,666
3-Bed	Constance	872	4	3,488
3-Bed	Barbier	1,064	8	8,512
3-Bed	Damask	1,184	3	3,552
3-Bed	Damask Variation	1,206	8	9,648
3-Bed	Rosemary	1,186	16	18,976
3-Bed	Amelia	1,271	6	7,626

3-Bed	Alexander	1,608	2	3,216
4-Bed	Anna	1,300	6	7,800
4-Bed	Victoria	1,466	8	11,728
4-Bed	Ophelia	1,468	5	7,340
4-Bed	Charlotte	1,626	6	9,756
4-Bed	Cadenza	1,743	5	8,715
4-Bed	Berkeley	1,902	8	15,216
5-Bed	Braithewaite Variation	2,388	2	4,776

- 6.17 This housing mix is very similar to the mix of Phase 2, although it has slightly more 4- bedroom homes and fewer 2-bedroom homes. Most of the dwellings have separate outbuildings, the few that do not have sheds.
- 6.18 The proposal retains the well-established boundary hedges situated along the eastern and southern boundaries, which maintains the simple rural nature of the surroundings and the areas retained for wildlife purposes. The spine road continues through the site and leads upto Long Road. The application proposes 32 dwellings north of the spine road and 68 south of it.
- 6.19 Phase 3 layout leaves space (3.4 hectares) in the northern and north eastern section of the site for possible further development. There is a current separate new outline planning application for up to 76 no. dwellings (Ref: 20/00782/OUT) to decide the outcome of that land.
- 6.20 Officers would point out that in reality the land that was originally allocated for housing that is being 'saved' by the three phases is in fact closer to 1.5 hectares. This is due to the fact that the land either side of the north east corner access from Long Road (approximately 2 hectares) was never originally allocated as a housing area in the Master Plan.

Principle of Development

- 6.21 The principle of residential development and access arrangements have been accepted by the granting of outline planning permission 15/00876/OUT. Issues such as the impact on the village character, highway safety (with off-site improvement works to the roundabout), drainage, archaeology, lighting and land contamination have therefore already been assessed via the outline permission and associated planning conditions.
- 6.22 In terms of appearance and scale, the current proposal reflects closely the Phase 1 and Phase 2 consents. Indeed, the dwelling types proposed are mostly identical. Two new house types are proposed, these are assessed in the sections below.
- 6.23 With regards to layout and landscape, due to the more condensed layout throughout all three phases, there is a deviation away from the original site Masterplan. The proposal provides the opportunity to deviate from the Master Plan if the standards of layout, housing density, residential amenity, parking, landscape, open space and ecology are acceptable.
- 6.24 Therefore, the proposed development needs to comply with the sustainable development objectives of the NPPF, Chapters 11 and 12 in particular. Together with development management policies, QL9 QL10 QL11, HG6, HG7, HG9 and TR7 within the adopted Tendring Local Plan 2007. Within the Emerging Local Plan, SP6, CP1, LP3 and LP4 are important as is

guidance from the Essex County Council Car Parking Standards and the Essex Design Guide (2020). The development is assessed against these policies in the sections below.

Appearance and scale

- 6.25 The residential properties will be of a traditional design which reflects what has already been established through approved Phase 1 and Phase 2. The same house types proposed in this application have also been used in Phases 1 and 2, they are as follows:
- The 'Hebe' – 2 bed - (used in Phase 1)
 - The 'Grace' – 2 bed - (used in Phase 2)
 - The 'Barbier' – 3 bed - (used in Phase 1 and 2)
 - The 'Cornelia' – 3 bed - (used in Phase 1 and 2)
 - The 'Damask' – 3 bed - (used in Phase 1 and 2)
 - The 'Amelia' – 3 bed - (used in Phase 2)
 - The 'Rosemary' – 3 bed - (used in Phase 2)
 - The 'Albertine' – 3 bed - (used in Phase 2)
 - The 'Alexander' – 3 bed - (used in Phase 1 and 2)
 - The 'Charlotte' – 4 bed - (used in Phase 1 and 2)
 - The 'Victoria' – 4 bed - (used in Phase 1 and 2)
 - The 'Ophelia' – 4 bed - (used in Phase 2)
 - The 'Cadenza' – 4 bed - (used in Phase 2)
 - The 'Berkeley' – 4 bed - (used in Phase 2)

 - The 'Grace' – 2 bed – (new)
 - The 'Ruben' – 2 bed – (new)
- 6.26 All of the dwellings are of an attractive design, and are between 2 - 4 bedroom proportions, being terraced, semi-detached and detached houses. Also, there are 2 detached chalets and 3 flats above garages. This represents a suitable housing 'mix'. As these house types have been approved in appearance and scale already on the same site, no objection is raised to their use within Phase 3.
- 6.27 There are two new housing types introduced. Firstly, the 'Amber ', a 2-bedroom house with a relatively wide frontage. Like the 'Grace' its roof design is hipped. The front elevation includes an attractive soldier course above the impressive sash windows, helping to lift the eaves off the window frame and exposing some overhanging eaves detail. The street scene drawings show this house type very much in keeping with the style and appearance of the other dwellings used nearby. Officers have no objection to the scale or appearance of this proposed new house type.
- 6.28 The second new house type is the 'Ruben'. This is a 2-bedroom 'FOG' (Flat Over Garage) and was previously used on the Summers Park development in Lawford (Ref: 14/01050/DETAIL, here it was called a 'Coach House'). The 'Ruben' includes first floor living accommodation above four ground floor parking spaces. The Highways Officer has not objected to the use of these adapted 'carports'. The applicant states, such homes are useful as they can be used to provide passive surveillance of parking areas. This sentiment is often echoed by the Designing Out Crime organisation. Architecturally, the property type has an eaves of 4 m and ridge of 6.75m with side hips to the roof with 4 front facing small pitched dormers. The parking spaces are open fronted. Visually, although new to the development, they reflective of the vernacular and styles used in the wider development and ultimately officers do not object to their appearance or scale.
- 6.29 The proposed materials used on in Phase 3 has been specified, within a 'Materials Plan'. The pallet of materials used is similar to Phases 1 and 2, this will enhance the appearance of the dwellings and will complement the surrounding residential development. The overall appearance

of the dwelling types would appear largely indistinguishable from high quality designs that appear in Phases 1 and 2 and no objection is raised.

