



## PLANNING COMMITTEE

**DATE:** Tuesday, 20 October 2020  
**TIME:** 6.00 pm  
**VENUE:** Meeting will be held in accordance with provisions of SI 2020/392. Live Stream of meeting can be viewed via <https://www.tendringdc.gov.uk/livemeetings>

### MEMBERSHIP:

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

Most Council meetings are open to the public and press.

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

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

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

DATE OF PUBLICATION: Monday, 12 October 2020

## AGENDA

### **1 Apologies for Absence and Substitutions**

The Committee is asked to note any apologies for absence and substitutions received from Members.

### **2 Minutes of the Last Meeting (Pages 1 - 2)**

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Tuesday 6 October 2020.

### **3 Declarations of Interest**

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

### **4 Questions on Notice pursuant to Council Procedure Rule 38**

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

### **5 A.1 - PLANNING APPLICATION - 19/01706/OUT - LAND SOUTH WEST OF HORSLEY CROSS ROUNDABOUT CLACTON ROAD HORSLEY CROSS CO11 2NZ (Pages 3 - 42)**

As Members will recall, this application was reported to Planning Committee on 14 July 2020, wherein it was resolved to approve the application subject to a suite of planning conditions. Subsequent to this resolution the applicant and agent (in discussions with their legal advisors) have advised that they would like to enter into a Section 106 Agreement to address the issue of skylark plots on land outside of the application site (land under the same current land ownership but beyond the 'red line' application boundaries).

### **6 A.2 - PLANNING APPLICATION - 20/00194/FUL - LAND NORTH WEST OF REDHOUSE FARM OAKLEY ROAD WIX MANNINGTREE CO11 2SF (Pages 43 - 76)**

This application has been referred to Planning Committee at the request of Councillor Bush due to concerns relating to: the nature of the proposal being a substantial industrial process, rather than a typical agricultural facility; failure to satisfy Policy EN1 in that the design and size of the development would create an adverse visual impact on the surrounding countryside and rural landscape; highway access is unsuitable; the substantial quantities of chicken waste and odour together with a risk to water pollution would adversely impact on public amenity; minimal contribution to the local economy; lack of social benefits; number of traffic movements from a significant distance would generate substantial carbon emissions in relation to an environmental role; and, dis-benefits with economic, social and environmental roles lead to the development not being sustainable development.

**7**     **A.3 - PLANNING APPLICATION - 20/00239/FUL - GROUND FLOOR 1 LANSWOOD PARK BROOMFIELD ROAD ELMSTEAD COLCHESTER (Pages 77 - 130)**

This application was removed from the agenda before Planning Committee on 22nd September to enable comments to be received from the Gardens Trust following the recent addition of Beth Chattos Gardens to Historic England's Register of Parks and Gardens of Special Historic Interest in England. The gardens are listed at Grade II. Comments have now been received from the Gardens Trust and amendments to the original report are in italics.

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.

**8**     **A.4 - PLANNING APPLICATION - 20/00458/OUT - LAND EAST OF BROMLEY ROAD LAWFORD CO11 2HS (Pages 131 - 160)**

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 the variation of Condition 9 of the original planning approval. This deals with the provision and timeframe for the access from the site onto Long Road.

In accordance with Members' request, the current submission has been brought to Planning Committee seeking consent with regard to the delaying the provision of access onto Long Road from the 201st occupation on site (56% of the total dwellings on site) to the 261st occupation on site (73% of the total dwellings on site).

**9**     **A.5 - PLANNING APPLICATION - 20/00537/FUL - CLACTON LEISURE CENTRE, VISTA ROAD, CLACTON ON SEA, CO15 6DB (Pages 161 - 182)**

This application is before the Planning Committee due to Tendring District Council's ownership of the application site.

The proposals relate to the replacement and refurbishment of the Artificial Grass Pitch (AGP) facility at Clacton Leisure Centre and would deliver an enhanced playing facility, with better qualities, in a suitable location. It would give rise to a considerable benefit to the wider community through the provision of an enhanced playing facility and the continued opportunity for usage throughout the year. Moreover, the proposed AGP would make a significant contribution towards addressing the unmet demand for modern football facilities in the District.

**10 Exemption from 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 11 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.”

**11 Approval of Exempt Minutes of the Committee held on Tuesday 22 September and Tuesday 6 October 2020 (Pages 183 - 188)**

**LAND TO THE NORTH OF ST JOHNS ROAD CLACTON ON SEA PUBLIC INQUIRY - LEGAL ADVICE UPDATE**

This matter was brought before the Planning Committee on Tuesday 22 September 2020, 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).

This matter was also brought before the Planning Committee on Tuesday 6 October 2020, as an urgent item, in order to meet the Planning Appeal timetable relating to the current Public Inquiry pertaining to the refusal of application 18/01777/FUL St Johns Road, Clacton on Sea (St Johns Road Nursery).

**MEETING OVERRUN DATE**

**In the event that all business is not concluded, the meeting will reconvene on A date to be considered but 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, 17 November 2020.*

# Tendring District Council



## PLANNING COMMITTEE MEETINGS PUBLIC SPEAKING SCHEME May 2017

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

### TO WHICH MEETINGS DOES THIS SCHEME APPLY?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

You can:-

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

## **OR**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This page is intentionally left blank

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,  
HELD ON TUESDAY, 6TH OCTOBER, 2020 AT 6.00 PM**

<b>Present:</b>	Councillors White (Chairman), Bray (Vice-Chairman), Alexander, Cawthron, Codling, Harris and Placey
<b>Also Present:</b>	Robin Green (Barrister), Greg Jones (Highways Consultant)
<b>In Attendance:</b>	Graham Nourse (Assistant Director (Planning)), Lisa Hastings (Assistant Director (Governance) & Monitoring Officer), Keith Durran (Democratic Services Officer), Hattie Dawson-Dragisic (Apprentice (Democratic Services & Elections)) and Emma Haward (Leadership Support Assistant)

**53. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies were received from Councillors Casey and Fowler. There were no substitutions.

**54. DECLARATIONS OF INTEREST**

There were none.

**55. EXEMPTION OF PRESS AND PUBLIC**

Following discussion by the Committee, it was proposed by Councillor Bray, seconded by Councillor Alexander and **RESOLVED** 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 4 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.

**56. LAND TO THE NORTH OF ST JOHNS ROAD CLACTON ON SEA PUBLIC INQUIRY - LEGAL ADVICE UPDATE**

This matter had originally been brought before Planning Committee at its previous meeting held on 22nd September, 2020.

At that meeting the Committee had decided not to defend reason for refusal 3 (Loss of Privacy) at the forthcoming Public Inquiry, but had requested that additional consideration be given to defending the highway reasons for refusal, in particular matters relating to junction capacity, assessment of the May 2017 Jacobs study which had informed the Local Plan process, accident data and further consideration of whether adequate visibility splays had been considered.

The Council's highways consultant Greg Jones (i-Transport) had now updated his previous assessment note, taking into account matters raised by the Committee and this updated note had been circulated to Members prior to the meeting.

Councillor Bray raised particular concerns that although the Committee was advised by Planning Officers, it was not qualified to make a decision on this matter. Lisa Hastings, (Head of Governance and Legal Services), advised Members that they were required to make an informed decision.

Following discussion by the Committee, it was proposed by Councillor Harris, seconded by Councillor Bray and unanimously **RESOLVED** that -

1. the Planning Committee notes the summary legal advice received from external Counsel and the Councils Highway consultant;
2. in light of the clear legal and highways advice the Planning Committee confirms that it does not wish to continue defending ground 3 of the reasons for refusal (highways);
3. Officers be instructed to work with Counsel to defend the planning appeal on the grounds of reasons 1, 2, 4 and 5; and
4. a member of the Planning Committee gives evidence on behalf of the Committee regarding the grounds of refusal if required.

The meeting was declared closed at 8.00 pm

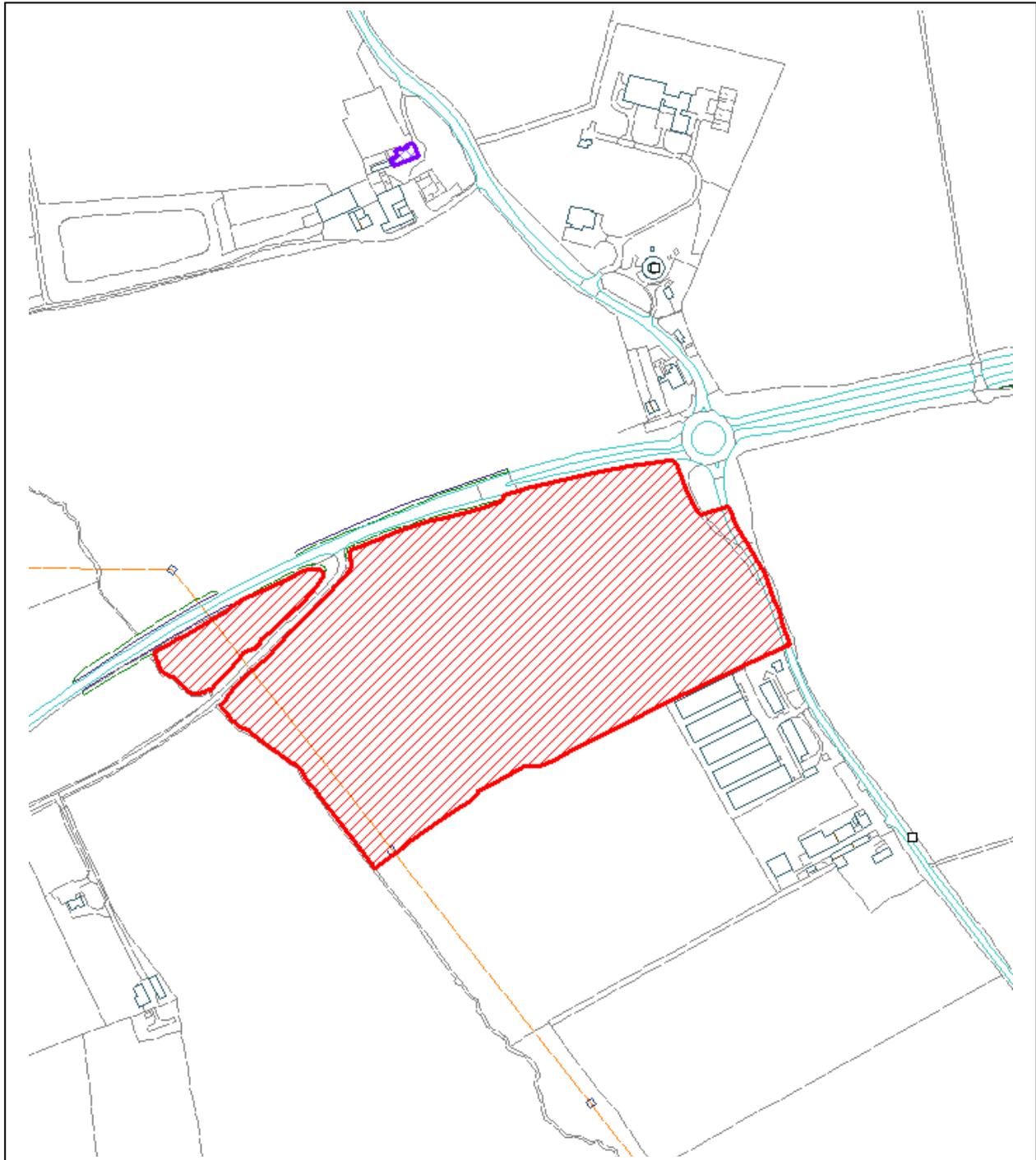
**Chairman**

## PLANNING COMMITTEE

20<sup>th</sup> OCTOBER 2020

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

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



DO NOT SCALE

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

**Application:** 19/01706/OUT

**Town / Parish:** Mistley Parish Council

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

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

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

## 1. Executive Summary

- 1.1 As Members will recall, this application was reported to Planning Committee on 14 July 2020, wherein it was resolved to approve the application subject to a suite of planning conditions. Subsequent to this resolution the applicant and agent (in discussions with their legal advisors) have advised that they would like to enter into a Section 106 Agreement to address the issue of skylark plots on land outside of the application site (land under the same current land ownership but beyond the 'red line' application boundaries).
- 1.2 Whilst condition 33 of the previous recommendation is not specific to the requirement for the off-site skylark plots, by inference it is required as it forms part of the mitigation measures set out in the submitted Ecological Assessment referred to in the condition. The condition reads as follows:

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

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

- 1.3 In addition, paragraph 6.38 of the earlier Committee Report (repeated below), states the following and includes reference to the skylark plots (bold highlights below):

*"The planning application submission has included an Ecological Assessment which confirms that an extended phase 1 habitat survey of the site was carried out in late 2018 alongside dedicated protected species surveys (i.e. reptiles, wintering and breeding birds, bats, water vole and otter) that were carried out in 2019. Whilst the report confirms that the current proposals are unlikely to affect bats as boundary trees are to be retained, the proposal will affect habitat suitable for reptiles, birds and water vole. A triangular parcel of land north of the site consisting of improved grassland provides a potential receptor site for reptiles found on site whilst the creation of an attenuation basin and surrounding grassland is taking place. The creation of the basin and grassland will improve the on-site habitat for reptiles, as will the creation of a landscape bund along the northern boundary of the site. **It will be possible to mitigate for one skylark territory on site with mitigation for the remaining four territories***

***being provided through eight skylark plots create in off-site arable fields. A mitigation licence will be required from Natural England to allow for the installation of a headwall into the bank of the adjacent 'Holland Brook' (on the western boundary of the site) to be carried out lawfully.***

- 1.4 The S106 Agreement is in an agreed form and will be completed following any resolution to support the amended recommendation at Committee.
- 1.5 The applicant and agent (in discussions with their legal advisors) have also reviewed the proposed suite of planning conditions and are seeking some amendments which provide a degree of flexibility to recognise the phased approach to the delivery of the site. The approved conditions cover the whole site and do not provide this degree of flexibility.
- 1.6 The proposed changes to the planning conditions are considered both acceptable and reasonable, providing the same level of controls but recognising that this site will in all likelihood be delivered in two distinct phases.
- 1.7 The proposed changes to the planning conditions are shown in bold text within Section 8.2 of this report.
- 1.8 In terms of the application more generally, it relates to a site which is approximately 11.2 ha and is presently open agricultural land, with part of the site having been used for weekly car boot sales during March to October. It is in a rural area in the centre of the District and to the immediate south west of the A120/B1035 roundabout at Horsley Cross. Colchester is about 8 miles to the west and Harwich is about 9 miles to the east.
- 1.9 An 'extant' consent for outline planning permission (13/00745/OUT) on the site was approved by the Council on 4 August 2014 (with subsequent approval of reserved matters and Certificate of Lawfulness applications to confirm commencement of works) for *“Development of site to provide a new industrial park with up to 28,280m<sup>2</sup> of floorspace for B2 and B8 uses, a bus depot and 30m high telecommunications mast. All with associated access, landscaping, parking and highway improvements”*.
- 1.10 The development of the land will result in harm to the character and appearance of the countryside. However, with sensitive design of the buildings and careful use of 'bundling' and soft landscaping the development could result in the creation of iconic structures in a prominent setting. The development layout shows the retention of boundary trees, they are not threatened by the development proposal and their physical protection during the construction phase of any development, that may be granted planning permission, can be secured by conditions.
- 1.11 With respect to ecology, provided the avoidance, mitigation, compensation and enhancement measures described in the submitted Ecology Assessment are implemented, then there will be no residual effects significant at a local level or above and the scheme should result in a net gain in biodiversity. The development proposals are unlikely to have any significant effect on statutory or non-statutory designated sites.
- 1.12 ECC Highways and Highways England raise no objections to the application subject to appropriate mitigation measures.
- 1.13 ECC Public Transportation Team are satisfied that with rigorous planning conditions to address the provision of a bespoke minibus service, alongside the provision of a workplace travel plan, that the scheme will deliver an appropriate level of sustainable transport measures to address the relatively isolated nature of the site from a public transportation perspective.

- 1.14 The lawful commencement of works on the existing consented scheme - which keeps that 'extant' - and the submission of this current application with a known end-user for the 'Phase 1' component of the site, indicates that there is now a realistic prospect of business activity on the site and it is hoped that this will be the economic catalyst for 'Phase 2' which will bring new businesses into the Tendring area.
- 1.15 The proposal would result in no material harm to interests of acknowledged importance and would facilitate substantial economic development within the District. As per the previous recommendation to the July Planning Committee and the subsequent Committee resolution to approve, officers continue to recommend approval, subject to the list of updated planning conditions and the completion of a Section 106 Agreement.

### **Recommendation: Outline 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:**
- **skylark plots on land outside of the application site**
- 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 (NPPF)*

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

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

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

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

- 2.5 These dimensions have to be considered together and not in isolation. The NPPF requires Local Planning Authorities to positively seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. Where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits.
- 2.6 Paragraph 38 of the NPPF states *“Local Planning Authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.”*

National Planning Practice Guidance (PPG)

- 2.7 The PPG provides additional planning guidance from Central Government on a range of issues, including, but not limited to: Air Quality; Climate Change; Design, Flood Risk & Coastal Change; Light Pollution; Natural Environment; Noise and Travel Plans; Transport Assessments and Statements.

**Status of the Local Plan**

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

2.12 The following Local Planning Policies are relevant to this planning application:

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

Relevant policies include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Relevant policies include:

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

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

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

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

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

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

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

*Supplementary Guidance*

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

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

### 3. Relevant Planning History

06/00891/OUT	Use of agricultural land for employment purposes by formation of seven plots and the erection of buildings to enable relocation and expansion of existing businesses in North East Tendring District. (one in Colchester)	Called in by Secretary of State – Appeal Dismissed	29.03.2007 18.11.2008
13/00745/OUT	Development of site to provide a new industrial park with up to 28,280m <sup>2</sup> of floorspace for B2 and B8 uses, a bus depot and 30m high telecommunications mast. All with associated access, landscaping, parking and highway improvements.	Approved	04.08.2014
14/01296/DETAIL	Erection of 30m telecommunications mast.	Approved	01.12.2014
17/01310/DETAIL	Submission of reserved matters pursuant to outline planning permission 13/00745/OUT with details pursuant to Conditions 1 (appearance, landscaping, layout and scale), 3 (Strategic Phasing Plan), 4 (Design Code), 5 (phasing arrangements), 6 (levels), in part 7 (external materials), in part 12 (roundabout), 15 (landscaping), 18 (loading, turning and parking) and in part Schedule 7 (details of an air quality monitoring programme) of Legal Agreement for the development of the site to provide a new industrial park for B2 and B8 uses.	Approved	04.05.2018
19/00002/EIASC	Proposed construction of nine industrial, storage and distribution (Class B1(c), B2 and B8) buildings, together with associated access, car parking, landscaping and drainage pond.	Closed	14.01.2019
19/01706/OUT	Outline planning application for employment development, comprising Phase 1 for 15,350 sqm of B2 development rising to a maximum building height of 21.7m and Phase 2 for up to 18,117 sqm of B1c / B2 and B8 uses rising to a maximum building height of 12m,	Current	

together with associated access, landscaping, parking and drainage pond.