- 6.30 Overall, the scale and appearance of the buildings used is very similar to what has been approved in Phase's 1 and 2. The scheme builds upon the successful Phase 1 and 2 proposals and is considered to be compliant with national and local design principles and policies for such new developments.

Layout and Impact on Residential Amenity

- 6.31 Paragraph 127 of the National Planning Policy Framework 2019 states that planning should involve good architecture, layout and landscaping. Policy H7 of the adopted Tendring District Local Plan (2007) states that development should be designed so as to incorporate suitable outdoor amenity space, so as to have no unduly adverse impact on the character of the area or neighbouring residential amenity. Emerging Policy LP3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) supports these objectives.
- 6.32 The layout of the development is important to ensure a suitably spacious arrangement is achieved, especially given the fact that the applicant is attempting to obtain all 360 dwellings on an area approximately 1.5 hectares below the total space originally intended for housing. The layout is also, key to ensure acceptable amenity and parking standards are met.
- 6.33 In terms of density, Condition 5 of the original outline gave a density standard to meet via the 'Land Use Audit', dated 21/01/16. The area labelled as "Character Area 1" (south of the site) on the 'Land Use Audit' gives a guide residential density of 15 dph (dwellings per hectare). The layout proposed has a density of 12.0 dph. "Character Area 2" on the 'Land Use Audit' has a guide density of 21 dph. The layout proposed has a density of 23.8 dph. Therefore, the Southern part of the site, that borders Dead Road and is more noticeable from the public realm, is less densely developed than required. However, the central and northern part of the site is slightly over the target density for the area.
- 6.34 With regards to general layout, approved Condition 3 of the original outline permission agreed a 'Master Plan' for the entire site wide development, showing 'indicative' roadways, areas for housing and open space.
- 6.35 The general layout has altered from the original Masterplan. There are changes to the building layouts from what was first envisaged especially to the south of the site. The loss of some communal green areas within Phase 3 is also disappointing. However, the density to the south of the site is lower than expected. Also, additional open space and a second LEAP was gained in Phase 2, adjacent to Phase 3. Furthermore, open space has been created to the south east corner for the badger's sett, while the excellent green corridor is retained around the borders of the site. These factors help offset the departure somewhat from the original Masterplan. The Landscape Officer has commented in full support of the proposal and the communal soft planting proposals offered forward.
- 6.36 In relation to the gaps between dwellings (side by side), no objection is raised. There is a positive spacious feel between dwellings.
- 6.37 Officers have carefully reviewed the proposed block plan. With regards parking, either two or three open parking spaces are laid out with a separate outbuilding behind. This arrangement closely follows what has been approved within Phases 1 and 2. The County Highways have offered no objections to the parking arrangement. There is space to the front of the open parking spaces given for visitors. On the larger 4/5 bedroom plots this is required for the host dwelling.

However, there is plenty of space achievable for visitors off site. No objections parking grounds is raised.

- Residential Amenity

- 6.38 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 (June 2017) supports these objectives.
- 6.39 There are plot types where the desired 25 metre distance is not fully achieved, for example between 327/ 328 backing onto 325 and 324. Also, between 329 and 354, similarity between 363 and the possible future development to the north. However, these are isolated incidences. Furthermore, the 'angle' of the building line relationships is over 30 degrees, not directly back to back. In such cases the Essex Design Guide allows for wall to wall relationships down to 15 metres on these plots. Further fenestration and layout amendments have also minimised overlooking concerns in these cases.
- 6.40 One area that is not strict controlled by the Essex Design Guide is the issue of outlook. The layout, height and design of the 'FOGS' or 'Ruben' was changed in order to limit their mass, bulk and height for amenity reasons, ie reduce the sense over overbearing / over dominance. Ruben Plot's 341 and 336 are 20 metres from the rear of plots 350 and 351, equally they are approximately 14 metres from the rear of plots 338 and 339. This distance together with the amended relatively narrow hipped roof design makes these Ruben plots acceptable. That conclusion relates also to Ruben plot 335 and the relationship with plot 333 opposite.
- 6.41 Ruben plot 335 is at its closest point 10 metres from the rear of plot 332, extending to 20 metres. Due to the splayed nature of the Ruben layout, position of the fenestration, extended garden size at plot 332 and the Ruben's position in relation to the sun movements. Again, on balance these factors make the relationship acceptable.
- 6.42 The updated Ruben design also includes high level roof lights that do not impact on the amenity of neighbouring properties. Equally, the obscured hallway window overlooks the Ruben garden space. No objection is raised.
- 6.43 With regards to the corner plots where close relationships can take place. Officers have worked with the agent to resolve any significant overlooking concerns via the repositioning of windows and in some cases garages. Revised plans have been received, subsequently there are no objections with regards loss of residential amenity to existing or future owners.
- 6.44 In conclusion, during the course of the application Officers requested a number of changes including the repositioning of windows, the use of obscured glassing and the re positioning of garages on site. The net result of these changes is that all the plots on site have achieved an acceptable level of residential amenity with particular regard to, overlooking, over shadowing, loss of light or over dominance on the shared boundaries.
- 6.45 Overall, the proposed layout does not appear over developed or cramped. The parking standards are met, while the layout respects the residential amenity of neighbouring properties. As such, the layout is deemed to be compliant with local and national design policies.

Landscape

- 6.46 Local Plan Policy EN1 and draft Local Plan Policy PPL3 seeks to protect and limit the potential landscape impacts of new development. While paragraph 175 d) of the NPPF seeks to ensure a 'measurable net gains for biodiversity'.
- 6.47 The Landscape Officer has fully supported the proposal and offered no recommendations for additional or alternative planting. Suds features and lighting have been included throughout the site however are covered by the original outline permission and associated planning conditions.
- 6.48 A Landscape Visual Impact Assessment (LVIA) was produced in support of the Outline application. The key landscape recommendations, as set out in the LVIA, have been incorporated into the design for Phase 3. The deviation from the Masterplan has been discussed above and no objection is raised.
- 6.49 It is noteworthy that the landscaping condition (14) and tree protection condition (17) attached to the Outline (Ref:15/00876/OUT) and Phase 3 consents, requires is a separate discharge of condition application. This application is currently live (Ref: 20/00773/DISCON). The Landscape Officer has offered no objections in this case also.
- 6.50 As such, the development is considered compliant with the aforementioned policy guidance and Officers raise no objection to the development on grounds of landscaping.
- 6.51 Officers would stress however, that part of the 3.4 hectares of land left over in the north east corner has been unaccounted for in landscaping terms. This is essentially the land to the east and west of the entrance spur road from Long Road. This was originally classified within the outline Masterplan to be a 'green space' and offers significant opportunity to further landscape the land either side of the access road into the site. This has not been included within this application as the restricted red line that leads up to Long Road does not give enough space for that additional planting to take place. Ultimately, if the separate outline application for that 'left over' land is not successful, Officers would expect a further application to be submitted within this outline approval (phase 4) to resolve the landscaping in that area.

Ecology

- 6.52 As required by saved Local Plan Policies EN6 and EN6a and draft Local Plan Policy PPL4, the applicant has submitted a variety of technical reports including an Ecological Assessment, bat roost/activity surveys and a bird nesting survey.
- 6.53 The findings of these reports were that most of the hedgerows had considerable gaps, were in decline and showed no signs of recent conservation management. Also, it was recorded that bats were using the field boundaries, particularly those on the western/southern edge of the site as foraging routes.
- 6.54 Therefore, not only should trees and hedgerows along these boundaries be retained and enhanced where possible, but street illumination should be carefully considered so as to not disturb this bat activity.
- 6.55 Survey work also revealed badger setts in the eastern field boundaries. The associated mitigation plans recommended a combination of sett transferal and habitat enhancement. For this reason, there are two areas in the south-eastern corner of Phase 3 that could be used as artificial setts. Furthermore, a buffer is applied to the eastern field hedgerow to allow the continued use of this hedge by badgers.
- 6.56 The ecological proposals have been reviewed by both Essex County Council Ecology and Essex Wildlife Trust. There have been no objections to the proposals and ecological management plans subject to planning condition.

- 6.57 In addition to the above reports, screening opinions as part of a Habitat Regulations Assessment and an Environmental Impact Assessment were submitted as part of the application. The results of these screening opinions were negative, i.e. that the proposal would not require further specific assessment under the Conservation of Habitats and Species Regulations 2010 and could therefore be assessed normally as part of the planning application process.
- 6.58 Overall, there are no objections on ecology grounds subject to planning conditions.

Habitat Regulations Assessment

- 6.59 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.
- 6.60 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 within close proximity to the Stour Estuary Special Protection Area (SPA) and Ramsar. In accordance with Natural England's advice for schemes of over 100 dwellings an Appropriate Assessment has been carried out and both on-site (i.e. circular walking routes) and off-site measures for mitigation are required.
- 6.61 A unilateral undertaking will need to be prepared to secure the off-site financial contributions. This will ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Open Space

- 6.62 The site includes 10% open space provision, which contributes to the overall provision of the entire site and meets the Council's minimum provision. This is largely provided through the perimeter trail.
- 6.63 Phase 3 benefits from open space and play provided within earlier phases, in particular the Locally Equipped Area for Play (LEAP) on the western edge of phase 3. This second LEAP on site is considered well integrated within the site and is served by good east-west and north-south pedestrian and cycle links.
- 6.64 Officers consider that the two LEAPs would provide adequate coverage for the entire site and consider the proposals compliant with Local Plan policies.

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

- 6.65 As established by the Outline Planning Permission 15/00876/OUT, the development requires s106 contributions.
- 6.66 The delivery of these aspects is controlled directly by the s106 agreement and include mainly the community benefits of the scheme, such as the community building, car park, open space, affordable housing and play space. The siting of these aspects is set out in the Site Identification Plan that forms part of the s106.

- 6.67 Schedule 2, (Affordable Housing) of the s106 requires the delivery of affordable housing in 2 tranches – the 120th occupation (8 units) and the 240th occupation (6 units). All 14 units are within Phase 2.
- 6.68 Schedule 3 (Open Space) of the s106 requires the delivery of open space and states "Any open space within a phase should be delivered before 80% occupation of said phase."
- 6.69 There are no other viability updates.