19/01898/DISCON	Discharge of conditions 11 (wheel cleaning) and 21(dust management) for approved application 13/00745/OUT, and condition 2 (Construction Method Statement) for approved application 14/01296/DETAIL.	Approved	07.02.2020
19/01899/LUPROP	This certificate seeks to confirm that the outline planning permission granted on 4 August 2014 granted under reference 13/00745/OUT permitting the following development will be lawfully implemented by construction the base to a telecommunications mast in accordance with the approved drawings 66-2014-01P; 66-2014-02P and 66-2014-03P: Development of site to provide a new industrial park with up to 28,280 m2 of floorspace for B2 and B8 uses, a bus depot and 30m high telecommunications mast. All with associated access, landscaping, parking and highway improvements.	Approved	11.03.2020
20/00023/S106A	Formal application to modify a Section 106 Planning Obligation for planning permission 13/00745/OUT.	Agreed	
20/00538/LUPROP	Certificate of Lawfulness confirming that continued and future development of the site under the following planning permission would be lawful following its lawful implementation. Planning permission dated 4 August 2014, granted under reference 13/00745/OUT, involving "Development of site to provide a new industrial park with up to 28,280 m2 of floorspace for B2 and B8 uses, a bus depot and 30m high telecommunications mast. All with associated access, landscaping, parking and highway improvements".	Approved	15.06.2020
20/00556/LUPROP	The Application seeks a Certificate	Withdrawn	08.06.2020

of Lawfulness confirming that continued and future development of the site under the following planning permission would be lawful following its lawful implementation. Planning permission dated 4 August 2014, granted under reference 13/00745/OUT, involving "Development of site to provide a new industrial park with up to 28,280 m<sup>2</sup> of floorspace for B2 and B8 uses, a bus depot and 30m high telecommunications mast. All with associated access, landscaping, parking and highway improvements".

#### **4. Consultations**

Essex County Council Archaeology  
09.12.2019

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

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

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

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

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

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

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

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

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

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

Further Recommendations:

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

Essex Wildlife Trust

No comments received

Environment Agency

No comments received

Environmental Protection

No comments received

ECC Highways Dept  
17.06.2020

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

13/0745/OUT and 17/01310/DETAIL were recommended for approval therefore the conclusions of the Highway Authority are as follows:

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

Prior to commencement:

- (1) No development shall take place until the following have been provided or completed:

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

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

Reason: In the interests of highway safety and efficiency.

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

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

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

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

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

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

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

timetable information.

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

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

(4) From first occupation of Phase 1 of the development the occupier will provide a minibus/private taxi service for staff as follows:

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

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

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

- operating Monday to Friday at main shift changeover patterns;
- catchment will include but not restricted to towns/villages of Brantham, Manningtree, Mistley, and Lawford;
- pick up points will be flexible depending on the home

location of staff using the service;

- for the first six months of occupation of each respective building at Phase 2 the service would be free to staff of that building. Staff will then be charged to use the service but as a subsidised rate, no greater than the comparable local bus fare;

- the minibus provision will be regularly promoted to all employees on the whole site as part of their commitment to active and sustainable travel, via their company's individual travel plans;

- the extended service will be operated from first occupation of Phase 2 for a period of up to five years after first occupation of Phase 2 on this subsidised basis;

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

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

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

(6) The provision of a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

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

(7) There shall be no discharge of surface water onto the Highway.

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

(8) The vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning area shall always be retained in this form. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8.

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

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

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

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

The above requirements should be imposed by way of negative planning conditions or a planning obligation and ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

NOTES:

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

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

Informative:

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

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

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

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

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

Highways England  
22.01.2020

Offer no objection

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

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

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

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

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

ECC Schools Service  
20.02.2020

ECC's Developer Guide is currently being reviewed and the Council's current approach to assessing employment sites is likely to be amended. With that in mind, ECC will not be pursuing a contribution toward EY&C provision for this development.

Waste Management  
17.12.2019

No comments.

Tree & Landscape Officer  
16.12.2019

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

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

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

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

Whilst at the Pre- application stage it was suggested that it would be necessary for the applicant to provide a tree survey and report to show the impact of the development

proposal on the trees on the land. However the development layout shows the retention of boundary trees. Therefore the trees are not threatened by the development proposal and their physical protection during the construction phase of any development, that may be granted planning permission, can be secured as a reserved matter.

Sections 2.2 and 3.2 of the Design and Access Statement describe the soft landscaping strategy for the whole site and the area immediately around the EDME building. In principle the strategy sections of the Design and Access Statement are acceptable and a detailed soft landscaping scheme should be secured as a reserved matter.

Anglian Water Services Ltd

No comments received.

Network Planner - UK Power Networks

No comments received.

Health and Safety Executive

No comments received.

Natural England  
20.12.2019

No objection

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

European sites

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

Sites of Special Scientific Interest

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

Arch. Liaison Off, Essex Police

No comments received.

Royal Society For The Protection of Birds

No comments received.

H M Explosives Inspectorate  
16.12.2019

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

Cadent Gas Limited

No comments received.

ECC SuDS

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

#### Condition 1

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

- Limiting discharge rates to 6.6l/s for the entire site as shown in drawing number 0110, revision P04 for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change. All relevant permissions to discharge from the site into any outfall should be demonstrated.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA

#### Reason

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

#### Condition 2

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

subsequently be implemented as approved.

#### Reason

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

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

#### Condition 3

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

#### INFORMATIVES:

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

## 5. Representations

- 5.1 Mistley Parish Council - At the Parish Council's Planning Committee Meeting held on 5 December 2019 it was recommended that the application be approved as they would wish to encourage more employment in the area.
- 5.2 Tendring Parish Council supports the overall development of the site as it will bring welcome employment to the area, particularly as the site expands beyond the initial EDME production plant. There are however four areas of concern that they would ask the committee to consider in setting any conditions associated with the proposal, should the vote be to approve the application.
- 5.3 The first area of concern relates to **light pollution**. Horsley Cross is a very dark part of the countryside, with only limited lighting from around the roundabout on the A120. The very open nature of the surrounding countryside would mean that any artificial light emitted from the site would be visible for many miles across open fields. TPC therefore request that any on-site lighting must be of a design which projects the light downwards, to minimise light pollution.  
*(Officer comment: this is controlled by way of proposed **condition 10** which will require submission of a written scheme of illumination)*
- 5.4 The second point relates to **traffic** and is in two parts - traffic volumes heading toward the A120 roundabout and restriction of HGVs from the site travelling through Tendring village. On that second point, I note that the application has a traffic report that states (as is obvious really) that the vast majority of HGV movements will be to the A120 and then west. Any HGV traffic that did turn right would end up at Thorpe Green, as the two wise-roads that lead down from Tendring toward the A133 have 17 tonne limits.
- 5.5 Regarding the A120 roundabout, it can be difficult to get from the B1035 onto that at peak times - but more so still after a ferry has docked at Harwich. I note Essex Highways have no concerns but I would ask whether consideration could be given to a left filter lane from the B1035 onto the A120, to aid these movements (much like has been introduced on the A120 slip to join the A133 near Frating).  
*(Officer comment: Both Highways England and County Highways have thoroughly assessed the applicants Transport Assessment and are satisfied that from a highway and transportation perspective the impact of the proposal is acceptable. In terms of the Horsley Cross roundabout, specifically, Highways England has confirmed that the development is not expected to significantly impact the strategic road network (A120), including the Horsley Cross roundabout).*
- 5.6 Thirdly, it is well-known that the EDME processing gives off a fairly strong aroma from its current site. It would be good to have a planning condition that requires as much as possible to be done to minimise the **aroma emissions** from the new plant as the wind can carry that a long way.  
*(Officer comment: Proposed planning condition 36 below seeks to control aromas).*
- 5.7 Finally, we have a concern about **visual appearance**. I know from attending the presentation EDME gave last year that the largest building is set at the lowest point of land to minimise its impact. However it would be good if a condition would be considered that makes the exterior colour of buildings on the site less stark, as 21m is a very tall building for this part of the countryside - and it is also a building with a very large footprint, unlike the nearby Horsley Cross water tower.  
*(Officer comment: this is controlled by way of proposed **condition 7** which requires precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in the construction of each phase of the development)*

- 5.8 1 letter of objection has been received raising matters including: Impact on traffic as there is already a high flow of heavy traffic on the Horsely Cross roundabout/A120 which will have an impact on the surrounding roads and visitors via the Harwich ferry route. There are too many near miss accidents on the roundabout. Parking of proposed workers could have a detrimental impact on local residents. Already we have too many people parking, leaving their cars and going for hours. We have a serious issue going in & out of our road and safety road markings have worn.

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

## **6 Assessment**

### Site Context

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

### Proposal

- 6.5 The proposals represent a revised version of extant planning permissions for an industrial park on this site, which as stated above was originally granted outline planning permission in 2014.
- 6.6 The application seeks outline planning permission for the following development proposals:

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

- 6.7 The 'Phase 1' development will involve delivering a building for EDME (Class B2), a successful food processing company, employing 55 staff on its existing site at any one time. EDME currently occupy a 1.4 hectare (3.5 acre) site in Mistley which is operating close to capacity and with certain constraints caused by the layout, age and upkeep requirements of the existing buildings, which are all located in a Conservation Area and some of which are listed.
- 6.8 In terms of re-locating to Horsley Cross (which will keep EDME within Tendring) the applicant's Planning Statement states:  
*"EDME must relocate in order to remain competitive and continue to grow a sustainable business. It is proposed to relocate to Horsley Cross, the only sustainable location that has been found in the local area. Horsley Cross lies in arguably the best cereal growing region of Britain which significantly contributes to minimising food-miles. The proposed site has the benefit of the existing permissions which permit an industrial led development....Relocating EDME to the Horsley Cross site has great advantages, due to its proximity to the existing EDME site. Staff could be easily relocated. The site is also well located for access to the strategic road network and ports."*
- 6.9 The planning statement also adds that:  
*"Apart from the very clear business need for EDME to relocate to the site, this would also release the existing EDME site for residential led development in line with Policy LMM1 – Mistley Urban Regeneration Area in the 2007 Local Plan and Policy SAMU1 'Development at EDME Maltings, Mistley' of the Tendring District Council's emerging Local Plan."*
- 6.10 The 'Phase 2' development would involve a mixture of B1c (light industrial), B2 (industrial) and B8 (storage and distribution) uses as may be agreed through reserved matters up to a maximum floor space of 18,117sqm. It is proposed that no more than 25% of the overall site area will be for B8 uses.
- 6.11 In terms of **building heights**, the EDME building would be up to 17m high, with around 10% rising to a maximum height of 21.7m. This building height is required in order to accommodate the necessary food production equipment. There is a fall of approximately 15m between the entrance of the site (eastern boundary) and the western boundary and the EDME building has been positioned on the west side of the site, in order to minimise any visual impacts.
- 6.12 The proposed buildings located on the east side (Phase 2) will be up to 10m in height on the north side and up to 12m on the south side. This matches the heights proposed in the 'extant' planning permission for the site.
- 6.13 **Access** to the site would be gained from the B1035, located to the east of the site. Access would be via a new roundabout, similar to that proposed in the consented scheme.
- 6.14 In terms of Phase 1 of the development and to specifically meet the needs of EDME, HGV **parking** for 12 vehicles and 78 cars is proposed (including disabled provision). During pre-application discussions officers asked for a plan showing how the external areas around the EDME building could be re-worked in the event of EDME ever leaving the site and other B2 uses taking over this section of the site. This detail is included in the submitted Design & Access Statement and shows how parking could be provided in accordance with parking standards for B2 development. The car parking proposed is less than this, because it is based on the specific employee and visitor numbers for the EDME business.
- 6.15 In relation to Phase 2 of the development, car parking will be provided in accordance with the Council's car parking standards. The total parking provision will be dependent upon the overall mix of B1(c), B2 or B8 uses.

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

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

#### Principle of Development

6.17 The principle of development in the location proposed, as well as the access thereto, has already been established through the grant of outline planning permission (13/00745/OUT) and the approval of 'Reserved Matters' through planning application ref. 17/01310/DETAIL on 4 May 2018 (these approvals have subsequently been kept 'extant' through the discharging of planning conditions and submission of Lawful Development Certificate applications to both confirm that the base to a telecommunications mast (forming part of the outline approval) could lawfully be implemented (ref. 19/01899/LUPROP, approved 13 March 2020) and subsequently followed up by a Certificate of Lawfulness application to confirm that these works had been carried out and as such confirming that continued and future development of the site under planning approval 13/00745/OUT can be lawfully implemented (ref. 20/00538/LUPROP, approved 15 June 2020).

6.18 Whilst the grant of permission was a departure from the adopted Local Plan, the proposal was considered in a positive light, particularly bearing in mind the significant potential to deliver new employment opportunities on a site with good access to the A120. The report to Planning Committee on 4 February 2014 considered the following:

- National and Local Plan Policy;
- Highways and transport issues and sustainability;
- Design principles and landscape impact;
- Nature conservation, flood risk and heritage issues; and
- S106 planning obligations.

6.19 The site had been allocated in the 2012 draft of the emerging Local Plan in recognition of the need for employment and the limited supply of commercially attractive sites elsewhere in the District. These factors were considered to outweigh concerns raised at the time over the site's location in the open countryside, some distance from established centres of population. Although the promoters of the development at the time of the outline application had indicated that there had been significant business interest in the site, clearly the development has not been implemented to date.

6.20 The Council's evidence on employment land prepared in support of the new Local Plan, the 2016 Employment Land Review, recommended that the site should not be carried forward into the Local Plan because no transactions with businesses had progressed, the site remained unserviced and had a number of constraints, primarily in relation to sustainability and infrastructure that brought the viability of future development into question. The site no longer features therefore as an employment allocation in the emerging Local Plan.

6.21 However, the lawful commencement of works on the existing consented scheme - which keeps that 'extant' - and the submission of this current application with a known end-user for the 'Phase 1' component of the site, indicates that there is now a realistic prospect of business activity on the site and it is hoped that this will be the economic catalyst for 'Phase 2' which will

bring new businesses into the Tendring area. Officers have therefore approached the application positively, working with the applicants to ensure that the development can proceed smoothly and the economic and employment benefits of the development can be realised. This stance is supported by the NPPF which in paragraph 20 states that to help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.

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

#### Highways & Access

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

#### Sustainable Transportation

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

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

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

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

#### Landscaping/Visual Impacts

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

of the successful integration and assimilation of the EDME building into its setting and will need to be carried forward into Phase 2 of the development.

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

#### Ecology/Biodiversity

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

#### Drainage

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

#### Archaeology

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

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

## 7 Conclusion

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

## 8 Recommendation

8.1 The Planning Committee is recommended to grant planning permission subject to the following amended 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
Provision of skylark plots on land outside of the application site	

### 8.2 Conditions and Reasons

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

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

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

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

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

- i. Surface and foul water drainage strategy incorporating Sustainable Urban Drainage systems and attenuation methods;
- ii. **Strategic** biodiversity enhancements and landscaping works; and
- iii. The order in which the phases are to be developed.

The development shall be carried out in accordance with the details of the Strategic Phasing Plan as approved **unless otherwise agreed in writing by the Local Planning Authority or through discharge of conditions pursuant to this permission.**

Reason - To ensure that the scheme is brought forward in a timely and comprehensive manner in the interests of proper planning and to ensure a satisfactory relationship

between the various components of the development and between the site and adjoining land.

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

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

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

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

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

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

6. Details of the existing and proposed ground levels of each phase of the development (as approved within the Strategic Phasing Plan referred to in Condition 3) including the finished floor levels; eaves levels; and ridge heights and details of all areas of cut and fill (including details of the importation and exportation of any materials) shall be submitted to the Local Planning Authority. No development within the phase that the details relate to shall begin until those details have been approved in writing by the Local Planning Authority. No building shall be occupied (whether in whole or in part) **in the relevant phase** until all the works to implement the approved details have been fully completed.

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

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

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

8. No building on the Phase 1 site shall exceed 21.7 metres in height (**save for the boiler house flue which may be up to 59.3m in height**) and no building on the Phase 2 site shall exceed 12 metres, as measured from the finished site levels immediately adjacent to the building to which it relates.

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

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

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

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

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

11. No part of the development shall be occupied until the roundabout on the B1035 to provide access to the proposal site has been completed to accord with the scheme illustrated by drawing no. **Highway Layout Plan 3203 02 RA** along with any speed management measures required by the Highway Authority details of which shall have first been submitted to and approved in writing by the Local Planning Authority.

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

12. No development shall take place **on a phase** until the following have been provided or completed **for that phase**:

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

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

Reason - In the interests of highway safety and efficiency.

13. No occupation of the development shall take place until the following have been provided or completed:
- The highway works as shown in principle on Proposed Highway layout plan drawing no. 3203 02 RA, dated 13 September 2019.
  - A 2-metre wide footway on both sides of Clacton Road on the north side of the proposed roundabout including relocation/ replacement of electricity poles/ lighting, road signs, removal of redundant kerbing and replacement with upstand kerb, tactile paving and footway and any associated drainage works.
  - 2x2m footway on the north side of the proposed roundabout as shown in principal on drawing no. 3203 02 RA.

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

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

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

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

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

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

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

17. No occupation of any phase of the development shall take place prior to the submission of a workplace travel plan to the Local Planning Authority for approval in consultation with Essex County Council **for that phase**. 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 **unless otherwise agreed in writing by the Local Planning Authority as part of the approved travel plan**.

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

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

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

19. From first occupation of Phase 2 of the development the occupier(s) will provide a private transport service for employees using minibus private hire taxi or other vehicles or services to transport staff to or from the **Phase 2** development as follows:
- operating Monday to Friday at main shift changeover patterns and or at times when the maximum number of staff arrive at or leave the development site;
  - the staff pick up drop off catchment will include but is not restricted to towns/villages of Brantham, Manningtree, Mistley, and Lawford;
  - pick up and drop of points will be flexible depending on the home location of staff using the service;
  - for the first six months of occupation of each respective building at Phase 2 the service shall be free to staff based in that building. Staff may then be charged to use the service but as a subsidised rate, no greater than the comparable local bus fare;
  - the private transport service provision shall be regularly promoted to all employees on the whole site as part of the occupants commitment to active and sustainable travel, via the occupants individual travel plans;
  - the service shall continue on a subsidised basis for a period of five years unless Essex County Council acting reasonably on the basis of the monitoring conclude there is insufficient staff demand for the service, the

service will then operate on a commercial basis with no subsidy at the end of the 5-year period; and

- the service will be first monitored six months after occupation, with further monitoring occurring annually on the anniversary of site occupation for a period of five years. This monitoring is to be provided to Essex County Council as local highway authority as part of the Travel Plan monitoring. The monitoring will provide relevant statistical information such as the number of staff using the service, reasons why staff who live in the catchment do not use the service, details of any issues with the provision of the service.

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

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

Reason - In order to ensure that the development is sustainable for its lifetime in accordance with Policy MLM6 of the Tendring District Local Plan: Pre Submission Focussed Changes 2014 and because Class B1 office uses are defined as 'town centre uses' by the National Planning Policy Framework (**February 2019**) and the accompanying National Planning Policy Guidance: Ensuring the Vitality Viability of Town Centres (March 2014).

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

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

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

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

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

Reason - To protect highway efficiency of movement and safety.

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

Reason - To protect highway efficiency of movement and safety.

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

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

26. Full written details of areas for the storage of refuse and/or other waste for each phase of the development (as approved within the Strategic Phasing Plan referred to in Condition 3) shall be submitted to and approved by the Local Planning Authority prior to the implementation of the phase of the development to which the details relate. The said areas and details as so approved shall be provided before the first occupation of each building within each phase and shall thereafter be retained as such at all times.