7 Conclusion

- 7.1 Officers believe the proposal is an efficient use of the site that will assist in achieving/maintaining a 5-year Housing Land Supply, and the N.P.P.F requirement to significantly boost the provision of housing land within the district. Any outstanding details relating to Suds, lighting, contamination or archeology have been adequately controlled by the original Outline planning conditions.
- 7.2 This scheme provides a range of housing within landscaped surroundings to create safe, attractive and characterful streets. The appearance does not feel cramped or overdeveloped.
- 7.3 The new homes have good sized private gardens, sufficient off-street parking provision and include capacity for the storage of cycles and refuse. Sustainable drainage infrastructure, such as swales, are utilised to manage surface water runoff and the highways are designed to meet the necessary safety standards and compliment the different character areas of the site.
- 7.4 The landscaped perimeter of the site will provide benefits for local biodiversity, as well as retaining the character of Bromley Road and Dead Lane.
- 7.5 Ultimately, the proposals bring forward much-needed housing in a manner that is considered a sympathetic and high-quality addition to Lawford. The proposal is considered compliant with the parameter plans as set out and approved at Outline stage and subsequent Masterplans.

8 Recommendation

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

CATEGORY	TERMS
Financial contribution towards RAMS.	£125.58 per dwelling

8.2 Conditions and Reasons

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

981s ph3 . I . 026	Grace floor plans and front elevation	Received on	07 Apr 2020
981s ph3 . I . 027	Grace rear and side elevation		07 Apr 2020
981s ph3 . I . 020	Hebe floor plans and front elevation		07 Apr 2020
981s ph3 . I . 021	Hebe rear and side elevation		07 Apr 2020
981s ph3 . I . 028	Constance floor plans and front elevation		07 Apr 2020

981s ph3 . l . 029	Constance rear and side elevation	07 Apr 2020
981s ph3 . l . 030	Constance variation floor plans and front elevation	07 Apr 2020
981s ph3 . l . 031	Constance variation rear and side elevation	07 Apr 2020
981s ph3 . l . 038	Rosemary floor plans and front elevation	07 Apr 2020
981s ph3 . l . 039	Rosemary rear and side elevation	07 Apr 2020
981s ph3 . l . 040 (a)	Amended rosemary side elevation	09 Sep 2020
981s ph3 . l . 041	Amelia floor plans and front elevation	07 Apr 2020
981s ph3 . l . 042	Amelia rear and side elevation	07 Apr 2020
981s ph3 . l . 043	Alexander floor plans and front elevation	07 Apr 2020
981s ph3 . l . 044 (a)	Amended alexander rear and side elevation	09 Sep 2020
981s ph3 . l . 045	Anna floor plans and front elevation	07 Apr 2020
981s ph3 . l . 046	Anna first floor plan and rear elevation	07 Apr 2020
981s ph3 . l . 047 (a)	Amended anna side elevation	09 Sep 2020
981s ph3 . l . 054	Charlotte floor plans and front elevation	07 Apr 2020
981s ph3 . l . 055 (a)	Amended charlotte rear and side elevation	09 Sep 2020
981s ph3 . l . 022 (a)	Amended the ruben floor plans and front elevation	09 Sep 2020
981s ph3 . l . 023 (a)	Amended the ruben side and rear elevation	09 Sep 2020
981s ph3 . l . 050 (a)	Amended the ophelia floor plans and front elevation	09 Sep 2020
981s ph3 . l . 053 (a)	Amended the ophelia (gabled) rear and side elevation	09 Sep 2020
981s ph3 . l . 061 (a)	Amended braithwaite rear and side elevation	09 Sep 2020
981s ph3 . l . 060	Braithwaite variation floor plans and front elevation	07 Apr 2020
981s ph3 . l . 057 (a)	Amended cadenza rear and side elevation	09 Sep 2020
981s ph3 . l . 056	Cadenza floor plans and front elevation	07 Apr 2020
981s ph3 . l . 036 (a)	Amended damask variation floor plans and front elevation	09 Sep 2020
981s ph3 . l . 037 (a)	Amended damask variation rear and side elevation	09 Sep 2020
981s ph3 . l . 051 (a)	Amended the ophelia side and rear elevation	09 Sep 2020
981s ph3 . l . 052 (a)	Amended the ophelia (gabled) floor plans and front elevation	09 Sep 2020
981s ph3 . l . 024	Amber floor plans and front elevation	07 Apr 2020
981s ph3 . l . 025	Amber rear and side elevation	07 Apr 2020
981s ph3 . l . 032	Barbier floor plans and front elevation	07 Apr 2020
981s ph3 . l . 033 (a)	Amended barbier rear and side elevation	09 Sep 2020
981s ph3 . l . 034	Damask floor plans and front elevation	07 Apr 2020
981s ph3 . l . 035 (a)	Amended damask rear and side elevation	09 Sep 2020
981s ph3 . l . 048	Victoria floor plans and front elevation	07 Apr 2020
981s ph3 . l . 049 (a)	Amended victoria side and rear elevation	10 Sep 2020
981s ph3 . l . 058	Berkeley floor plans and front elevation	07 Apr 2020
981s ph3 . l . 059 (a)	Amended berkeley rear and side elevation	09 Sep 2020
981s ph3 . l . 062 a	Outbuildings 1 floor plans and elevations	29 Apr 2020
981s ph3 . l . 063 a	Outbuildings 2 floor plans and elevations	29 Apr 2020
981s ph3 . l . 064	Outbuildings 3 floor plans and elevations	07 Apr 2020
981s ph3 . l . 065	Sub station floor plans and elevations	07 Apr 2020
981s ph3 . l . 006	Hard landscaping plan	07 Apr 2020
981s ph3 . l . 006 (b)	Amended roads hard landscaping	11 Sep 2020
19/163-01 b	Amended detailed hard and soft landscaping	11 Sep 2020
19/163-02 b	Amended detailed hard and soft landscaping	11 Sep 2020
19/163-03 b	Amended detailed hard and soft landscaping	11 Sep 2020
19/163-04 b	Amended detailed hard and soft landscaping	11 Sep 2020
19/163-05 b	Amended detailed hard and soft landscaping	11 Sep 2020
19/163-06 b	Amended detailed hard and soft landscaping	11 Sep 2020
981s ph3 . l . 008 (b)	Amended private hard landscaping	09 Sep 2020
981s ph3 . l . 009 (b)	Amended private hard landscaping	09 Sep 2020
981s ph3 . l . 004 (d)	Amended house type key	11 Sep 2020
981s ph3 . l . 005 (c)	Amended materials key	11 Sep 2020

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

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

- 981s ph3 . I . 004 d Proposed site layout / Amended house type key

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

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

Reason - To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety and in accordance with Policy DM 1 and 6.