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

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

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

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

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

29. No works except demolition shall take place until a detailed surface water drainage scheme for the **phase**, 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 **for that phase**. The scheme should include but not be limited to:

- Limiting discharge rates to 6.6l/s for the entire site as shown in drawing number 0110, revision P04 for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change. All relevant permissions to discharge from the site into any outfall should be demonstrated.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation **of that phase**. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA

Reason -

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

30. No works shall take place **on a phase** 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 **for that phase**. The scheme shall subsequently be implemented as approved.

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

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

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

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

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

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

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

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

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

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

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

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

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

- 35. In conjunction with the submission of the first of the reserved matters for each phase, a strategic phase plan identifying the following elements of the development and the timing of their provision shall be submitted to and approved in writing by the Local Planning Authority for that phase:**
- i. Technical design details and timing of a temporary site access (if applicable) for the construction phases of the development;**
  - ii. Earthworks and changes in existing ground levels including details of the volumes of any materials that are to be exported from or imported to the site;**
  - iii. The provision of utilities;**
  - iv. Internal access ways; estate roads; parking and servicing areas.**

**The development on each phase shall be carried out in accordance with the details of the strategic phase plan as approved unless otherwise agreed in writing by the Local Planning Authority or through discharge of conditions pursuant to this permission.**

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

- 36 No development shall commence within each phase until full written details of measures to control odours, including extraction systems, within that phase have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.**

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

### 8.3 Informatives

#### Positive and Proactive Statement

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

#### Other Informatives

1. Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to [suds@essex.gov.uk](mailto:suds@essex.gov.uk).
2. Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.

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

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

5. Conditions 13 and 14 requires a Legal Agreement between the Applicant/Developer and the Highway Authority using the powers in Section 278 of the Highways Act, 1980.

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

7. All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

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

## **9. Additional Considerations**

### Public Sector Equality Duty (PSED)

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

- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

#### Human Rights

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

#### Finance Implications

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

### **10. Background Papers**

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

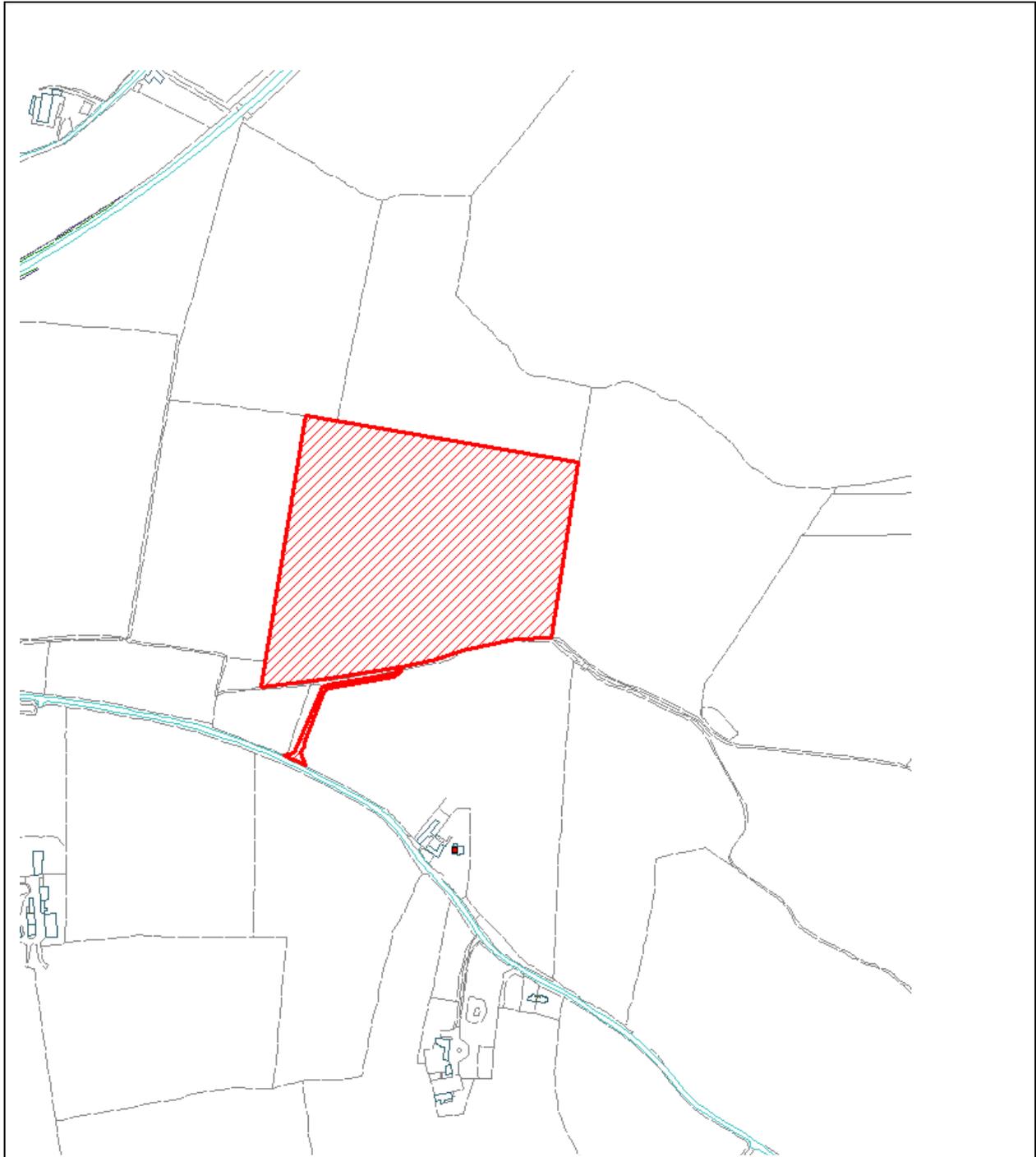
This page is intentionally left blank

## PLANNING COMMITTEE

20 OCTOBER 2020

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### **A.2 PLANNING APPLICATION – 20/00194/FUL – LAND NORTH WEST OF REDHOUSE FARM OAKLEY ROAD WIX MANNINGTREE CO11 2SF**



DO NOT SCALE

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

**Application:** 20/00194/FUL

**Town / Parish:** Wix Parish Council

**Applicant:** Mr Adam Brown - A H Brown Farms

**Address:** Land North West of Redhouse Farm Oakley Road Wix Manningtree CO11 2SF

**Development:** Proposed erection of 2 No. agricultural buildings for poultry production together with associated infrastructure and a new highway access to Oakley Road.

## 1. Executive Summary

- 1.1 This application has been referred to Planning Committee at the request of Councillor Bush due to concerns relating to: the nature of the proposal being a substantial industrial process, rather than a typical agricultural facility; failure to satisfy Policy EN1 in that the design and size of the development would create an adverse visual impact on the surrounding countryside and rural landscape; highway access is unsuitable; the substantial quantities of chicken waste and odour together with a risk to water pollution would adversely impact on public amenity; minimal contribution to the local economy; lack of social benefits; number of traffic movements from a significant distance would generate substantial carbon emissions in relation to an environmental role; and, dis-benefits with economic, social and environmental roles lead to the development not being sustainable development.
- 1.2 In the simplest of terms the application is for two buildings to raise broiler chickens. A new vehicular access would be created to the buildings and there would be associated structures including silos, plant room outbuilding, water tank structures, gas tanks and a gate house outbuilding. The main buildings would be to an identical design and have a typical agricultural building appearance; being of a steel portal construction covered by olive green coloured polyester coated profiled sheeting except for the plinth to the walls, some 0.5m in height, of pre-formed concrete.
- 1.3 The site is in a rural locality, between the settlements of Wix and Great Oakley, within the parish of Wix. Although set within open countryside, the site is at a position which is not prominent in the landscape and the proposals include landscaping works. The proposal is in planning terms considered to be an agricultural use within an agricultural area.

### **Recommendation: Full Approval**

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

- a) the conditions stated in section 8.2.

## **2. Planning Policy**

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

*NPPF National Planning Policy Framework February 2019*

*National Planning Practice Guidance*

*Tendring District Local Plan 2007*

- QL3 Minimising and Managing Flood Risk
- QL9 Design of New Development
- QL11 Environmental Impacts and Compatibility of Uses
- EN1 Landscape Character
- EN6 Biodiversity
- EN16 Agricultural and Related Development
- EN23 Development Within the Proximity of a Listed Building
- TR1A Development Affecting Highways

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

- SPL3 Sustainable Design
- PP13 The Rural Economy
- PPL3 The Rural Landscape
- PPL5 Water Conservation, Drainage and Sewerage
- PPL9 Listed Buildings
- CP1 Sustainable Transport and Accessibility

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

*Tendring Landscape Character Assessment*

*Essex Farm Buildings (1994)*

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

2.2 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

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

### 3. Relevant Planning History

18/30245/PREAPP	Proposed poultry farm comprising no.2 poultry buildings with associated feed bins, hardstandings, access road and a new highway access to Oakley Road.	29.01.2019
-----------------	--	------------

### 4. Consultations

ECC SuDS Consultee  
15.06.2020

Lead Local Flood Authority position

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

Condition 1

No works except demolition shall 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:

- 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 and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.
- Limiting discharge rates to matched Greenfield runoff rates based on the provision of Long Term Storage for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- Demonstrate that all storage features can half empty within 24 hours for the 1:30 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- 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.

#### Condition 2

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

## Reason

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

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

## Condition 3

Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

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

## Reason

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

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

## Condition 4

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

## Reason

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

## Advisory Comments:

- Typically the flow control for attenuation storage is below the flow control for Long Term Storage, but in this instance it is the other way around. Typically we would have expected the complex flow control to have been set up as 1.9 l/s, 3.7 l/s and 4.8 + 1.5 l/s for the 1 in 2yr, 1 in 30yr and 1 in 100yr +CC Return Period's respectively as long term storage is designed for the 1 in 100yr Return Period.

Any questions raised within this response should be directed to the applicant and the response should be provided to the LLFA for further consideration. If you are minded to approve the application contrary to this advice, we request that you contact us to allow further discussion and/or representations from us.

## Summary of Flood Risk Responsibilities for your Council

We have not considered the following issues as part of this planning application as they are not within our direct remit; nevertheless these are all very important considerations for managing flood risk for this development, and determining the safety and acceptability of the proposal. Prior to deciding this application you should give due consideration to the issue(s) below. It may be that you need to consult relevant experts outside your planning team.

- Sequential Test in relation to fluvial flood risk;
- Safety of people (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements);
- Safety of the building;
- Flood recovery measures (including flood proofing and other building level resistance and resilience measures);
- Sustainability of the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

Please see Appendix 1 at the end of this letter with more information on the flood risk responsibilities for your council.

## INFORMATIVES:

- Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to [suds@essex.gov.uk](mailto:suds@essex.gov.uk).
- Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
- It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.
- The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.
- We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.

#### Appendix 1 - Flood Risk responsibilities for your Council

The following paragraphs provide guidance to assist you in determining matters which are your responsibility to consider.

- Safety of People (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements)

You need to be satisfied that the proposed procedures will ensure the safety of future occupants of the development. In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise LPAs formally consider the emergency planning and rescue implications of new development in

making their decisions.

We do not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals as we do not carry out these roles during a flood.

- Flood recovery measures (including flood proofing and other building level resistance and resilience measures)

We recommend that consideration is given to the use of flood proofing measures to reduce the impact of flooding when it occurs. Both flood resilience and resistance measures can be used for flood proofing.

Flood resilient buildings are designed to reduce the consequences of flooding and speed up recovery from the effects of flooding; flood resistant construction can help prevent or minimise the amount of water entering a building. The National Planning Policy Framework confirms that resilient construction is favoured as it can be achieved more consistently and is less likely to encourage occupants to remain in buildings that could be at risk of rapid inundation.

Flood proofing measures include barriers on ground floor doors, windows and access points and bringing in electrical services into the building at a high level so that plugs are located above possible flood levels. Consultation with your building control department is recommended when determining if flood proofing measures are effective.

Further information can be found in the Department for Communities and Local Government publications 'Preparing for Floods' and 'Improving the flood performance of new buildings'.

- Sustainability of the development

The purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF recognises the key role that the planning system plays in helping to mitigate and adapt to the impacts of climate change, taking full account of flood risk and coastal change; this includes minimising vulnerability and providing resilience to these impacts. In making your decision on this planning application we advise you consider the sustainability of the development over its lifetime.

ECC Highways Dept  
10.08.2020

The information that was submitted in association with the application has been fully considered by the Highway Authority. Additional information was requested and provided by the applicant in relation to swept path analysis and on-site investigations around accessibility for the Harwich Road/ Oakley Road junction, therefore:

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

1. 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. No occupation of the development shall take place until the following have been provided or completed:
  - a) A priority junction off Oakley Road to provide access to the proposed site as shown in principle on planning application, amended viability and access plan drawing number: 21314-03 a.
  - b) Kerb radii measuring 15 metres.
  - c) No unbound material shall be used in the surface treatment of the vehicular access within 30 metres of the highway boundary.

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

3. Prior to occupation of the development, the road junction / access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 4.5 metres by 160 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between

vehicles using the road junction / access and those in the existing public highway in the interest of highway safety in accordance with policy DM1.

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

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

5. Prior to occupation of the development the areas within the site identified for the purpose of loading/unloading/reception and storage of materials and manoeuvring shall be provided clear of the highway and retained thereafter for that sole purpose.

Reason: To ensure that appropriate loading / unloading facilities are available in the interest of highway safety in accordance with policy DM1.

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

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

7. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1.

8. Prior to occupation of the development an appropriate Traffic Management Plan and Route Card shall be provided outlining a designated route to and from the development for all HGV movements via the A120 signed HGV route for Wix to be agreed in advance with the Local Planning Authority in consultation with the Highway Authority.

Reason: To control the location and direction of HGV vehicle movements to and from the site 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.

Informative:

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

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

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

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

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

Environment Agency  
29.05.2020

No further comments.

Natural England  
28.05.2020

No objection

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites listed below and has no objection.

Natural England's further advice on designated sites and advice on other natural environment issues is set out below.

Internationally and nationally designated sites

The application site is within 10 km of the following European designated sites (also commonly referred to as European sites) and therefore has the potential to affect the interest features of those sites. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017, as amended (the 'Habitats Regulations'). The application site is within the stated distance of the following European sites:

- Hamford Water SPA
- Hamford Water SAC
- Stour and Orwell Estuaries SPA

The following site(s) is/are also listed as Ramsar site(s):

- Hamford Water Ramsar
- Stour and Orwell Estuaries Ramsar

Natural England's further advice on designated sites and advice on other natural environment issues is set out below.

The application site is also within 5 km of the following sites which are also notified at a national level as Site(s) of Special Scientific Interest (SSSI(s));

- Stour and Copperas Woods, Ramsey SSSI
- Hamford Water SSSI
- Stour Estuary SSSI
- Orwell Estuary SSSI

In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England's advice that the proposal is not necessary for the management of the European site. On the basis of the information provided, in order to assist your authority in screening for the likelihood of significant effects, it is Natural England's advice that the proposal is unlikely to have a significant effect on any European site, and can therefore be screened out from any requirement for further assessment. It is recommended that the following information is used to record your conclusions with regard to the likelihood of significant effects:

Screening has indicated that the process contribution (PC) for all pollutants at all sites will be <1% of the relevant critical level or load for the most sensitive habitat at each site. The assessment concludes that the proposals process contributions to the annual mean ammonia level and the annual nitrogen deposition rates are predicted to be at levels below the Environment Agency's lower threshold percentage for the relevant sites, (4% for SPA/Ramsar, 20% for SSSI and 100% for local wildlife sites and ancient woodland) and the Natural England thresholds. Therefore there should not be an impact to the sites. On the basis of information provided, Natural England concurs with this view.

No objection subject to securing biodiversity mitigation and enhancement measures

### Summary

We have reviewed the Preliminary Ecological Appraisal (Emms & Barnett, December 2019) and the Response to Ecology Comments (Emms & Barnett, April 2020) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats.

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

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

The mitigation measures identified in the Preliminary Ecological Appraisal (Emms & Barnett, December 2019) and the Response to Ecology Comments (Emms & Barnett, April 2020) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority Species particularly breeding farmland birds and reptiles. We support the recommendations for mitigation and enhancement measures for breeding farmland birds included in the Response to Ecology Comments (Emms & Barnett, April 2020).

We have also reviewed the Environmental Statement (Ian Pick Associates, January 2020) and the Amonia Emmission Modelling Report (AS Modelling and Data Ltd., July 2019) which report that the impact of nitrogen deposition on any designated sites within 10km of the proposed development is below the lower threshold of the Environment Agency's Critical Level, and Natural England's Advisory Critical Level. The LPA can therefore record its decision of HRA screening for this development as not likely to result in any significant effect on the coastal Habitats sites.

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

This will enable LPA to demonstrate its compliance with

its statutory duties including its biodiversity duty under s40 NERC Act 2006.

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

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

Recommended conditions:

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

"All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Emms & Barnett, December 2019) and the Response to Ecology Comments (Emms & Barnett, April 2020) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

Reason: To conserve and enhance Protected and Priority species and allow the LPA to discharge its duties under the 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 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 (Emms & Barnett, December 2019) and the Response to Ecology Comments (Emms & Barnett, April 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 and allow the LPA to discharge its duties under the s40 of the

NERC Act 2006 (Priority habitats & species).

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

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

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

Reason: To allow the LPA to discharge its duties under the 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)

Tree & Landscape Officer  
25.03.2020

The application site forms part of the open countryside is in agricultural use. There is a low gappy hedgerow adjacent to the Oakley Road with a few established Oaks. The application site is set back from the highway and separated from it by another field and field boundary hedgerow that currently provides partial screening the development site.

In order to show the extent of the constraint that trees are on the development potential of the land and to show how retained trees will be physically protected for the duration of the construction phase of any development the applicant has provided a tree report and survey. This information is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations. The report shows that none of the existing trees will be removed or otherwise adversely affected by the development proposal.

In terms of the local landscape character the application site is situated in the Ramsey Valley System Landscape Character Area (LCA) effectively 'wrapped' to the north and south by the Tendring and Wix Clay Plateau LCA as defined and described in the Tendring District Council Landscape Character Assessment.

The Ramsey Valley System is described in the Tendring District Council Landscape Character Assessment as follows: 'the wooded pastoral landscape with valley sides that supports small pastoral fields divided by thick hedgerows with hedgerow Oaks'. In essence this sums up the description of the application site.

The visual impact of the structures in an agricultural landscape may not be considered incongruous or unduly harmful to the character of the locality however they will clearly be imposing structures in the landscape. In terms of the new access to the highway the site layout plan shows the retention of the existing trees on the boundary with the highway. A section of the boundary hedge, in this location, appears to have been cut down as part of localised ditch clearance works.

In order to address the impact of the development proposal on the local landscape character, in a measured way, the applicant has submitted a Landscape and Visual Impact Assessment (LVIA). The application site has the potential to be overlooked from the surrounding higher land however views are limited by the extent of the Public Right of Way network in the area. The separation distance between the footpaths and the application site indicates that the development is unlikely cause significant harm to the enjoyment of the countryside by footpath users.

On balance the LVIA recognises that there will be a degree of harm caused by the changes to both the character and appearance of the area but that with suitable measures to mitigate the harm the overall impact of the development will not be incongruous or unduly harmful.