4. The development shall not be occupied until such time as a car parking and turning area has been provided in accord with current Parking Standards. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

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

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

Reason - To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

6. All single garages should have a minimum internal measurement of 7m x 3m and all double garages should have a minimum internal measurement of 7m x 5.5m.

Reason - To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8.

7. Prior to occupation of the development, those properties without an outbuilding or garage in Phase 3 of the hereby approved development shall be provided with Cycle parking in accordance with the EPOA Parking Standards. The details of the cycle parking arrangements proposed shall be submitted to and agreed in writing by the Local Planning Department before their first installation.

The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason - To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

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

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

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

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

10. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Badger Survey Report (Geosphere Environmental Limited, November 2019), the Ecological Mitigation and Management Plan (Geosphere Environmental Limited, July 2019) and the Updated Ecological Survey (Geosphere Environmental Limited, June 2019) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

11. No development shall take place (including any demolition, ground works, site clearance) until a further badger survey and updated mitigation statement has been submitted to and approved in writing by the local planning authority. This further survey shall be undertaken to identify whether any Badger activity has changed since the previous surveys were undertaken and whether further mitigation and/or works are required for badgers during the construction phase. 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 species and allow the LPA to discharge its duties under the Badger Protection Act 1992 and s17 Crime & Disorder Act 1998.

12. A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior occupation of the development.
- The content of the LEMP shall include the following:
- a) Description and evaluation of features to be managed.
 - b) Ecological trends and constraints on site that might influence management.
 - c) Aims and objectives of management.
 - d) Appropriate management options for achieving aims and objectives.
 - e) Prescriptions for management actions.
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).

- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

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

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

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) or the details provided within approved plans, 981s ph3 . I . 037 (a) Amended damask variation rear and side elevation, received on 09 Sep 2020. The proposed first floor rear W.C window and rear hallway window on plot 291 shall be glazed with obscure glass with a degree of obscurity equivalent to Pilkington level 5 and shall be permanently maintained thereafter as obscure glazed.

Reason - To safeguard the amenities of the adjoining premises from overlooking and loss of privacy.

8.3 Informatives

Positive and Proactive Statement

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

Legal Agreement Informative - 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

1: Prior to occupation, the development shall be served by a system of operational street lighting (excludes the shared surface areas) of design approved from the Highway Authority along the Primary route, which shall thereafter be maintained in good repair.

2: General note: areas where there is no footway being provided adjacent to the carriageway and the intention is for these areas to be adopted a half a metre 'no build zone' will need to be

provided and hard surfaced.

3: The areas directly adjacent to the carriageway(s) in which the trees are to be planted should not be less than 3 metres wide, exclusive of the footway and the trunks of the trees should be no nearer than 2 metres to the channel line of the road. The same dimensions should be used in situations where the footway is located adjacent to the carriageway.

In paved areas, whether or not the planted areas are to be adopted highway, trees should be sited no closer than 2 metres to the defined (or undefined) edge of the carriageway. Where the adopted highway is to be an independent path, trees should be planted no closer than 1 metre from the edge of the highway. In all cases, trees should be provided with root barriers to prevent damage to underground services.

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

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

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

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

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

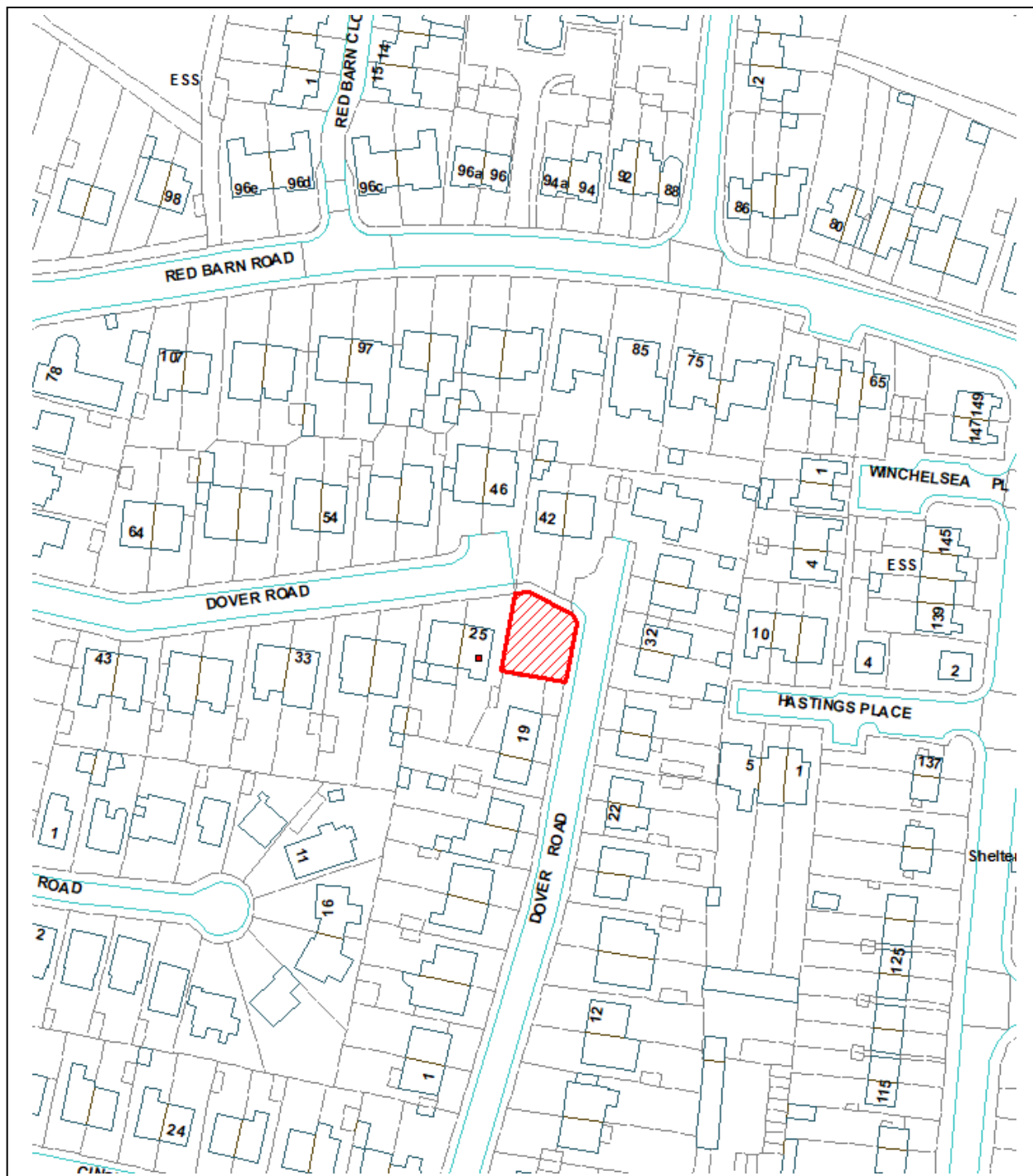
- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

22ND SEPTEMBER 2020

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.4 PLANNING APPLICATION – 20/00473/OUT – LAND ADJACENT 25 DOVER ROAD, BRIGHTLINGSEA, CO7 0PS

DO NOT SCALE

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Application: 20/00473/OUT

Town / Parish: Brightlingsea Town Council

Applicant: Tendring District Council

Address: Land adjacent 25 Dover Road, Brightlingsea, CO7 0PS

Development: Outline permission for 1 detached dwelling (all matters reserved).

1. **Executive Summary**

- 1.1 This application is before Members as the application is being made by Tendring District Council.
- 1.2 The application relates to a parcel of land approximately 0.03 hectares in size located to the land adjacent to number 25 Dover Road, Brightlingsea.
- 1.3 The application seeks outline planning permission with all matters reserved for the erection of 1 detached dwelling.
- 1.4 On the 18th January 2019 it was corporately agreed by the Portfolio Holder for Finance and Corporate Resources to initiate the process to dispose of the land and to explore the opportunity to develop the land asset for 1 dwelling in order to support local housing provision. This disposal is part of the Council's land rationalisation project.
- 1.5 The site lies within the Brightlingsea Settlement Development Boundary as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017. As such the principle of siting 1 dwelling on this land is acceptable subject to the detailed considerations.
- 1.6 The site is not safeguarded open space within either the adopted or emerging Local Plans and is surrounded by existing housing; the site has limited visual amenity value being devoid of any soft landscaping; and the site has limited recreational value lacking any street furniture. The amenity and recreational value of the land is therefore limited and its re-development for 1 dwelling is not considered to result in any significant harm.
- 1.7 The plot size is considered sufficient to accommodate 1 dwelling in a manner which would not result in a cramped development providing sufficient private amenity space and parking for both dwellings, as demonstrated by the accompanying indicative layout plan. The proposed development would appear in keeping with the existing pattern of development and would not result in any significant harm to the character of the area.
- 1.8 The application is accompanied by a completed unilateral undertaking securing the financial contribution toward recreational disturbance in accordance with the Essex coast Recreational disturbance Avoidance and Mitigation Strategy and a financial contribution towards public open space.
- 1.9 Officers consider that sufficient space is available on site to provide a development that, through the submission of a reserved matters application, could achieve a development that would not detract from the character of the area or harm residential amenities. The application is therefore recommended for approval.

Recommendation: Outline Approval

Subject to the conditions stated in section 8.2.

A legal agreement has been completed to account for contributions towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) and a contribution towards public open space.

2. Planning Policy

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

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1	Spatial Strategy
QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
HG1	Housing Provision
HG3	Residential Development Within Defined Settlements
HG9	Private Amenity Space
HG14	Side Isolation
TR1A	Development Affecting Highways
TR7	Vehicle Parking at New Development
COM6	Provision of Recreational Open Space for New Residential Development
EN6	Biodiversity
EN11A	Protection of International Sites European Sites and RAMSAR Sites
<i>Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)</i>	
SP1	Presumption in Favour of Sustainable Development
SPL1	Managing Growth
SPL2	Settlement Development Boundaries
LP3	Housing Density and Standards

LP4	Housing Layout
CP1	Sustainable Transport and Accessibility
PPL4	Biodiversity and Geodiversity
HP5	Open Space, Sports & Recreation Facilities
LP1	Housing Supply

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

- 2.2 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.
- 2.3 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018, with further hearing sessions in January 2020. The Inspector issued his findings in respect of the legal compliance and soundness of the Section 1 Plan in May 2020. He confirmed that the plan was legally compliant and that the housing and employment targets for each of the North Essex Authorities, including Tendring, were sound. However, he has recommended that for the plan to proceed to adoption, modifications will be required – including the removal of two of the three Garden Communities 'Garden Communities' proposed along the A120 (to the West of Braintree and on the Colchester/Braintree Border) that were designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033.
- 2.4 The three North Essex Authorities are currently considering the Inspector's advice and the implications of such modifications with a view to agreeing a way forward for the Local Plan. With the Local Plan requiring modifications which, in due course, will be the subject of consultation on their own right, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications – increasing with each stage of the plan-making process.
- 2.5 The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will progress once modifications to the Section 1 have been consulted upon and agreed by the Inspector. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.
- 2.6 In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is

not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF (which applies until such time that the figures in the new Local Plan are adopted).