With regard to new planting the applicant has provided sufficient details to secure an adequate level of soft landscaping to soften and screen the proposed development.

Essex County Council Heritage  
19.03.2020

Built Heritage Advice pertaining to an application for: Proposed erection of 2 No. agricultural buildings for poultry production together with associated infrastructure and a new highway access to Oakley Road.

A number of agrarian heritage assets are located in the vicinity of the proposal. The farmland upon which the agricultural buildings are proposed provides the setting to these heritage assets. The proposals mitigate against the possible impacts to these heritage assets.

We are therefore not opposed in principle to the proposed development, subject to the following conditions:

- Planting and landscaping is to be carried out in

accordance with the applicant's submitted landscaping plan and permanently maintained as such.  
- Ventilation towers to shed roofs are to be painted matt black.

TDC Environmental Protection  
26.03.2020

Environmental Protection have reviewed the submitted Environmental Statement, Noise Impact Assessment, Odour Assessment and Ammonia Report, based upon the findings we are satisfied that the development should not cause a nuisance to nearby existing residents.

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

#### Noise Control

- 1) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.
- 2) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.
- 3) The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228:2014.
- 4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- 5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.
- 6) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Environmental Protection prior to the commencement of works.

#### Emission Control

- 1) All waste arising from the demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
- 2) No materials produced as a result of the site development or clearance shall be burned on site. All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.

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

#### Dust Control

1) Dust suppression methods to be employed during construction so as to minimize likelihood of nuisance being caused to neighbouring properties. A scheme of measures for the control and suppression of dust emissions shall be submitted.

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Environmental Protection. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

The land contamination report shows no indication of contamination although an observation strategy is recommended during any groundwork. Any contamination seen at the time of groundworks should be recorded, remediated and a closure report with photographic evidence sent to Environmental Protection.

Any external lighting on the proposed development shall be located, designed and directed [or screened] so that it does not cause avoidable intrusion to neighbouring residential properties. The applicant shall demonstrate compliance with the Institute of Lighting Professionals code of practice. ([www.theilp.org.uk](http://www.theilp.org.uk))

Environment Agency  
30.04.2020

Thank you for your consultation, we have reviewed the plans as proposed and we have no objection to this application.

#### Water Quality

This application has already been issued with an Environmental Permit (EPR/CP3407PD) due to this we have no additional concerns that would be covered by the planning process.

Anglian Water Services Ltd  
12.03.2020

There is no connection to Anglian water assets, we therefore have no comments.

## 5. Representations

- 5.1 476 written comments have been received including a petition containing 8 signatures; and, an emailed petition said to have been signed by over 17,000 people. Wix Parish Council objects to the proposal.
- 5.2 Written objections raise the following concerns:
- The intensive rearing of birds is known to increase the risks of potentially fatal diseases such as bird flu.
  - Loss of neighbouring businesses such as the wedding venue in an adjacent property will cause a net loss of local employment due to no one wanting to get married next to a smelly, noisy, ugly chicken farm.
  - This is an industrial process and has no place in a rural setting.
  - Only a summer visit to another such use would clarify the stench we should expect to live with.
  - Suspect there are better sites more remote from residential communities.
  - The smell would stop children and families from going out and they will be forced to keep their windows closed, this in turn will isolate people.
  - Concern that future sheds will be added in due course.
  - The dust such operations raises is an exquisite compound of aerialised faeces, chicken dander (dead skin), mites, bacteria, fungal spores, mycotoxins, endotoxins, veterinary medicines, pesticides, ammonia and hydrogen sulphide.
  - Site security/safety could also be a risk as no one would live on site.
  - The 2011 Agricultural Land Classification map (ALC008) indicates that the proposed development is on Grade 2 land.
  - Reduction in air quality.
  - No benefit to village to outweigh the negative points.
  - Increased HGV traffic would have safety implications and impact on a MoT business.
  - The proposed entrance site access has already recently had a large tree removed and the verge cleared.
  - Another pandemic could come from a factory farm such as this one.
  - More heavy traffic on an unsuitable road.
  - Noise, dust and other pollution.
  - Noxious, offensive smell.
  - Damage to older properties from heavy traffic.
  - Animal rights activists could cause disruption in local area.
  - Risk of water pollution.
  - Would add very little employment.
  - Harm to appearance and character of a rural landscape.
  - Should be sited closer to poultry processors and feed suppliers.
  - Proximity of primary schools could be a health issue.
  - Does not represent sustainable development.
  - Using animals in such a barbaric way is absolutely disgusting.
  - Could increase vermin.
  - Area already served by a source of organic eggs.
  - Would devalue properties.
  - Harm to reputation of farming in this area and as an area of natural beauty.
- 5.3 The petition containing 8 signatures raises the following concerns:
- Loss of greenfield open space.
  - Damage to landscape and character of area.
  - Would create excessive traffic.
  - Would significantly adversely affect residential amenity.
  - Diminution of countryside as an attractive place to live.
  - Material loss of best and most versatile land.
  - An eyesore.
  - Smells, noise and large volumes of effluent.

- Proposed development is not dependent on an existing farm holding and could be better sited elsewhere.
- Agriculture will not be performed.
- External lighting would create an urban character.
- Development will give the appearance of ribbon-like development infilling a green space.
- Out of place in an area of exclusively arable farming.

5.4 The emailed petition said to have been signed by over 17,000 people raises the following concerns:

- Insufficient consideration of safety measures for managing flood risk.
- Would likely produce strong odours, which could disturb local residents and have a negative impact on their quality of life.
- Noise pollution.
- Ammonia from the chickens' waste would be emitted into the surrounding area, likely having a negative impact on air quality, human health, the environment, and wildlife.
- Would likely intensify traffic on Oakley Road,
- Would likely diminish the character of the rural landscape and spoil natural vistas.
- Would cause immense suffering to the chickens confined there.

5.5 Wix Parish Council has commented as follows:

We are very concerned regarding the infrastructure around the site. Access to Oakley Road from the A120, and Harwich Road, whilst is likely the best option, it is still not appropriate for the number of vehicle movements and vehicle types the travel plan proposes. The large vehicles will churn up and breakaway the road edges, causing dangerous potholes and over runs (which will not be repaired by ECC as they fall outside of the existing carriageway), particularly when they meet other large local agricultural and farm vehicles, and the regular bus service.

The triangle at the junction of Harwich Road and Oakley Road will be destroyed.

Residents are also very concerned about the odour that is likely to be emitted from the site.

There are concerns regarding the impact the site could have on drainage in the area- which is already poor.

Concerns have been raised regarding the noise from the fans on the sheds.

Wix PC also supports the concerns raised by District Councillor Mike Bush, relating to NPPF 2019 and PP of TDC 2007, EN 16. The capacity for this site per year makes it a substantial industrial process, rather than an agricultural facility, which means it does not meet EN16 requirement for permissions on agricultural buildings.

NPPF policy EN1- this site will have considerable negative visual impact on the surrounding countryside.

Finally, comments from residents also raised concerns regarding the potential health implications for residents in the vicinity of a production site such as this, and the potential transfer of disease, and the impact it could have on local wildlife, including the Hamford Water nature reserve.

## **6. Assessment**

### Site Context

6.1 The site is set in the Countryside between Wix, to the west, and Great Oakley, to the east. The site is formed from the southern part of an agricultural field and a means of vehicular access

across another field. The vehicular access would be on the northern side of the road some 170m northwest of Redhouse Farm.

- 6.2 Access to the A120 from the site would be along Oakley Road to the junction with Harwich Road and then onto the A120.

### Proposal

- 6.3 With regard to the proposed use, the proposal is for the intensive rearing of poultry. The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 state that installations for the intensive rearing of poultry with more than 85, places for broilers or 60,000 places for hens is "Schedule 1 Development". The design, access and planning statement forming part of the application documentation states, at paragraph 4.2, that the two poultry buildings would each have a capacity of 50,000 birds, with the total capacity of the site extending to 100,000 birds. An Environmental Impact Assessment was therefore required as part of the planning application submission.
- 6.4 A screening opinion was not required in this instance since an Environmental Impact Assessment is mandatory. The Environmental Impact Assessment implications are addressed in an Environmental Statement forming part of the application documentation.
- 6.5 Prior to the submission of the planning application, the applicants made an application to the Environment Agency for an Environmental Permit for the proposed development. The Environmental Permit for the development has been granted. Such permits take into account the whole environmental performance of the plant, and are concerned with such matters as emissions to air, water and land; generation of waste; use of raw materials; energy efficiency; noise; prevention of accidents; and, restoration of the site at closure.
- 6.6 With regard to the proposed works, the proposed structures and physical alterations are: two identical buildings to house broiler chickens; a new vehicular access; silos; gatehouse; plant room; water tanks; store; and gas tanks. The layout would be with the buildings to house the broiler chickens set one behind the other in relation to Oakley Road. A hard surfaced area would be set to the east of these buildings with plant room and water tank to the north of the hard surface and gas tanks and gate house to the south of the hard surfaced area.
- 6.7 The buildings to house the broiler chickens would be 5.7m in height to the ridge of a gable roof, 3m in height to the eaves. Each building would be 114m long by 20m wide. The lengths of the buildings would run generally east/west and run parallel with each other, one building behind the other in relation to the road to the south. The nearest building to the road would be some 100m from the carriageway at its closest point.
- 6.8 The vehicular access to the site would be on the northern side of a part of Oakley Road. The vehicular access would be some 180m to the northwest of Redhouse Farm. The width of the vehicular access would be 7.3m. The means of vehicular access includes a bridge below the track to the main body of the site. The bridge is over the Dovercourt Dock River at which point it has the nature of a field boundary ditch.
- 6.9 At the eastern end of each building to house the broiler chickens would be two silos, cylindrical feed bins. Each silo would have a maximum height of 7.6m in height.
- 6.10 The gatehouse building would be set back from the vehicular access onto the highway, the gatehouse would be amongst the cluster of structures which would include the buildings to house the broiler chickens. The gatehouse building would be 7m deep by 9m wide and have a shallow pitched roof with a maximum height to the ridge of 3.2m, 2.6m to the eaves. This building would accommodate a small office, a rest room, a shower and changing areas and w.c. facilities.

- 6.11 The plant room outbuilding would be 7.3m long by 3.2m deep and have a maximum height of some 3m.
- 6.12 The water tanks would consist of two structures. The main water tank would be a cylindrical structure with a diameter of 4.7m and a maximum height of 3.5m. A dirty water tank would be set below ground.
- 6.13 A store for dead birds would consist of a structure with a foot print 4m square and a maximum height of 3.1m.
- 6.14 Five cylindrical gas tanks, set horizontally, would be positioned by the southeast corner of the pair of main buildings. Each tank would be 5m long by 1.8m wide, having a diameter of 1.8m. The tanks would be set out to orientate north/south, the smaller, circular profiles of the tanks would face towards the road to the south.

#### Principle of Development

- 6.15 The definition of agriculture includes the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land). As such the proposal falls under the definition of an agricultural use in an agricultural area and accordingly the principle of the proposed development is acceptable.
- 6.16 It has been demonstrated that the proposed development is reasonably necessary for the purpose of the agriculture to be carried out on what would become its own self-contained holding. As such the proposal accords with the relevant part of Policy EN16.
- 6.17 The National Planning Policy Framework (NPPF) states at paragraph 83 that planning decisions should enable the development of agricultural and other land-based rural businesses.

#### Appearance and Scale

- 6.18 The main buildings would have a simple, somewhat utilitarian appearance though as such they would be in keeping with other agricultural buildings in the area. The proportions and relatively low pitch to the roofs would distinguish them from traditional farm buildings but the design approach is, rather than to disguise them as such, to blend the buildings into the wider landscape. The main buildings would be to an identical design and have a typical agricultural building appearance; being of a steel portal construction covered by olive green coloured polyester coated profiled sheeting except for the plinth to the walls, some 0.5m in height, of pre-formed concrete.
- 6.19 Ancillary structures to the main buildings would generally be dwarfed by the scale of the main buildings with the exception of the silo type feed bins. These would be some 2m greater in height than the ridges of the main buildings but would be structures which would not be out of place in an agricultural landscape.
- 6.20 The main buildings would be comparable in height to an average bungalow; 5.7m in height to the ridge of a gable roof, 3m in height to the eaves. The buildings would have a significant length but the one to the south would act as a screen to the one to the north. Given the isolation distance from the road and the relatively low heights, the scale of the proposed built forms is considered acceptable.
- 6.21 The appearance of the buildings is considered to be in character with the locality and the proposal is considered acceptable with regard to Policy QL9 and that part of Policy EN16 generally relating to appearance.

### Highway Safety/Parking

- 6.22 Access to the A120 from the site would be along Oakley Road to the junction with Harwich Road and then onto the A120. The junction of Oakley Road with Harwich Road has a traffic island where a war memorial is sited. Oakley Road intersects Harwich Road at an acute angle such that traffic cannot turn with ease. A number of public comments refer to the proposal being likely to increase a problem of turning traffic cutting away the highway verge at this junction. However, a site meeting took place with representatives of the local highway authority. Additional information was requested and provided by the applicant in relation to swept path analysis and on-site investigations around accessibility for the Harwich Road/Oakley Road junction.
- 6.23 The local highway authority, Essex County Council, has confirmed in a written response dated 10<sup>th</sup> August that from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions relating to a Construction Management Plan; design of the vehicular access as per the detailed amended plans and no unbound material for the first 30m; a visibility splay; provision of the vehicular turning facility/loading facility; no discharge of surface water onto the highway; and, provision of a Traffic Management Plan from the site to the A120.
- 6.24 The recommended conditions are all considered reasonable, necessary and enforceable. Subject to such conditions the proposal is considered acceptable with regard to Policy TR1A.

### Landscaping/Biodiversity

- 6.25 Saved Policy EN1 (Landscape Character) states that the quality of the District's landscape and its distinctive local character will be protected and, where possible, enhanced and any development which would significantly harm landscape character or quality will not be permitted.
- 6.26 The application site forms part of the open countryside and is in agricultural use; it is a farm field. The main body of the application site itself, disregarding the vehicular access, is set back from the highway and separated from it by another field and field boundary hedgerow that provides screening of the site.
- 6.27 The Council's Tree & Landscape Officer has commented on the application as set out above. No objection is raised.
- 6.28 The application documentation includes a Landscape and Visual Impact Assessment (LVIA). This refers to a degree of harm caused by the changes to both the character and appearance of the area but that with suitable measures to mitigate the harm the overall impact of the development will not be incongruous or unduly harmful. With regard to new planting the applicant has provided sufficient details to secure an adequate level of soft landscaping to soften and screen the proposed development.
- 6.29 A soft landscaping scheme forms part of the application documentation. This shows an area of planting, a wide belt, to the south of the southernmost main building along some two-thirds of the length of the building. This area would be behind an existing hedgerow and in front of the main building nearer Oakley Road. Another planting belt, a minimum of 10m wide, would be to the north of the northernmost main building.
- 6.30 Subject to appropriate conditions regarding implementation of landscaping in accordance with submitted details, the proposal is acceptable with regard to Policy EN1.

- 6.31 With regard to biodiversity, Policy EN6 states that development proposals will not be granted planning permission unless local biodiversity is protected and enhanced. Appropriate compensating measures to outweigh the harm caused by the development must be provided.
- 6.32 Natural England and Essex County Council Ecology have been consulted and a written response received from both.
- 6.33 In summary, Natural England has written to confirm it has no objection. It is Natural England's advice that the proposal is unlikely to have a significant effect on any European site, and can therefore be screened out from any requirement for further assessment.
- 6.34 Essex County Council Ecology originally made a holding objection due to insufficient ecological information on Priority species (farmland birds). Subsequently, having reviewed a Preliminary Ecological Appraisal and a Response to Ecology Comments relating to the likely impacts of development on protected species and Priority species & habitats, it is satisfied that there is sufficient ecological information available for determination. Essex County Council Ecology has confirmed in writing it has no objection subject to securing biodiversity mitigation and enhancement measures. Conditions are recommended regarding mitigation and enhancement measures as contained in the Preliminary Ecological Appraisal and for a scheme for any external lighting identifying features on the site particularly sensitive for bats.
- 6.35 Subject to such conditions, the proposal is considered acceptable with regard to Policy EN6.

#### Impact on Residential Amenity

- 6.36 It is considered that there is sufficient distance retained to the nearest residential properties to ensure any impact upon residential amenity would be minimal. There is a 430m distance to the nearest property to the south-west and 250m to 'Redhouse Farm' to the south-east. Any noise or odours associated with the development, due to distances involved, would not cause nearby residents unacceptable nuisance.
- 6.37 The Council's Environmental Protection team have assessed the application and based on the submitted Environmental Statement, Noise Impact Assessment, Odour Assessment and Ammonia Report have confirmed that they are satisfied the development should not cause a nuisance to nearby existing residents.
- 6.38 Conditions have been recommended by Environmental Protection relating to measures, during the construction process, to control noise, prevent burning on site and suppress dust. A condition regarding any unexpected ground contamination indications encountered during construction and a condition for details of any external lighting scheme are also recommended.
- 6.39 In summary, the proposal is considered acceptable with regard to Policy QL11.

#### Drainage

- 6.40 Policy QL3 is concerned with minimising and managing flood risk. Although the site is in Flood Zone 1, land with the least likelihood of flooding, part of the text of Policy QL3 states that a Flood Risk Assessment is required to be submitted within Flood Zone 1 for proposals on sites of 1 hectare or more. The site has an area of 8.5 hectares.
- 6.41 Accordingly, a Flood Risk Assessment was submitted and both the Environment Agency and Essex County Council SuDS consulted. In response, the Environment Agency have raised no objection to the application. Similarly, following receipt of further information, Essex County Council SuDS team has confirmed in writing that it does not object to the granting of planning permission subject to the imposition of conditions relating to a detailed surface water drainage

scheme; a scheme to minimise water run-off and pollution during construction; a maintenance plan for drainage; and, annual logs of maintenance.

6.42 The proposal is considered acceptable with regard to Policy QL3.

#### Heritage Assets

6.43 ECC Heritage has confirmed that they do not in principle oppose the proposed development, subject to conditions relating to implementation of the submitted landscaping plan and permanent maintenance and to the ventilation features of the buildings being painted matt black.

6.44 The separation distance between the proposed development and the Listed Building known as 'The White House' is approximately 400m. Due to this significant distance and the lack of inter-visibility between the two sites any impact upon its historic setting is minimal.

6.45 Subject to conditions as recommended, the proposal is acceptable with regard to Policy EN23.

### **7. Conclusion**

7.1 As with all planning applications, this application is to be considered on its planning merits. . Whilst considerable interest has been generated in terms of third party representations, this planning application can be considered only on planning issues. In planning terms the proposal is for agricultural buildings in the countryside. The buildings would have the character of agricultural buildings, are of a limited height and would be both well set from the road and would be largely screened by a proposed landscaping scheme. The nature of the use generated a need for Environmental Impact Assessment. Sufficient information was submitted for such an assessment. Specialist advice has been received which raises no objection on this ground. The Environment Agency has commented that this application has already been issued with an Environmental Permit.