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

3. **Relevant Planning History**

None relevant.

4. **Consultations**

ECC Highways Dept
05.06.2020

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

Prior to first occupation of the proposed development, the proposed vehicular access shall be constructed at right angles to the highway boundary and to a width of 3.7 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.
Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

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 and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

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

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

Any garage provided with its vehicular door facing the highway or proposed highway, shall be sited a minimum of 6m from the highway boundary.

Reason: To ensure that the vehicle to be garaged may be left standing clear of the highway whilst the garage door is opened and closed, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that development, of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport in accordance with Policy DM 1 and 9 of the Highway Authority's Development Management Policies February 2011.

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

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

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Informative1: The indicative off street parking arrangement shown in Block Plan Drawing Numbered 1A

shows a parking space constrained by structures, the width of this parking space, if confirmed in the FULL application, should be shown at no less than 3.4m in width to enable pedestrian circulatory space around a parked vehicle.

Informative2: 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 Brightlingsea Town Council have been consulted on this application and have reserved their comments until the detailed planning application is received.
- 5.2 6 letters have been received objecting to the development raising the following concerns:
- Overlooking and loss of privacy for surrounding dwellings
 - Negative impact on property values
 - Amenity land used for recreational activities
 - Lack of public open space for residents
 - Increase in vehicular traffic as a result of development
 - Loss of privacy and view
 - Loss of light for existing surrounding properties
 - Overdevelopment
 - Increasing pressure on local amenities such as schools, doctors surgeries and transport infrastructure
 - Loss of privacy looking into front bedroom windows

6. Assessment

- 6.1 The main considerations are;
- Site Context;
 - Description of Proposal;
 - Site History;
 - Principle of Development;
 - Landscaping and Loss of Open Space;
 - Scale, Layout and Appearance;
 - Residential Amenities;
 - Highway Safety and Parking;

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

Site Context

- 6.2 The application relates to a parcel of land approximately 0.03 hectares in size located land adjacent 25 Dover Road, Brightlingsea.
- 6.3 The site occupies a corner plot fronting Dover Road to the east and to the north is a public footpath which links Dover Road to Dover Road. The residential character is mixed comprising both single and one and a half storey dwellings.
- 6.4 The site has an open frontage and comprises mowed grassland bounded by the rear and side boundaries of existing residential dwellings and their gardens.

Description of Proposal

- 6.5 The application seeks outline planning permission with all matters reserved for the erection of 1 detached dwelling.
- 6.6 Layout, scale, appearance, access and landscaping are all reserved for future consideration.
- 6.7 The application is accompanied by an indicative layout plan demonstrating how the site could be developed with the dwelling fronting Dover Road with a private garden and 2 parking spaces.

Site History

- 6.8 The site forms part of a small development of 7 dwellings along the Dover Road built in late 1970s on a former farm land. The plot was transferred to TDC in 1977 by the local developer together with a sum of money to be used as an amenity area.
- 6.9 The site did not form part of the Tendring Open Spaces Strategy carried out in 2007 as the site falls under 0.2 hectares. The plot does not form part of a green corridor and is too small to constitute as recreational open space on its own merit. Consequently, the site is not designated or protected open space within either the adopted or emerging Local Plans.
- 6.10 On the 18th January 2019 it was corporately agreed by the Portfolio Holder for Finance and Corporate Resources to initiate the process to dispose of the land and to explore the opportunity to develop the land asset for 1 dwelling in order to support local housing provision. This disposal is part of the Council's land rationalisation project.

Principle of Development

- 6.11 The site lies within the Brightlingsea Settlement Development Boundary as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 6.12 Saved Policy HG3 of the adopted Local Plan deals with residential development within defined settlements stating that, within the defined development boundaries of towns and villages, residential development will be permitted provided it satisfies amenity, design, density, environmental and highway safety as appropriate, and can take place without material harm to the character of the local area. Emerging Policy SPL2 states that within the Settlement Development Boundaries, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local plan policies.

- 6.13 As such the principle of siting 1 dwelling on this land is acceptable subject to the detailed considerations relevant to this proposal set out below.

Landscaping and Loss of Open Space

- 6.14 The site is set to grass and does not contain any trees or other significant vegetation. There is scrubby vegetation on the western boundary including a small Laurel. None of the vegetation on the site merits retention or protection by means of a tree preservation order. The site is not safeguarded open space within either the adopted or emerging Local Plans.
- 6.15 In terms of the impact of the development on the local street scene, the loss of the open space would visually detract from the current 'open' character of the area to some extent. At the present time the open space does not appear to be well used but it does have the potential to provide recreational benefits for local residents.
- 6.16 The application site is located approximately 364 metres away from Bayard Recreation Ground, Regent Road, Brightlingsea which is within walking distance of the safeguarded green space.
- 6.17 Details of soft landscaping would be secured at the reserved matters stage of the application softening and enhancing the development.
- 6.18 Whilst the benefits of the site in its current form are recognised, the site is not safeguarded open space within either the adopted or emerging Local Plans and is surrounded by housing; the site has limited visual amenity value being devoid of any soft landscaping; and the site has limited recreational value lacking of any street furniture. The amenity and recreational value of the land is therefore limited and its re-development for 1 dwelling is not considered to result in any significant harm that warrants refusal of planning permission on this basis.