### **8. Recommendation**

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

#### 8.2 Conditions and Reasons

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved drawings:  
Site location plan, IP/AHB/06  
Block plan, IP/AHB/02  
IP/AHB/03  
IP/AHB/04  
IP/AHB/05  
Soft landscape proposals, IPA1055-SL  
Landscaping specification  
21314-04-2  
21314-03 a  
21314-04

21314-03-2 a

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

3. Prior to first use of the vehicular access hereby approved 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, shall have 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 and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.
  - Limiting discharge rates to matched Greenfield runoff rates based on the provision of Long Term Storage for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
  - Demonstrate that all storage features can half empty within 24 hours for the 1:30 plus 40% climate change critical storm event.
  - Final modelling and calculations for all areas of the drainage system.
  - 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 – In the interest of the provision of sustainable drainage in accordance with Policy QL3 of the adopted Local Plan, Policy PPL1 of the emerging Local Plan and the provisions of the National Planning Policy Framework at paragraphs 163 and 170.

4. 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.
  - vi. a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works
  - vii. noise control
  - viii. emission control
  - ix. dust control

Reason - To ensure that parking on the highway 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 to ensure that construction does not lead to excess water being discharged from the site.

5. Prior to first use of the development the following shall have been provided or completed:
  - a) A priority junction off Oakley Road to provide access to the proposed site as shown in principle on planning application, amended viability and access plan drawing number: 21314-03 a.

- b) Kerb radii measuring 15 metres.
- c) No unbound material shall be used in the surface treatment of the vehicular access within 30 metres of the highway boundary.

Reason - To ensure that vehicles can enter and leave the highway in a controlled manner and to avoid displacement of loose material onto the highway in the interest of highway safety.

- 6. Prior to first use of the development, the road junction / access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 4.5 metres by 160 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

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

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

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

- 8. Prior to first use of the development the areas within the site identified for the purpose of loading/unloading/reception and storage of materials and manoeuvring shall be provided clear of the highway and retained thereafter for that sole purpose.

Reason - To ensure that appropriate loading / unloading facilities are available in the interest of highway safety.

- 9. 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.

- 10. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

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

- 11. Prior to first use of the development an appropriate Traffic Management Plan and Route Card shall be provided outlining a designated route to and from the development for all HGV movements via the A120 signed HGV route for Wix to be agreed in advance with the Local Planning Authority in consultation with the Highway Authority.

Reason - To control the location and direction of HGV vehicle movements to and from the site in the interests of highway safety in accordance with Policy TR1a of the adopted Local Plan.

- 12. Prior to first use all mitigation and enhancement measures and/or works shall have been carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Emms & Barnett, December 2019) and the Response to Ecology Comments

(Emms & Barnett, April 2020) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

Reason - To conserve and enhance Protected and Priority species and allow the local planning authority 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) and in accordance with Policy EN6 of the adopted Local Plan.

13. Prior to construction above slab level of either building to accommodate broiler chickens a Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (Emms & Barnett, December 2019) and the Response to Ecology Comments (Emms & Barnett, April 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 and allow the local planning authority to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with Policy EN6 of the adopted Local Plan.

14. No means of external lighting shall be installed unless the prior written consent of the local planning authority is given in writing to any external lighting. Any external lighting shall be part of a lighting design scheme for biodiversity which 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 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) and in accordance with Policy EN6 of the adopted Local Plan.

15. All planting as shown on the approved landscaping plan shall be carried out during the first planting 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 in accordance with Policy EN1 of the adopted Local Plan.

16. Prior to first use the ventilation towers to the buildings to house the broiler chickens are to be painted matt black and retained as such.

Reason – In the interest of visual amenity, in accordance with Policies QL9, EN1 and EN23 of the adopted Local Plan.

17. 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:

- 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 and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.

- Limiting discharge rates to matched Greenfield runoff rates based on the provision of Long Term Storage for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.

- Demonstrate that all storage features can half empty within 24 hours for the 1:30 plus 40% climate change critical storm event.

- Final modelling and calculations for all areas of the drainage system.

- 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.

18. 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.

19. 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.

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

Reason -

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

### 8.3 Informatives

#### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by 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.

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

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

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

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

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

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

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

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

## **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 Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;  
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
- 9.3 Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.4 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.

- 9.5 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.
- 9.6 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

- 9.7 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.
- 9.8 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).
- 9.9 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

- 9.10 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.
- 9.11 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/>.

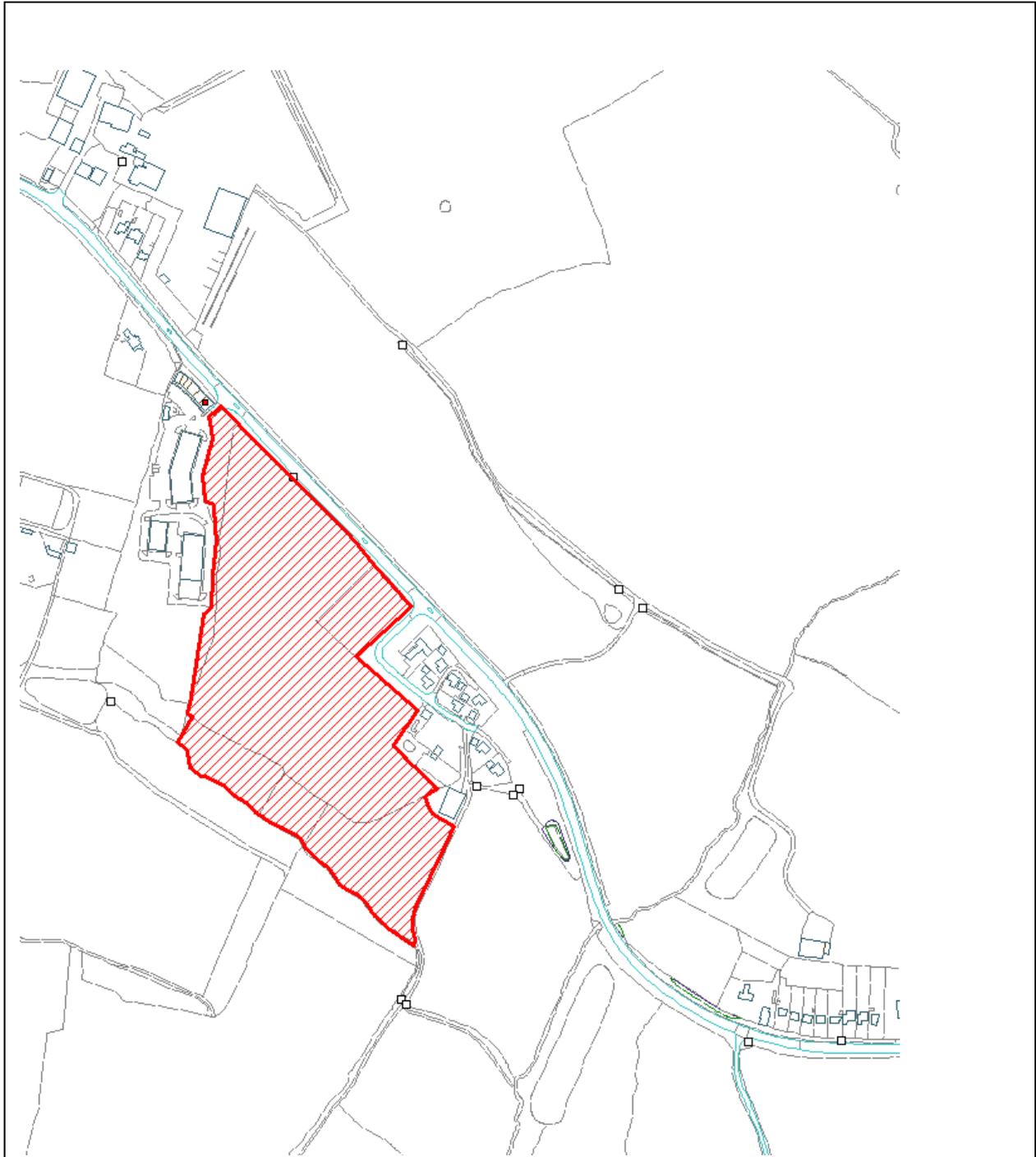
This page is intentionally left blank

## PLANNING COMMITTEE

20<sup>TH</sup> OCTOBER 2020

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### **A.3 PLANNING APPLICATION – 20/00239/FUL – GROUND FLOOR 1 LANSWOOD PARK BROOMFIELD ROAD ELMSTEAD COLCHESTER**



DO NOT SCALE

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

**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 was removed from the agenda before Planning Committee on 22<sup>nd</sup> September to enable comments to be received from the Gardens Trust following the recent addition of Beth Chattos Gardens to Historic England's Register of Parks and Gardens of Special Historic Interest in England. The gardens are listed at Grade II. Comments have now been received from the Gardens Trust and amendments to the original report are in italics.*
- 1.2 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.
- 1.3 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.
- 1.4 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.
- 1.5 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.

- 1.6 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.
- 1.7 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)**

**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

No objection subject to securing  
a) a proportionate financial contribution towards visitor management in line with Essex Coast RAMS and b) ecological mitigation and biodiversity enhancement measures

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.

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.

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.

We also support the proposed reasonable biodiversity enhancements, which have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 170d of the National Planning Policy Framework 2019. The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured prior to slab level. This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

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

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).

4. CONCURRENT WITH RESERVED MATTERS: 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. 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 m<sup>2</sup> for library provision x 30m<sup>2</sup> / 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.

*The Gardens Trust*

*Thank you for consulting The Gardens Trust (GT) in its role as statutory consultee with regard to proposed development affecting a site listed by Historic England (HE) on their Register of Parks and Gardens as per the above application. We have liaised with our colleagues in the Essex Gardens Trust (EGT) and their local knowledge informs this response.*

*The Lanswood Business Park is a successful development which has improved a previous brownfield site. It is now proposed to construct more business units and 85 houses. The site is outside the village of Elmstead Market, outside the settlement development boundary, and is not included in the local plan. In this context, the housing is seen as enabling development to offset the infrastructure costs of the new business units.*

*The development site is located on the south side of the A133 Clacton Road, where the land slopes down into the wooded valley of the Elmstead Brook. The new business units would be located near the existing ones close to the road. The gently sloping valley side would be the site of the housing. In this largely flat London Clay plateau, the valleys are of particular landscape importance. Further west in the valley are the Beth Chatto Gardens. These were designated a grade II registered landscape by DCMS on the advice of Historic England on 21st August 2020 after the application was validated, a circumstance which has prompted this advice letter.*

*The proposed housing would not border directly onto the Beth Chatto Gardens. It would be screened from them by woodland, which would be continuous with (though not connected to) the Woodland Garden area at the east end of the Gardens, nor would the housing and the Gardens be intervisible. However, this is an area that seems to be under considerable development pressure. There is an existing approval for eight houses at Forres directly on the north side of the Gardens. The Lanswood application would see the intrusion of built form into the valley leaving the Gardens on the north side partially enclosed by housing. It would thus contribute to the incremental erosion of the wider setting of the Gardens. Setting is defined in the National Planning Policy Framework as the surroundings in which the heritage asset (i.e. the Gardens) is experienced.*

*With the recent designation of the Gardens, your authority should recognise that the Gardens are one of the District's major attractions and amenities, of national importance. Their protection should therefore be a major concern. It is for your authority to decide whether the less than substantial harm to the setting of the Gardens by the housing is outweighed by any public benefit.*

## **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 21<sup>st</sup> 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.
- 6.10 19/01596/FUL was refused but allowed at appeal [Appeal A] in August 2020 (APP/P1560/W/20/3248847) for Erection of two dwellings and associated car parking at Grange Farm Bungalow. The reason for refusal related to the absence of a legal agreement to provide for RAMS and affordable housing, and the effect of the development on the character and appearance of the area.
- 6.11 At appeal both applications provided a satisfactory legal agreement overcoming those reasons for refusal and the Inspector disagreed that affordable housing was required. In relation to harm to the character and appearance of the area the Inspector concluded "...the proposed dwellings would not be any more prominent in the locality than the existing extent of built development, appearing instead to harmonise with the character and appearance of the residential area. The proposal therefore would comply with policies QL9, QL10 and QL11 of the adopted Local Plan and policy SPL3 of the emerging Draft Local Plan, which together seek to ensure new development contributes to the quality of the local environment and character." "There are clearly economic, social and environmental benefits arising from both appeals, with Appeal B having added benefit in the sense of a greater housing yield as well as contributions towards open space, which supports both the social and environmental vitality of local facilities for the benefit of the wider community." "In respect of both appeals, I conclude there is no conflict with the relevant planning policies of the adopted Development Plan. There would not be any adverse effects arising from the development that, individually nor cumulatively, would outweigh the benefits of either appeal scheme."

### Proposal

- 6.12 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).
- 6.13 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.
- 6.14 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.
- 6.15 An amended site plan and certificate was received on 27<sup>th</sup> August 2020 including the full vehicular access from the residential element linking to Clacton Road.

### Principle of Development

- 6.16 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.
- 6.17 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).
- 6.18 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.
- 6.19 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.

- 6.20 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.
- 6.21 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***

- 6.22 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.”*
- 6.23 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.”*
- 6.24 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.
- 6.25 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.”

- 6.26 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.
- 6.27 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.
- 6.28 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.
- 6.29 The proposal therefore performs very strongly in terms of economic sustainability.

### **Social**

- 6.30 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.
- 6.31 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.
- 6.32 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.

- 6.33 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***

- 6.34 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

- 6.35 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."*
- 6.36 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."
- 6.37 *Without these infrastructure improvements the existing Lanswood Business Park cannot expand as the costs are too great and would make further expansion unviable. The abnormal costs comprise £199,950 UK Power Networks (UKPN) 1MW network connection and onsite transformer, £62,347 electric install (cable purchase, cable installation, ducting, sand lining and labour), £37,800 Genseed drill (providing two underground drills to UKPN specification beneath the Brook), £100,000 A133 junction and footpath improvements, Affinity Water Assessment £2,016, Affinity Water Upgrade £50,000 (as existing main is too small), Farmers Contribution (fee for land access to deliver infrastructure upgrades) £212,000, and additional Gas Works £154,915 (to install heating to new commercial units).*

- 6.38 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.
- 6.39 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).
- 6.40 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.
- 6.41 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.
- 6.42 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.
- 6.43 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.
- 6.44 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

- 6.45 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.
- 6.46 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

- 6.47 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.
- 6.48 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.
- 6.49 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.
- 6.50 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.
- 6.51 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.

- 6.52 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.
- 6.53 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.
- 6.54 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

- 6.55 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.
- 6.56 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.
- 6.57 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

- 6.58 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.
- 6.59 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.
- 6.60 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.

- 6.61 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.
- 6.62 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.
- 6.63 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.
- 6.64 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.
- 6.65 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.
- 6.66 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

- 6.67 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.

- 6.68 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.
- 6.69 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 replicated and improved upon by new soft landscaping.
- 6.70 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.'
- 6.71 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.

6.72 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

6.73 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.

6.74 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.

6.75 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.

6.76 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.

6.77 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.

6.78 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.

- 6.79 Subject to the recommended conditions the application is acceptable in relation to ecology and biodiversity.

#### Heritage

- 6.80 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.
- 6.81 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.
- 6.82 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.
- 6.83 Essex County Council Heritage have been consulted on the proposal and raise no objection.
- 6.84 Beth Chattos Gardens was added to Historic England's Register of Parks and Gardens of Special Historic Interest in England on 18<sup>th</sup> August 2020. *The Gardens Trust have now commented on the proposal as detailed in full above. They state "The development site is located on the south side of the A133 Clacton Road, where the land slopes down into the wooded valley of the Elmstead Brook. The new business units would be located near the existing ones close to the road. The gently sloping valley side would be the site of the housing. In this largely flat London Clay plateau, the valleys are of particular landscape importance. Further west in the valley are the Beth Chatto Gardens."*

*"The proposed housing would not border directly onto the Beth Chatto Gardens. It would be screened from them by woodland, which would be continuous with (though not connected to) the Woodland Garden area at the east end of the Gardens, nor would the housing and the Gardens be intervisible. However, this is an area that seems to be under considerable development pressure. There is an existing approval for eight houses at Forres directly on the north side of the Gardens. The Lanswood application would see the intrusion of built form into the valley leaving the Gardens on the north side partially enclosed by housing. It would thus contribute to the incremental erosion of the wider setting of the Gardens. Setting is defined in the National Planning Policy Framework as the surroundings in which the heritage asset (i.e. the Gardens) is experienced."*

*They conclude "With the recent designation of the Gardens, your authority should recognise that the Gardens are one of the District's major attractions and amenities, of national importance. Their protection should therefore be a major concern. It is for your authority to decide whether the less than substantial harm to the setting of the Gardens by the housing is outweighed by any public benefit."*

*The site is separated from the listed gardens by the existing Lanswood Business Park and woodland so, as confirmed by The Gardens Trust, the sites are not intervisible. Beth Chattos is accessed via a long driveway which is approximately 0.2 miles west of the existing access to Lanswood Business Park with a large field between. Due to the significant separation distance and the intervening development and vegetation the impact upon the setting of the Grade II listed gardens is considered to be minimal. In weighing this less than substantial harm against the economic benefits of the proposal the public benefits in terms of job creation and new housing are considered to outweigh this harm.*

#### Impact on Residential Amenity

- 6.85 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.
- 6.86 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.
- 6.87 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.
- 6.88 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.
- 6.89 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.
- 6.90 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.
- 6.91 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

- 6.92 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.
- 6.93 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).
- 6.94 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.
- 6.95 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.
- 6.96 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.
- 6.97 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

- 6.98 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:
- Recreational Disturbance
- 6.99 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.
- 6.100 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.

6.101 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.

- Open Space and Play Space

6.102 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.

6.103 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.

6.104 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.

6.105 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.

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

- Affordable Housing

6.107 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.

6.108 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.

6.109 30% equates to 26 dwellings. Given the demand for housing, the Council would prefer to see the 26 affordable dwellings delivered on site.

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

- Healthcare

- 6.111 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.
- 6.112 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.
- Education
- 6.113 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.
- 6.114 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:
- 6.115 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.
- 6.116 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.
- 6.117 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.
- 6.118 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.
- 6.119 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.

- 6.120 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.
- 6.121 As confirmed by the viability assessment the proposal cannot provide any contribution towards education.
- Highways
- 6.122 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.
- Provision of the abnormal infrastructure improvements
- 6.123 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

- 6.124 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)

- 9.1 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/>.

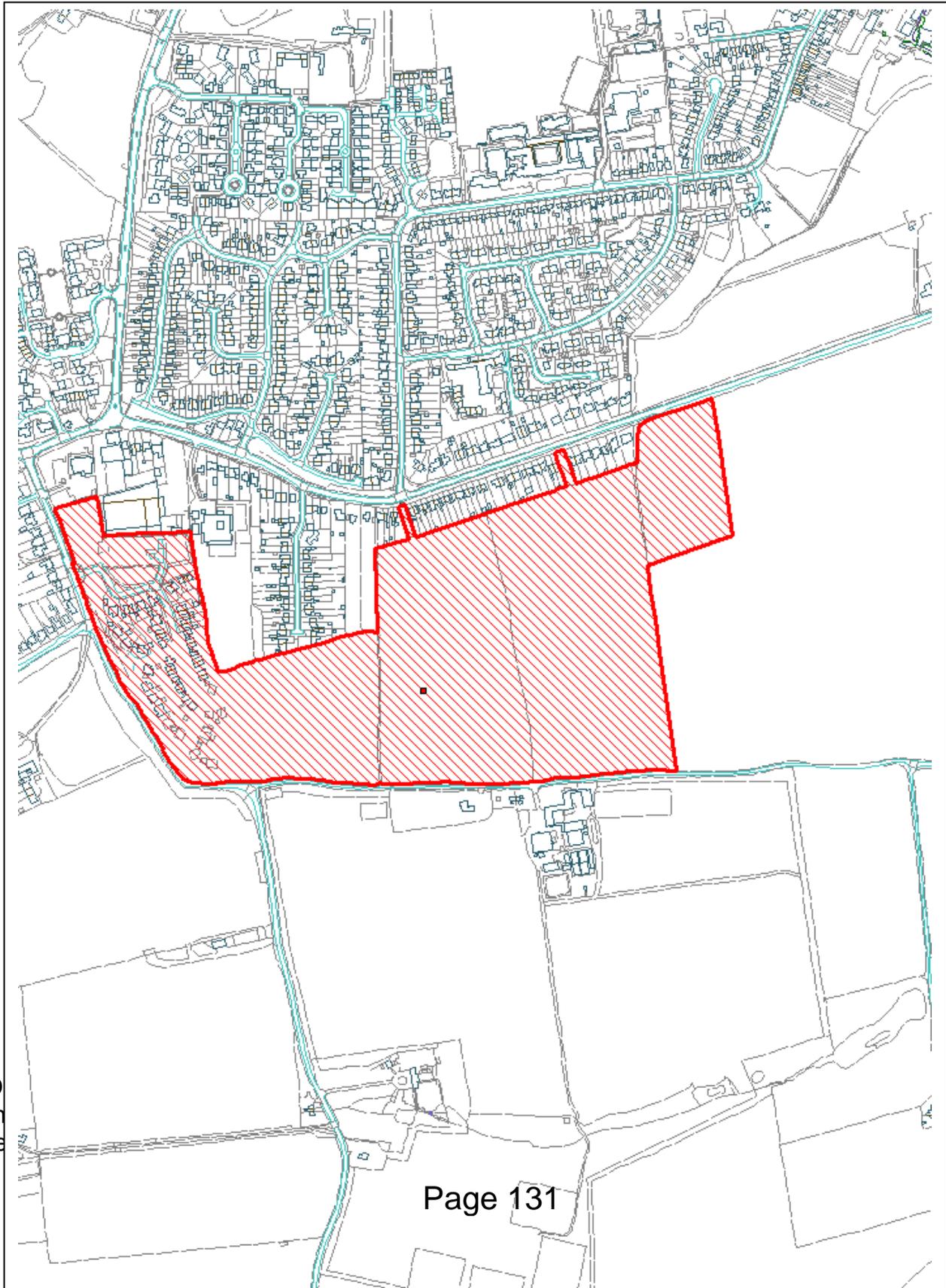
This page is intentionally left blank

## PLANNING COMMITTEE

20<sup>th</sup> OCTOBER 2020

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### A.4 PLANNING APPLICATION – 20/00458/OUT – LAND EAST OF BROMLEY ROAD LAWFORD CO11 2HS



D  
th  
re

of  
d

**Application:** 20/00458/OUT

**Town / Parish:** Lawford Parish Council

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

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

**Development:** Variation of condition 9 of 15/00876/OUT amending the delivery requirement of the spine road before the 201st occupation.

## 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 the variation of Condition 9 of the original planning approval. This deals with the provision and timeframe for the access from the site onto Long Road.
- 1.2 In accordance with Members' request, the current submission has been brought to Planning Committee seeking consent with regard to the delaying the provision of access onto Long Road from the 201<sup>st</sup> occupation on site (56% of the total dwellings on site) to the 261<sup>st</sup> occupation on site (73% of the total dwellings on site).
- 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 detailed plans comply with the outline requirements and are considered acceptable with no material harm to visual or residential amenity, or highway safety.
- 1.5 A legal agreement, 'Deed of Variation' is required for this application to ensure the new outline approval links into the original Section 106 Agreement.

## **Recommendation: Outline 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 deed of variation to the original legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990.**
- 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 Deed of Variation of the original 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
HG4	Affordable Housing in New Developments
COM2	Community Safety
COM4	New Community Facilities (Including Built Sports and Recreation Facilities)
COM21	Light Pollution
COM23	General Pollution
COM26	Contributions to Education Provision
EN1	Landscape Character
EN5	Areas of Outstanding Natural Beauty (AONB's)
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
LP5	Affordable and Council Housing
PPL4	Biodiversity and Geodiversity
CP1	Sustainable Transport and Accessibility
CP2	Improving the Transport Network
CP3	Improving the Telecommunications Network

#### Other Guidance

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:

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

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 Measures), 19 (Refuse/Storage points, Dwelling External Materials), 20 (construction Management Statement), 21 (Broadband Connection) and 23 (Water, Energy and Resource	Approved	30.10.2018

	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		04.11.2019

side elevations, and internal layout to "Alexander" house type at plots 75-79.

19/01698/DISCON	Discharge of condition 07 (construction Management Plan) 12 (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.	Approved	29.05.2020
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" housetype 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	
20/00480/DETAIL	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,	Current	

boundary treatments, landscaping and drainage.

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	
20/01224/FUL	Proposed children's nursery.	Current	
20/01337/DISCON	Discharge of condition 17 (tree protection) for phase 2 of planning permission 15/00876/OUT.	Refused	

#### 4. Consultations

ECC Highways Dept  
07.05.2020

The information that was submitted in association with the application has been fully considered by the Highway Authority. It is noted that the variation is associated with condition 9 of 15/00876/OUT and based on and in principal with the revised wording in the Planning Statement (page 12):

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

No more than 200 dwellings on the development shall be occupied until the following have been provided or completed:

a) A mini-roundabout at the junction of Wignall Street and Bromley Road in accordance with approved Ardent Consulting Engineers drawings K297-002C.

b) Upgrading to current Essex County Council specification of the two bus stops which would best serve the proposal site (either Long Road and/or Wignall Street).

c) A minimum 3-metre-wide footway/cycleway along the proposal site's Long Road frontage.

d) Upgrade to the Public Right of Way which runs through the proposal site between Long Road and Dead Lane (details shall be agreed with the Local Planning Authority prior to commencement of the development).

No more than 260 dwellings on the development shall be occupied until the priority junction with right turn lane (with two pedestrian refuge islands) in Long Road to provide access to the proposal site. Priority junction shall have minimum 10.5 metre kerbed radii with dropped kerbs/tactile paving crossing points, a minimum 6.75 metre access road carriageway with one 3 metre footway/cycleway, one 2 metre footway pedestrian/cycle refuge island and a minimum 109 x 2.4 x 120 metre clear to ground visibility splay; in accordance with Ardent Consulting Engineers drawing K297-003A. Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking

Informative:

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

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

SMO1 - Essex Highways  
Colchester Highways Depot,  
653 The Crescent,  
Colchester

## 5. **Representations**

5.1 Lawford Parish Council commented on Mon 11 May 2020, they have no objection to this application.

5.2 Third Party: 1 objection received summarised below:

- Construction of the mini-roundabout and the subsequent increase in volume of, not just domestic vehicles, but of construction traffic in an already congested area.
- The Long Road junction would remove this close proximity to the Cox's Hill junction and ease much of the congestion when this does occur.
- Number of driveways and private roads will be greatly inconvenienced during the construction and subsequent operation.
- Increased volume of domestic traffic associated with the new houses will reduce air quality.
- The bus stop is being located but there are no plans of this.
- No guarantee that the Long Road junction and spine road will ever be constructed.
- The 1st Lawford Scout Group manages the Venture Centre 2000 as a small business which could be negatively affected ie reduced number of private hirers ect.
- Not the right time for this proposed variation and that it should be rejected in favour of the original.

## 6. **Assessment**

### Site Context

6.1 The host site, on the southern side of Lawford, is known as "Lawford Green". The site occupies a broadly rectangular parcel of land 22.6 hectares (55.8 acres) in size. The site was previously used for agricultural purposes, this is currently changing into a housing estates with outline planning permission for 350 houses (Ref: 15/00876/OUT), with associated reserved matters permissions in place. It is located on land east of Bromley Road, south of Long Road and north of Dead Lane.

6.2 The construction of the site was spilt into 3 main phases. Phase 1 is to the west, connecting with Bromley Road, Phase 2 centrally positioned and Phase 3 to the east, ultimately connecting with Long Road to the east. A central spine road runs between all three Phases, known as 'The Avenue'.

- 6.3 Development on Phase 1 of the site is well underway with approximately 47 units completed with many plots sold and occupied. The housing comprises mostly of detached and semi-detached houses of two-storeys. There is a mixture of material types and colours, including exposed brick, boarding and render. The western side of the wider site resembles a largely finished new housing development. The central and eastern sections remain as undeveloped open countryside.
- 6.4 At present, vehicular access is gained to the site directly from Bromley Road in the west and eventually from Long Road in the north east as the site is developed out. Bromley Road connects Lawford with Little Bromley and the A120 to the south. Long Road is the main road connecting Lawford and Mistley. Dead Lane to the south is a narrow lane, more rural in its character and provides access to farmers and a small number of dwellings.
- 6.5 The site is flat and bounded by perimeter hedgerows and trees marking the field boundaries. The site lies outside the defined settlement boundary of the saved Local Plan but within the settlement boundary of the emerging Local Plan. A public footpath (No. 12) crosses the site, running from Long Road to Dead Lane and forms the western boundary of Phase 2 of the development.
- 6.6 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.
- 6.7 Immediately east of the application site is an expanse of open countryside that has planning approval for the erection of up to 485 dwellings, up to 2 hectares of employment land (A2/A3/B1/D1 uses), with associated public open space and infrastructure, via application (Ref: 17/01181/OUT).

### Planning History

- 6.8 Outline planning permission (ref: 15/00876/OUT) was granted in 2017 for “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”. This permission was made subject to conditions and S106 agreement. Access was approved as part of the Outline, with appearance, landscaping, layout and scale forming the Reserved Matters.
- 6.9 Reserved Matters applications were approved for Phase 1 (ref: 17/01527/DETAIL) involving 120 dwellings in 2018 and Phase 2 (ref: 19/01475/DETAIL) involving 140 dwellings in 2019 and Phase 3 (ref: 20/00480/DETAIL) that resolved the final 100 dwellings, recently in 2020.
- 6.10 In the event of this application being positively received, a new Decision Notice shall be issued for the entire outline site, including where relevant the conditions or reserved matters approvals that have been achieved so far on site. As part on the original outline

approval (ref: 15/00876/OUT) 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 are outlined below.

<b>OUTLINE</b>	<b>APPLICATION</b>	<b>CONDITIONS</b>	<b>Timing</b>
15/00876/OUT			
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

### Proposal

6.11 This Section 73 application or 'Variation of Conditions' application seeks to vary condition 9 of the original outline consent (ref: 15/00876/OUT).

6.12 Existing Condition 9

*"No more than 200 dwellings on the development shall be occupied until the following have been provided or completed:*

*a) A priority junction with right turn lane (with two pedestrian refuge islands) in Long Road to provide access to the proposal site. Priority junction shall have minimum 10.5 metre kerbed radii with dropped kerbs/tactile paving crossing points, a minimum 6.75 metre access road carriageway with two 3 metre footway/cycleways, pedestrian/cycle refuge island and a minimum 109 x 2.4 x 120 metre clear to ground visibility splay; in accordance with Ardent Consulting Engineers drawing no K294- 002B,*

*b) Upgrading to current Essex County Council specification of the two bus stops which would best serve the proposal site (either Long Road and/or Wignall Street); and*

*c) A minimum 3-metre-wide footway/cycleway along the proposal site's Long Road frontage,*

*d) Upgrade to the Public Right of Way which runs through the proposal site between Long Road and Dead Lane (details shall be agreed with the Local Planning Authority prior to commencement of the development)."*

6.13 Proposed Condition 9 (with existing wording crossed out and proposed new wording underlined).

"No more than 200 dwellings on the development shall be occupied until the following have been provided or completed:

~~a) A priority junction with right turn lane (with two pedestrian refuge islands) in Long Road to provide access to the proposal site. Priority junction shall have minimum 10.5 metre kerbed radii with dropped kerbs/tactile paving crossing points, a minimum 6.75 metre access road carriageway with two 3 metre footway/cycleways, pedestrian/cycle refuge island and a minimum 109 x 2.4 x 120 metre clear to ground visibility splay; in accordance with Ardent Consulting Engineers drawing no K294-002B~~ mini-roundabout at the junction of Wignall Street and Bromley Road in accordance with approved Ardent Consulting Engineers drawings K297-002D.

b) Upgrading to current Essex County Council specification of the two bus stops which would best serve the proposal site (either Long Road and/or Wignall Street); and

c) A minimum 3-metre-wide footway/cycleway along the proposal site's Long Road frontage,

d) Upgrade to the Public Right of Way which runs through the proposal site between Long Road and Dead Lane (details shall be agreed with the Local Planning Authority prior to commencement of the development)

No more than 260 dwellings on the development shall be occupied until the priority junction with right turn lane (with two pedestrian refuge islands) in Long Road to provide access to the proposal site. Priority junction shall have minimum 10.5 metre kerbed radii with dropped kerbs/tactile paving crossing points, a minimum 6.75 metre access road carriageway with one 3 metre footway/cycleway, one 2 metre footway pedestrian/cycle refuge island and a minimum 109 x 2.4 x 120 metre clear to ground visibility splay; in accordance with Ardent Consulting Engineers drawing K297-003A.

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

- 6.14 The new priority junction at Long Road, criterion (a), is required at the 200- unit trigger. This is because the Bromley Road/Wignall Street junction is near its operational capacity.
- 6.15 However, this Section 73 application seeks to formally vary condition 9 to remove the obligation to deliver the new Long Road junction before the occupation of the 201<sup>st</sup> dwelling (56% of the total dwellings on site). Instead the condition is re-worded to deliver a new mini-roundabout at the junction of Bromley Road and Wignall Street. In doing so, increasing the operational capacity of this junction and allow 260 homes on the Lawford Green site to use the Bromley Road junction. The approved new Long Road junction will instead be delivered before the occupation of the 261<sup>st</sup> dwelling (73% of the total dwellings on site).

#### Justification and Principle of the Development

- 6.16 Phase 1 is under construction, this shall be followed by phase 2 and 3 in due course. The applicant highlights the logic in building out the development site from west to east and the rationale behind the delay in opening the Long Road junction via 3 key points.
- 6.17 Firstly, homeowners in phase 1 have moved in and use the new spine road (“The Avenue”) to access Bromley Road. Construction traffic accesses the site from the rear at Dead Lane. This ensures construction traffic and residential traffic do not mix, enhancing amenity implications for the new residents who do not have construction traffic passing their homes. Ultimately, providing safety and security benefits from such an arrangement.
- 6.18 Secondly, the 200<sup>th</sup> dwelling is sited midway in phase 2. As currently worded, the Long Road access and associated spine road should be delivered once the 200<sup>th</sup> dwelling on site is occupied. However, for the applicant there is a substantial cost to build over 500m of tarmacked road and provide the Long Road junction.
- 6.19 Thirdly, for the applicant, there are several complex logistical and safety issues associated with the early opening of the access to Long Road. If constructed and made available for public use, the link road will require extensive security fencing on both sides of the road. This is necessary to ensure that the public cannot gain access to the construction site. Such measures would require additional gate supervisors (cost) and would lead to mud being brought onto the highway.
- 6.20 For these reasons, the applicant wishes to delay the opening of the new junction with Long Road. The justification for the proposed delayed opening of the new junction is considered reasonable in planning and housing delivery terms.
- 6.21 As the outline planning permission was approved in 2015, the principle of having up to 360 dwellings in this location is not contested. Neither is the access for these dwellings from Bromley Road and Long Road as this was approved under the original outline

permission. Therefore, there are no in principle objections to delaying the opening of the host site to Long Road until the 261<sup>st</sup> dwelling is occupied. However, this is subject to the development management and highway safety implications of the proposed change being acceptable. These factors are explored in further detail below.

#### Highway safety and junction capacity

- 6.22 Paragraph 108 of the NPPF states, when assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:
- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
  - b) safe and suitable access to the site can be achieved for all users; and
  - c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 6.23 Paragraph 109 of the NPPF states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 6.24 Policy QL2 in the adopted Local Plan and Policy CP1 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport. Policy TR1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. Policy CP2 in the emerging Local Plan states proposals which would have any adverse transport impacts will not be granted unless these are resolved, and the development made acceptable by specific mitigation measures.
- 6.25 Of key importance, is whether the existing and proposed highway junctions nearby can deal with the increased traffic flows that the delayed opening of the junction with Long Road would create?
- 6.26 To help in the decision making process, this application has included a Transport Assessment (TA) from Ardent Consulting Engineers. The TA calculated the predicted traffic flows for the weekday morning, school finish and evening peak hours at both the Bromley Road / The Aveune entrance junction and the Wignall Street/Bromley Road nearby main distributor junction. The TA took into consideration the predicted traffic flows of the host development together with other developments in the wider local area including at East Bergholt, Brantham and Mistley.
- 6.27 The TA (pg 3 Section 1.7 and pg 26 Section 4.4) has incorrectly assumed that all 360 dwellings would be using the Bromley Road access until the Long Road junction is opened. In fact, the figure would be 261 dwellings occupied until the Long Road junction opens. Notwithstanding this over calculation, the TA concludes the Bromley Road/The Avenue site access junction has ample capacity to serve as the sole access accommodate all the traffic associated with the consented development (all 360

dwellings). Furthermore, the proposed mini roundabout at the Wignall Street/Bromley Road junction would be able to accommodate the predicted flows with the development accessed solely from Bromley Road (again all 360 dwellings).

- 6.28 Officers are content that there is sufficient justification for the delay in opening the link road to Long Road. Within the original 'reason' for applying Condition 9, the rationale focused on highway efficiency and the delivery of infrastructure to promote sustainable journeys, rather than by private car. Whilst minor delays at the Wignall Street junction exist, they are deemed to be within acceptable limits. Essex County Council Highways has agreed with these findings. They have not objected to the current proposal. The provision of a new mini roundabout between Wignall Street/Bromley Road is also a significant local benefit that was not previously included in the original outline permission.
- 6.29 In view of this, there are no grounds to object to the application on highways safety grounds since the impact is not "severe" as stated in paragraph 109 of the NPPF. These findings have been accepted by Essex Council Highways. The junction with Long Road shall be open in the future as the build out on site matures, not as the TA suggests at 360 dwellings occupied but at the occupation of the 261<sup>st</sup> dwelling on site (73% of the total dwellings on site).

#### Residential Amenity

- 6.30 Officers have sympathy with the single objector who raised concerns with regards to additional traffic flows at the Wignall Street/Bromley Road junction. However, the facts in relation to junction capacity have been demonstrated in the TA and been accepted by County Highways. The impact on residential amenity is considered negligible from having traffic using the Bromley Road/The Avenue access and exits points until the 261<sup>st</sup> dwelling occupation. In effect this is 60 dwellings more than what was originally intended.
- 6.31 Officers would stress that the local area is the beneficiary of a high quality housing development. Such developments shall likely have a positive effect on local jobs and services such as the Scout Hut and attendance at such places. The concern in relation to the bus stop on Wignall Road being moved has been resolved as County Highways have accepted that it can stay in the current position. The plans have been updated to reflect this.
- 6.32 Overall, when considered with mini roundabout junction improvements proposed, the wider public benefits outweigh any short / medium term loss of residential amenity from traffic noise and fumes etc. During these difficult economic times with the health crisis affecting all aspects of society, officers do not consider resisting the proposed variation of condition would be in the wider public interest.