Scale, Layout and Appearance

- 6.19 Paragraph 8 of the NPPF sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment including making effective use of land. Paragraph 127 of the NPPF states that developments should function well, should add to the overall quality of the area, are visually attractive as a result of good architecture and layout and are sympathetic to local character. Saved Policies QL9, QL10 and QL11 of the adopted Tendring District Local Plan (2007) seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Emerging Plan. Saved Policy HG14 requires a minimum of 1 metre side isolation between dwellings.
- 6.20 The plot size is considered sufficient to accommodate 1 dwelling in a manner which would not result in a cramped development providing sufficient private amenity space and parking for both dwellings, as demonstrated by the accompanying indicative layout plan. The proposed development would appear in keeping with the existing pattern of development and would not result in any significant harm to the character of the area.

Residential Amenities

- 6.21 Paragraph 127 of the NPPF states that planning should always seek to secure a good standard of amenity for all existing and future occupants. In addition, Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria, development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties. Emerging Policy SPL3 of the Tendring District Local

Plan 2013-2033 and Beyond Publication Draft (2017) supports these objectives supports these objectives.

- 6.22 Although scale forms a reserved matter, given the predominant bungalow nature of the site's surroundings and due to the relationship of the site with the side and rear garden areas of existing dwellings and their windows, a condition will be imposed to ensure that the proposed dwelling is single storey to reduce any impact upon neighbouring amenities.
- 6.23 Overall, officers consider that sufficient space is available on site to provide a development that, through the submission of a reserved matters application, could achieve internal layout and separation distances that would not significantly detract from the amenities of nearby properties or the future occupiers of the proposed dwellings; and could provide ample garden space in excess of the minimum standards set out within Saved Policy HG9 of the adopted Tendring District Local Plan (2007).

Highway Safety and Parking

- 6.24 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.
- 6.25 The Council's Adopted Parking Standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally.
- 6.26 The application is in outline form with all matters reserved. It is considered that the site is capable of accommodating the required level of parking and the submitted indicative plan demonstrates this. The additional traffic movements associated with 1 dwelling would not be excessive and therefore not harmful to highway safety.
- 6.27 Essex County Council as the Highway Authority has been consulted on the application and raise no objection to the development subject to conditions which will be imposed or added as informative's as required having regard to the access considerations forming a reserved matter.

Legal Obligations - Recreational Impact Mitigation

- 6.28 Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation), within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings.
- 6.29 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.
- 6.30 The application scheme proposes new dwellings on a site that lies within the Zone of Influence (Zoi) being approximately 1.4 km from the Colne Estuary SPA and Ramsar and Essex Estuaries SAC. New housing development within the Zoi would be likely to increase the number of

recreational visitors to the Colne Estuary and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

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

Legal Obligations - Open Space/Play Space Contribution

- 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". These sentiments are carried forward within emerging Policy HP5.
- 6.34 There is currently a deficit of -13.68 hectares of play and formal open space in Brightlingsea. There are two play spaces in Brightlingsea, a Local Area for Play and Skate Park at Promenade Way, Brightlingsea and a Local Equipped Area for Play at Regent Road Recreation Ground, Brightlingsea. This is 0.2 miles from the proposed development.
- 6.35 Due to the overall deficit with in Brightlingsea a contribution towards increasing the play facilities is relevant and justified to the planning application. Any contribution will be used towards providing new play equipment at the nearest play area Bayards Rec Ground, Regents Road.
- 6.36 A completed unilateral undertaking has been received securing this financial obligation in accordance with the above-mentioned policies.

7. Conclusion

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

8. Recommendation

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

CATEGORY	TERMS
	£125.58 per dwelling

Financial contribution towards RAMS.	
Open Space Contribution	New play equipment at Bayards Recreation Ground, Regents Road, Brightlingsea

8.2 Conditions and Reasons

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

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

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

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

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

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

4. Prior to the commencement of development, a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The Construction Method Statement shall provide for:

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

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

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

5. No above ground works shall take place until a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved

by the Local Planning Authority. The approved boundary treatment shall be implemented before the dwellings hereby permitted are occupied and retained in this approved form unless otherwise agreed in writing by the Local Planning Authority.

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

6. Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Classes A, B, C and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), there shall be no additions or alterations to the dwelling or its roof, nor shall any buildings, enclosures, swimming or other pool be erected except in accordance with drawings showing the design and siting of such additions and/or building(s) which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - In the interests of residential amenities.

7. All new parking areas and areas of hardstanding shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area within the site.

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

8. The dwelling hereby permitted shall be single storey only.

Reason - In the interests of visual amenity having regard to the character of Dover Road and in order to minimise the visual impact of the development on the open countryside beyond.

8.3 Informatives

Positive and Proactive Statement

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

Legal Agreement Informative - Recreational Impact Mitigation

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

Legal Agreement Informative - Open Space/Play Space Contribution

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: Public Open Space financial contribution in accordance with Policy COM6 of the adopted Tendring District Local Plan (2007) and Policy HP5 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Highways Informatives

The indicative off street parking arrangement shown in Block Plan Drawing Numbered 1A shows a parking space constrained by structures, the width of this parking space, if confirmed in the FULL application, should be shown at no less than 3.4m in width to enable pedestrian circulatory space around a parked vehicle.

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

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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By virtue of paragraph(s) 5 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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