#### Other Matters

- 6.33 This application is not considered to have any impact on the appearance, layout, scale or landscape of the site or the wider Reserve Matters approvals on site for each phase.

6.34 As a S73 application effectively creates a new planning permission, it is necessary to update all the conditions to reflect where conditions have been discharged, sometimes in whole and sometimes in part.

6.35 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

A new Deed of Variation is in the process of being signed that shall ensure the original details in the Section 106 document are honoured.

## **7. Conclusion**

7.1 Officers believe the proposal is an acceptable variation of planning condition that will assist in achieving/maintaining a 5-year Housing Land Supply, and the NPPF requirement to significantly boost the provision of housing land within the District.

7.2 The application has no impact on the, appearance, layout, landscaping or scale of the approved development. Matters relating to access, namely the delaying of the opening of the access to Long Road, have been adequately been assessed by Officers with regards to amenity impacts and by Essex County Council Highways Department with regards to Highways capacity and safety.

7.3 Ultimately, the proposals bring forward much-needed housing in a manner that is considered non-objectional from a highway safety and capacity perspective. Any impact on residential amenity shall be short lived and temporary in nature.

## **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 deed of variation to the original legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990.

### **8.2 Conditions and Reasons**

1. All applications for approved reserve matters shall be in accordance with the approved master plan and phasing plan / program agreed under application

18/00304/DISCON unless otherwise previously agreed in writing with the Local Planning Authority.

Reason - The application is in outline and is for a large development likely to be delivered in phases for which the detail will need to accord broadly with the parameters established at outline stage.

2. Approval of the details of the siting, design and external appearance of the dwellings, the means of access thereto and the landscaping of the site (hereinafter called "the Reserved Matters") shall be obtained for each agreed phase of the development before any development on such phase is commenced.

The development shall be carried out in accordance with any such approval unless agreed in writing by the Local Planning Authority. To date the development shall be implemented in accordance with the details approved in the following applications:

Phase 1	Reserve Matters Approval 17/01527/DETAIL
Phase 2	Reserve Matters Approval 19/01475/DETAIL
Phase 3	Reserve Matters Approval 20/00480/DETAIL

Also, in association with the following alterations to these approved details within the following applications:

- 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.
- 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" housetype at plots 54-57. Change of rear and side elevations, and internal layout to "Alexander" house type at plots 75-79.
- 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.
- 19/00211/FUL Re-location of approved electrical substation (retrospective) and parking spaces.

Approval of the details of the siting, design and external appearance of the dwellings, the means of access thereto and the landscaping of the site (hereinafter called "the Reserved Matters") shall be obtained for each agreed phase of the development before any development on such phase is commenced. The development shall be carried out in accordance with any such approval.

Reason - The application is in outline and detailed matters require approval before development can commence.

3. The development shall be in general conformity with the principles set out on the submitted drawing entitled Land Use Audit, dated 21/01/16 unless otherwise previously agreed in writing with the LPA.

Reason – To establish reasonable limits to the layout of the development in the interests of good design, layout, appearance and residential amenity.

4. The maximum number of dwellings to be contained in the development shall be up to (but no more than) 360 dwellings.

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

5. Unless otherwise agreed in writing with the Local Planning Authority, the Construction Management for Phase 1 and Phase 2 shall be implemented in accordance with the details approved in the following discharge of condition applications:

18/00304/DISCON and 18/01548/DISCON (Phase 1) and 19/01698/DISCON (Phase 2)

Prior to the commencement of development in any other defined phase of the approved development, a construction management plan for that phase, to include but shall not be limited to details of wheel cleaning facilities within the site and adjacent to the egress onto the highway, shall be submitted to and approved in writing by the Local Planning Authority. The relevant phase of the development shall be constructed in accordance with the agreed plan.

Reason - To protect highway efficiency of movement and safety.

6. No more than 200 dwellings on the development shall be occupied until the following have been provided or completed:
  - a. A mini-roundabout at the junction of Wignall Street and Bromley Road in accordance with approved Ardent Consulting Engineers drawing K297-002D,
  - b. Upgrading to current Essex County Council specification of the two bus stops which would best serve the proposal site (either Long Road and/or Wignall Street); and
  - c. A minimum 3-metre-wide footway/cycleway along the proposal site's Long Road frontage.
  - d. Upgrade to the Public Right of Way which runs through the proposal site between Long Road and Dead Lane (details shall be agreed with the Local Planning Authority prior to commencement of the development).

No more than 260 dwellings on the development shall be occupied until the priority junction with right turn lane (with two pedestrian refuge islands) in Long Road to provide access to the proposal site has been implemented. Priority junction shall have minimum 10.5 metre kerbed radii with dropped kerbs/tactile paving crossing points, a minimum 6.75 metre access road carriageway with one 3 metre footway/cycleway, one 2 metre footway pedestrian/cycle refuge island and a minimum 109 x 2.4 x 120 metre clear to ground visibility splay; in accordance with Ardent Consulting Engineers drawing K297-003A.

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

7. Prior to occupation of any defined phase of the approved development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport (in consultation with Essex County Council), to include six one day travel vouchers per household 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.

8. Unless otherwise agreed in writing with the Local Planning Authority, the surface water drainage scheme for Phase 1 and Phase 2 shall be implemented in accordance with the details approved in the following discharge of conditions application:

18/00304/DISCON (Phase 1) and 19/01698/DISCON (Phase 2)

No other defined phase of the approved development shall take place until a surface water drainage scheme for that phase, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the local planning authority. All phases of the development shall subsequently be implemented in accordance with the approved details.

In particular the drainage scheme shall include:

- Drainage modelling calculations showing how the run-off for all events up to and including the 1 in 100 year plus climate change is controlled within the site.
- Where infiltration techniques are being proposed, and all run-off cannot be infiltrated, attenuation storage must be provided for any overflow volumes calculated.
- Where run-off is proposed to be discharged to a watercourse, discharge should be limited to the greenfield 1 in 1 year rate for all events.
- Where different SuDS features are being proposed, the drainage modelling should show how these are cascaded together and show clearly their combined effect in controlling both the water quantity and improving water quality within the development.
- Account for a 10% urban creep in the calculation of run-off from the development.

- Provide the appropriate number of treatment stages from the different areas of the development.
- Provide the details of the adoption and maintenance of the scheme for the lifetime of the development.
- Provide the Drainage Scheme Layout showing the SuDS features and their dimensions as appropriate.

Reason - To prevent flooding on the proposed site and the local area by ensuring the satisfactory storage of/disposal of surface water in a range of rainfall events and ensure the system operates as designed for the lifetime of the development.

9. Unless otherwise agreed in writing with the Local Planning Authority, the foul water drainage scheme for Phase 1 and Phase 2 shall be implemented in accordance with the details approved in the following discharge of condition applications:

18/00304/DISCON (Phase 1) and 19/01698/DISCON (Phase 2)

No development shall commence on other phases until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied on any defined phase until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.

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

10. Unless otherwise agreed in writing with the Local Planning Authority, the hard and soft landscaping scheme for Phase 1 and Phase 2 shall be implemented in accordance with the details approved in the following discharge of conditions application:

18/00304/DISCON & 19/00900/DISCON (Phase 1) and 19/01698/DISCON (Phase 2)

No other defined phase of the development 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 that phase, 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.

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

season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure that the development provides a satisfactory setting, in the interests of the character and appearance of the landscape and the visual amenity of the site.

12. Unless otherwise agreed in writing with the Local Planning Authority, the ecological mitigation, management and enhancement for Phase 1 and Phase 2 shall be implemented in accordance with the details approved in the following discharge of condition applications:

18/00304/DISCON (Phase 1) and 19/01698/DISCON (Phase 2)

No other defined phase of the approved development shall commence until an Ecological Mitigation Scheme and Management/Enhancement Plan has been submitted to and approved, in writing, by the Local Planning Authority. The document shall include:

- i) A survey to confirm (or otherwise) the presence of protected species on the application site.

If protected species are present, the survey shall be accompanied by a scheme of appropriate mitigation measures (including bat protection measures and precise details of the timing and method/s of protection). No development shall be undertaken except in full accordance with any such approved scheme of mitigation.

- ii) A management plan to demonstrate how biodiversity within the site will be encouraged by the development.

Reason - In order to safeguard protected wildlife species and their habitats and in the interests of biodiversity.

13. Unless otherwise agreed in writing with the Local Planning Authority, the tree protection measures for Phase 1 and Phase 2 shall be implemented in accordance with the details approved in the following discharge of conditions applications:

18/00304/DISCON (Phase 1) and 20/01337/DISCON (Phase 2)

No other defined phase of the development shall commence until details of tree protection measures, including during the construction phase, for that phase, have been submitted to and approved in writing by the Local Planning Authority and such measures as approved shall be implemented fully in accordance with such requirements.

Reason – In order to ensure the protection of trees, in the interests of local and residential amenity.

14. A. The Written Scheme of Investigation for Phase 1 and Phase 2 shall be implemented in accordance with the approved details within the following discharge of condition applications:

18/00750/DISCON (Phase 1) and 19/01698/DISCON (Phase 2)

No development or preliminary ground-works within any other defined phase of the development can commence until a programme of archaeological trial trenching for that phase has been secured and undertaken in accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the Local Planning Authority. Following the completion of this initial phase of archaeological work, a summary report will be prepared and a mitigation strategy detailing the approach to further archaeological excavation and/or preservation in situ through re-design of the development, shall be submitted to the Local Planning Authority.

B. The archaeological fieldwork for Phase 1 has been approved by the Local Planning Authority within application 18/00750/DISCON. These works have been fully implemented. No development or preliminary groundwork can commence on those other phases of the development site containing archaeological deposits, until the satisfactory completion of archaeological fieldwork, as detailed in the mitigation strategy, which has been signed off by the Local Planning Authority.

C. The post-excavation assessment for Phase 1 has been approved by the Local Planning Authority within application 19/00274/DISCON. Following completion of the archaeological fieldwork on other phases, the applicant will submit to the Local Planning Authority a post-excavation assessment (within six months of the completion date, unless otherwise agreed in advance with the Local Planning Authority), which will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Reason - The proposed development is located within an area with potential for below ground archaeological deposits. The development would result in harm to non-designated heritage assets with archaeological interest.

15. Unless otherwise agreed in writing with the Local Planning Authority, the lighting, refuse storage/collection point and the manufacturer and types and colours of the external facing and roofing materials for the dwellings in Phase 1 and Phase 2 shall be implemented in accordance with the details approved in the following discharge of condition applications:

18/00304/DISCON & 18/01094/DISCON (Phase 1) and 19/01698/DISCON (Phase 2)

Within any other defined phase of the scheme, no development shall commence until precise details of lighting, refuse storage/collection points and the manufacturer and types and colours of the external facing and roofing materials for the dwellings to be used in the construction of that phase have been submitted to and approved, in writing, by the Local Planning Authority. Such lighting, refuse points and materials so approved shall be those used in the development.

Reason - To ensure a satisfactory development in relation to external appearance.

16. Unless otherwise agreed in writing with the Local Planning Authority, the Construction Management Plans of Phase 1 and 2 shall be implemented in accordance with the approved details within the following discharge of condition applications:

18/00304/DISCON (Phase 1) and 19/01698/DISCON (Phase 2)

Within any other defined phase of the development, none of the development shall take place before a method statement for the construction of the development within that phase has been submitted to, and approved in writing by, the Local Planning Authority. The demolition and construction works for the relevant phase of the scheme shall be carried out in accordance with the approved method statement.

Details submitted in respect of the method statement, incorporated on a plan, shall provide for wheel cleaning facilities during the excavation, site preparation and construction stages of the development. The method statement shall also include details of the loading and unloading of plant and materials, details of the piling method, hours of construction, dust suppression strategy, means of recycling materials, noise and vibration mitigation techniques, lighting to be used during construction showing light spill to neighbouring properties (with methods to be employed to prevent nuisance if required), the provision of parking facilities for contractors during all stages of the development (excavation, site preparation and construction) and the provision of a means of storage and/or delivery for all plant, site huts, site facilities and materials.

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

17. Within the hereby permitted development, no dwelling shall be occupied until a high-speed broadband connection is installed utilising resistant tubing to that dwelling. Unless otherwise agreed in writing with the Local Planning Authority, all connections shall be in accordance with the details set out in the GTC letter dated 4 July 2017. If the applicant is unable to achieve this standard of connection, and can evidence through consultation that this would not be possible, practical or economically viable an alternative superfast (i.e. will provide speeds greater than 24mbps) wireless service will be considered acceptable.

Reason - To ensure the development is able to be equipped with high speed broadband to enable opportunities for web-based communication and homeworking.

18. Unless otherwise agreed in writing with the Local Planning Authority, the development shall be built in accordance with the Local Recruitment Strategy documented within approved application 18/00750/DISCON.

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

19. Unless otherwise agreed in writing with the Local Planning Authority, the development shall be built in accordance with the Resource Efficiency Measures Specification Statement documented within approved application 18/00304/DISCON.

Reason - To enhance the sustainability of the development through better use of water, energy and materials.

20. Unless otherwise agreed in writing with the Local Planning Authority, the land contamination and remediation strategy of Phase 1 and 2 shall be implemented in accordance with the approved details within the following discharge of conditions applications:

18/00750/DISCON (Phase 1) and 19/01698/DISCON (Phase 2)

No other defined phase of development shall commence until an assessment of the risks posed by any contamination within that phase, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of any phase of the development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 20 days of the report being completed and approved in writing by the local planning authority.

Reason - To ensure that any risks (to future users of the land and neighbouring land and to controlled waters, property and ecological systems) arising from any land contamination are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

### 8.3 **Informatives**

Positive and Proactive Statement

1.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.

#### Highways Informatives

2.All residential 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 commencement of the development must provide guaranteed deposits, which will ensure the new street is constructed in accordance with a specification sufficient to ensure future maintenance as highway by the Highway Authority.

3.Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.

4.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).

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

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

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

6.The proposal should be in accordance with the Parking Standards Design and Good Practice Supplementary Planning Document dated September 2009.

7.S106 Informative: The applicant is reminded that this permission is linked to a planning obligation under Section 106 of the Town and Country Planning Act 1990. The original Section 106 associated with application 15/00876/OUT remains in place. This application, via a Deed of Variation Agreement shall honour in full, the details of the original Section 106 document.

8. Conditions Informative: Please note that in accordance with Government Legislation a formal application must be made to the Local Planning Authority when submitting details in connection with the approval of details reserved by a condition. A fee of £28 for householder applications and £97 for all other types of application will be required for each written request.

Standard Informative 1: The Provisions of the Essex Act 1987, Section 13 (Access for the Fire Brigade) may apply to this Development and will be determined at Building Regulation Stage.

Standard Informative 2: You are reminded that the carrying out of building works requires approval under the Building Regulations in many cases as well as a grant of planning permission. If you are in doubt as to whether or not the work, the subject of this planning permission, requires such approval, then you are invited to contact the Building Control section at Tendring District Council.

Standard Informative 3: If the development includes the construction of a new building on or at the boundary of 2 properties, work to an existing party wall or party structure or involve excavation near to and below the foundation level of neighbouring buildings, you are advised that the provisions of the Party Wall Act 1996 may apply to this development. An explanatory booklet concerning the implications of this Act is available online or from the District Council.

## **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/>.

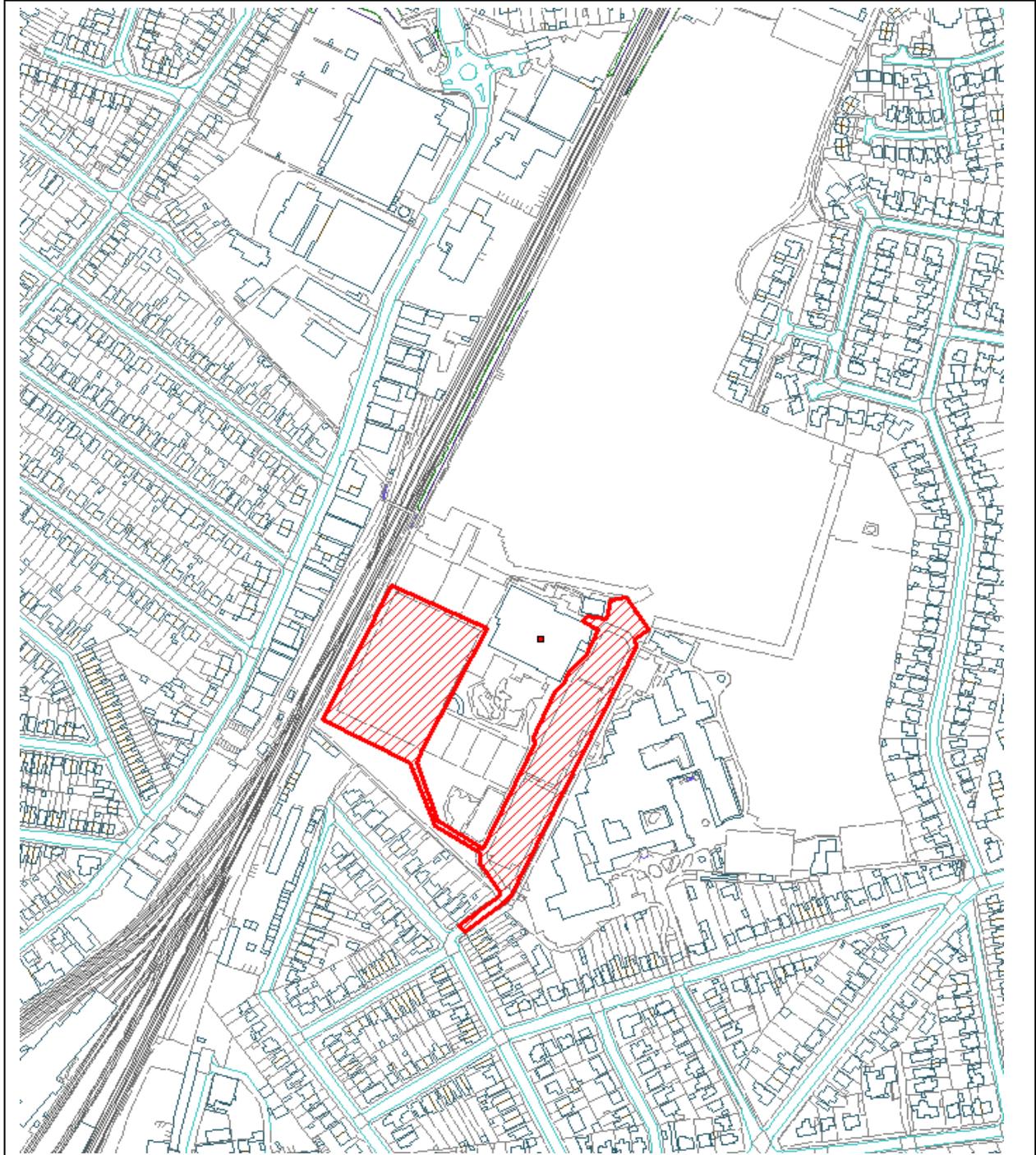
This page is intentionally left blank

## PLANNING COMMITTEE

20<sup>TH</sup> OCTOBER 2020

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### **A.5 PLANNING APPLICATION – 20/00537/FUL – CLACTON LEISURE CENTRE, VISTA ROAD, CLACTON ON SEA, CO15 6DB**



DO NOT SCALE

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

**Application:** 20/00537/FUL

**Town / Parish:** Clacton Non Parished

**Applicant:** Kieran Charles - Sports and Development Manager

**Address:** Clacton Leisure Centre Vista Road Clacton On Sea CO15 6DB

**Development:** Proposed refurbishment of an existing Artificial Grass Pitch (AGP) with associated features including:

- Replacement of existing field of play with new artificial grass surfacing sized 106 x 70m (7420m<sup>2</sup>) with associated line markings to accommodate an 11v11 football pitch and a variety of youth football pitches, mini soccer pitches and training areas.

- Replacement of high level fence enclosure with new 4.5m high ball stop fencing and gated entrances to the AGP perimeter.

- Installation of new 2.0m high and 1.2m high pitch perimeter barrier internally within the AGP enclosure, to segregate the pitch playing area from adjoining hard standing areas.

- Installation of replacement hard standing areas adjoining the AGP perimeter complete with associated porous asphalt surfacing and matching ball stop fencing for pedestrian access and circulation, goals storage and vehicular maintenance access.

- Installation of replacement floodlighting.

- Installation of new maintenance equipment store located within the AGP enclosure.

## **1. Executive Summary**

- 1.1 This application is before the Planning Committee due to Tendring District Council's ownership of the application site.
- 1.2 The proposals relate to the replacement and refurbishment of the Artificial Grass Pitch (AGP) facility at Clacton Leisure Centre and would deliver an enhanced playing facility, with better qualities, in a suitable location. It would give rise to a considerable benefit to the wider community through the provision of an enhanced playing facility and the continued opportunity for usage throughout the year. Moreover, the proposed AGP would make a significant contribution towards addressing the unmet demand for modern football facilities in the District.
- 1.3 The AGP would not result in an unacceptable impact upon the character, appearance or visual amenity of the surrounding area and would not result in an unacceptable impact to residential amenity or have a detrimental impact upon the private amenity of local residents in respect of noise and lighting impacts. Furthermore, the proposal would utilise the existing parking provision would not result in any harm to the safety of the surrounding public highway network.
- 1.4 The proposal satisfies Sport England's E5 exception policy as the proposed development is for an indoor or outdoor facility for sport, the provision of which would be of sufficient benefit to the development of sport. Sport England do not object to the application subject to a condition securing a Hockey Mitigation Scheme to offset the displacement of hockey use at the site.

- 1.5 The planning application is in compliance with national and local planning policies and would not result in any adverse harm to the character or appearance of the area or highway safety. In the absence of any objections from Sport England and other statutory consultees the proposal is considered to be acceptable subject to the mitigation measures being secured via the conditions outlined in section 8.2 of this report.

**Recommendation: Full Approval**

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

- a) Subject to the conditions stated in section 8.2

**2. Planning Policy**

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

**National Policy:**

National Planning Policy Framework

National Planning Policy Guidance

**Local Policy:**

**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
COM1	Access for All
COM4	New Community Facilities
COM7	Protection of Existing Recreational Open Space Including Children's Play Areas and Pitch and Non-Pitch Sports Facilities
COM7a	Protection of Existing Playing Fields, Including School Playing Fields
COM8	Provision and Improvement of Outdoor Recreational Facilities
COM8a	Proposed New Recreational Space
COM10	Built Sports and Recreation Facilities
EN1	Landscape Character
TR1A	Development Affecting Highways
TR7	Vehicle Parking at New Development

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

SPL1	Managing Growth
SPL3	Sustainable Design
HP1	Improving Health and Wellbeing
HP2	Community Facilities
HP3	Green Infrastructure
HP4	Safeguarded Local Greenspace
HP5	Open Space, Sports & Recreation Facilities
CP1	Sustainable Transport and Accessibility

**Local Planning Guidance**

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

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

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

04/01910/FUL	Erection of 6 No. 10m high floodlights to provide average 233 lux over the whole area.	Approved	08.12.2004
07/00366/FUL	Extensions and internal alterations to provide new two storey health suite, relocation of gymnasium with first floor extension, ground floor extension forming cafeteria and entrance canopy, new mesh fence on swimming pool roof, internal alterations forming new aerobic dance studio, changing facilities and	Approved	18.04.2007

toilets.

20/00537/FUL

Proposed refurbishment of an existing Artificial Grass Pitch (AGP) with associated features including:

- Replacement of existing field of play with new artificial grass surfacing sized 106 x 70m (7420m<sup>2</sup>) with associated line markings to accommodate an 11v11 football pitch and a variety of youth football pitches, mini soccer pitches and training areas.

- Replacement of high level fence enclosure with new 4.5m high ball stop fencing and gated entrances to the AGP perimeter.

- Installation of new 2.0m high and 1.2m high pitch perimeter barrier internally within the AGP enclosure, to segregate the pitch playing area from adjoining hard standing areas.

- Installation of replacement hard standing areas adjoining the AGP perimeter complete with associated porous asphalt surfacing and matching ball stop fencing for pedestrian access and circulation, goals storage and vehicular maintenance access.

- Installation of replacement floodlighting.

- Installation of new maintenance equipment store located within the AGP enclosure.

Current

#### 4. Consultations

Environmental Protection  
05.06.2020

Environmental Protection have looked at this application and can confirm that the Floodlight Illuminance survey sufficiently evidences that the lights will have minimal intrusion on nearby properties meaning that EP have no comments to make on this application.

Network Rail  
03.06.2020

The construction of the 4.5m high ball stop fence and 15m high flood light structures will affect the adjacent NR assets including glare from floodlights during use.

Network Rail recommends the developer contacts;

[AngliaASPROLandClearances@networkrail.co.uk](mailto:AngliaASPROLandClearances@networkrail.co.uk) prior to any works commencing on site, and also to agree an

Asset Protection Agreement with us to enable approval of detailed works.

Sport England  
20.07.2020

Refer to previous formal response to the consultations on the above planning application dated 8th June 2020 in which an objection was made to the application as a statutory consultee due to the impact of the change of surface of the artificial grass pitch on current hockey use. The response set out a suggested course of action to be followed to reach a solution that would allow the objection to be withdrawn with respect to mitigating the impact of the proposals on the current hockey use of the pitch. Since then, in response to this previous advice, following discussions and correspondence with Tendring District Council, further information has been provided in relation to hockey mitigation. We are now in a position to review Sport England's position on the planning application and this response should now be treated as superseding our original formal response.

Summary: Sport England withdraws its objection to this planning application as a statutory consultee which is now considered to meet exception 5 of our adopted Playing Fields Policy and paragraph 97 of the NPPF subject to two planning conditions being imposed relating to the following matters as set out in this response:

- Hockey Mitigation Scheme;
- Artificial Grass Pitch Certification.

#### Sport England -Statutory Role and Policy

It is understood that the proposal prejudices the use, or leads to the loss of use, of land being used as a playing field or has been used as a playing field in the last five years, as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2015 (Statutory Instrument 2015 No. 595). The consultation with Sport England is therefore a statutory requirement.

Sport England has considered the application in light of the National Planning Policy Framework (NPPF) (in particular Para. 97), and against its own playing fields policy, which states:

Sport England will oppose the granting of planning permission for any development which would lead to the loss of, or would prejudice the use of:

- all or any part of a playing field, or
- land which has been used as a playing field and remains undeveloped, or
- land allocated for use as a playing field

unless, in the judgement of Sport England, the

development as a whole meets with one or more of five specific exceptions.

Sport England's Playing Fields Policy and Guidance document can be viewed via the below link:

[https://www.sportengland.org/how-we-can-help/facilities-and-planning/planning-for-sport#playing\\_fields\\_policy](https://www.sportengland.org/how-we-can-help/facilities-and-planning/planning-for-sport#playing_fields_policy)

#### The Proposal and the Impact on the Playing Field

In summary, the application involves the refurbishment of the artificial grass pitch (AGP) at Clacton Leisure Centre. This would principally involve replacing the existing sand based surfacing (conventionally referred to as AstroTurf) with a new 3G rubber crumb surface that would be marked out for a range of different sized football pitches, replacement perimeter ball stop fencing, a new pitch perimeter barrier, replacement hardstanding areas and replacement floodlighting.

#### Assessment against Sport England Policy/NPPF

The proposals relates to the provision of an enhanced outdoor sports facility on the playing field (the existing AGP) at the above site. The proposals would therefore be considered against exception 5 of the above policy, which states:

5 - The proposed development is for an indoor or outdoor sports facility, the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss of the playing field or playing fields.

We have therefore assessed the proposals against the above policy to determine whether they meet exception 5.

#### Sports Development Benefits

The key potential sports development benefits of the proposed development are set out in detail in the design and access statement. In summary, the benefits are considered to be as follows:

- The new 3G rubber crumb surface would provide a modern all weather surface for football use that would be capable of intensive use throughout the year. The existing sand based artificial surface was last resurfaced in 2005 and is therefore reaching the end of its lifespan. Despite football use being the predominant use of the AGP, the current sand based surface is not the preferred surface for football training and is not sanctioned for FA affiliated football matches. The AGP would be capable of accommodating a range of football pitches for meeting the needs of different age groups and would be suitable

for both matches and training. The design and layout of the AGP would accord with the Football Association's design guidance which will help ensure that a fit for purpose facility that is suitable for meeting community needs will be implemented in practice.

- Tendring District Council's playing pitch strategy (2017) identified that at the time the strategy was prepared the district had no full size 3G AGPs and there was a district-wide deficiency of four AGPs with a 3G surface suitable for meeting current and future community football training needs. While the sand based AGP at the Tendring Education Centre site was subsequently converted to a 3G surface in 2019, there still remains a need for a further three 3G AGPs in the district. The Tendring Local Football Facilities Plan that was prepared in 2018 for the Football Association has also confirmed the need for four (now three) additional AGPs in the district and the leisure centre site has been specifically identified in the Plan as a priority scheme for meeting local needs.

- The facility would meet the specific facility needs of a large number of local football clubs as set out in the design and access statement including the 8 football clubs that currently use the AGP. The Football Foundation (who represent the FA and the Essex County FA) have advised that the majority of football activity in district is focused on the Clacton area where several large FA Charter Standard clubs are based. The Football Foundation has advised that the scheme would support the formal affiliated side of the game from a quality winter training venue perspective as well as the informal recreational game of which there are some established links with projects that focus on the health and well-being of the local residents such as walking football, turn up and play activity. The facility would also be used for coaching, officiating, disability football etc. The Football Foundation have confirmed that they are supportive of the AGP in relation to both the principle and its design;

- The AGP would be used for meeting the curricular and extra-curricular needs of the adjoining Clacton County High School as part of a joint use agreement between the school and the District Council that is currently being prepared in connection with the school's planned expansion. The AGP would offer the school the benefit of continuity of facility provision when natural turf pitches are unavailable on the school site due to ground conditions. The facility could also potentially be made available for meeting the needs of other schools in the area.

#### Impact on Playing Field

As set out in the Planning, Design and Access Statement, the change in surface would make it

unsuitable for hockey use. At present, Clacton Hockey Club is based at the Leisure Centre site and all of the club's matches and training takes place on the pitch and the club has access to a pavilion on the site for changing and social activities. Clacton Hockey Club currently have two adult teams and on an average week during the hockey season will use the pitch on average for 3 hours a week during the midweek evenings for training and 2 hours on a Saturday for matches although occasionally when both teams have home fixtures they will use the pitch for 4 hours on Saturdays. If the surface was converted to 3G rubber crumb as proposed to support football use then all of the current hockey use would be displaced. It was originally proposed that the hockey club would relocate to the AGP at Dovercourt Bay Lifestyles Centre in Harwich. However, this is no longer being pursued due to the poor condition of the pitch at this site and Clacton Hockey Club's unwillingness to travel this distance. Following discussions with Tendring District Council, it is now proposed that the impact on hockey would be mitigated through relocating hockey to the AGP at the Brightlingsea Sports Centre (Colne Community College) site in Brightlingsea. The mitigation package that has been offered can be summarised as follows:

- AGP Improvement Works: The surface of the AGP at the Brightlingsea Sports Centre is in a poor condition and reaching the end of its lifespan. Tendring District Council commissioned Surface Performance Ltd (a specialist company) to prepare a report (Brightlingsea Sports Centre Test Report January 2020) on the works required to repair the surface of the AGP to extend its lifespan. The report concluded that if the surface was rejuvenated through the removal of existing infill, vacuum washing and the replacement of the infill combined with a suitable maintenance programme then the lifespan of the surface could be extended by another 4-5 years. Tendring District Council and Sigma Trust (the academy trust that control the Colne Community College) have agreed to fund the required works if Clacton Hockey Club decide to relocate to the facility;

- Security of Booking: The Council have offered to provide a secure booking arrangement for Clacton Hockey Club that would be equivalent or better than the current arrangement on the Clacton Leisure Centre site;

- Phasing and Delivery: The Council have advised that the improvement works to the AGP at Brightlingsea Sports Centre would be implemented prior to any works commencing on the surface of the Clacton Leisure Centre AGP to convert it to 3G if Clacton Hockey Club agreed to relocate.

Initial discussions that had taken place with Clacton

Hockey Club before the planning application was submitted indicated that the club was not supportive of being relocated to Brightlingsea Sports Centre. As the scheme is now more advanced and has progressed to a planning application, the District Council is seeking to re-engage with the hockey club to discuss the relocation again and the outcome of these discussions is not yet known. We have consulted England Hockey (the governing body) for their views and their position is that, in accordance with the Council's Playing Pitch Strategy, there needs to be a satisfactory plan to safeguard hockey within the area before the Clacton Leisure Centre pitch is resurfaced. England Hockey do not object in principle to the proposals at Brightlingsea Sports Centre as this could safeguard hockey facility provision in the area although they are aware that Clacton Hockey Club are reluctant to relocate to a facility outside of Clacton.

In principle, the mitigation proposals offered by the District Council would be acceptable as they could safeguard Clacton Hockey Club match and training requirements. However, the delivery of the mitigation proposals will depend on whether the club are willing to relocate their matches and training to Brightlingsea Sports Centre and the outcome of discussions with the hockey club is currently unknown. As the hockey club is a Clacton based club which has all of its home matches and training in Clacton, the reluctance of the club to relocate to Brightlingsea is understandable. If the club elected not to relocate to Brightlingsea, there is a high risk that this would result in the demise of the hockey club because there would not be any alternative facilities that would be suitable for meeting the club's facility needs in the Tendring district area. This would potentially have a major impact on the development of community hockey in Clacton and the surrounding area. However, despite this risk, in reaching a conclusion on the assessment of the proposals, the following considerations are significant:

The benefits to football of converting the surface to a 3G surface would be substantial as set out above;

- Despite the current sand based surface being more suitable for hockey use, football is the predominant user of the existing AGP and at least eight Clacton based football clubs each with multiple teams would benefit from the surface conversion compared to one hockey club with two teams that would be negatively impacted;

- The existing sand based surface on the AGP is reaching the end of its lifespan and if the Council decided not to convert it to a 3G surface as currently proposed, there would be a risk that the surface would become unsafe for hockey match use in which case the hockey club's current use of the facility for matches would be

displaced in any case;

- While the hockey club is Clacton based, based on the information provided in the needs assessment undertaken as part of the Council's Playing Pitch Strategy, the majority of the hockey's club's members at the time the strategy was prepared (2016-17) resided outside of Tendring district. Consequently, unless this situation has changed since the strategy was prepared, the impact of relocating to Brightlingsea may not be as significant for a large proportion of the club's current members although there would inevitably be an impact on Clacton based members and the development of hockey in Clacton;

- The proposals for relocating the hockey club's matches and training to Brightlingsea would offer an alternative venue that could safeguard the hockey club activity in Tendring albeit that it is accepted that this would represent an inferior location for the club.

#### Conclusion and Recommendation

On the basis of the above assessment, despite the potential impact of the proposals on the current hockey use of the AGP, it is considered that the sports development benefits that the proposals would offer would outweigh the detriment caused by this impact. It is therefore considered that the proposed development would meet exception 5 of our playing fields policy. This being the case, Sport England withdraws its objection to this application subject to the following conditions being attached to the decision notice should the local planning authority be minded to approve the application:

- Hockey Mitigation Scheme: A condition requiring the submission and approval by the local planning authority (in consultation with Sport England) of a scheme to mitigate the impacts of the proposals on the current use of the AGP by the hockey club. While the principle of the District Council's proposals for relocating Clacton Hockey Club to the Brightlingsea Sports Centre are acceptable, at this stage it is unclear whether the hockey club will agree to relocate to Brightlingsea. If they agree to relocate, details of the specification of the enhancement works recommended in the Surface Performance Ltd report would be needed together with a maintenance programme and an implementation programme for the works to demonstrate that that works would be implemented before the surface of the AGP on the application site is converted to 3G. Details of the club's agreement for the use of the facility (e.g. the hire agreement) would also be needed. A scheme which sets out all of these details is therefore required to ensure that the detail of the mitigation scheme is acceptable in practice. The applicant is advocated to discuss and agree the

mitigation scheme with Clacton Hockey Club in advance of preparing the details and Sport England should be consulted before any submission is made. It is therefore requested that a condition worded along the following lines be imposed on any planning permission to address this matter:

***No development shall commence until a hockey mitigation scheme to ensure the continuity of provision for the existing hockey use on the artificial grass pitch has been submitted to and approved in writing by the Local Planning Authority [after consultation with Sport England]. The scheme must set out details of the contractor's specification and maintenance programme for the enhancement works to the artificial grass pitch at Brightlingsea Sports Centre based on the recommendations in the Surface Performance Ltd Test Report (January 2020), the implementation programme for the enhancement works and the arrangements for securing Clacton Hockey Club's use of the facility . The approved scheme shall be implemented and complied with in full.***

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

Artificial Grass Pitch Certification: A condition requiring the submission and approval by the local planning authority (in consultation with Sport England) of certification that the new 3G artificial grass pitch surface has met the FIFA Quality Standard accreditation or equivalent International Artificial Turf Standard (IATS) requirements prior to first use of the artificial grass pitch. This is justified because AGPs can only be sanctioned for FA affiliated community football match use where the pitch has been tested to meet these requirements. Further details of the FIFA standard is on FIFA's website at <http://quality.fifa.com/en/Football-Turf/Install-Football-Turf/Certification/>. The facility is intended to be designed and maintained to meet these technical standards (if funding from the Football Foundation is secured) but this cannot be confirmed in practice unless appropriate testing takes place which certifies this. As a pitch can only be tested for certification when it is completed it would not be possible to request the information to be provided at planning application or pre-commencement stages. Following meeting the tests, the facility will need to be registered on the FA's Register of Football Turf Pitches <http://3g.thefa.me.uk/> to enable it to be sanctioned for FA affiliated community football match use. The Essex County FA can provide further advice to the applicant upon request. It is requested that the following condition and informative be imposed (which is

based on condition 9b of our model conditions schedule [https://www.sportengland.org/how-we-can-help/facilities-and-planning/planning-for-sport#planning\\_applications](https://www.sportengland.org/how-we-can-help/facilities-and-planning/planning-for-sport#planning_applications))

***Use of the 3G artificial grass pitch surface hereby permitted shall not commence until:***

***(a) certification that the Artificial Grass Pitch surface hereby permitted has met the FIFA Quality accreditation or equivalent International Artificial Turf Standard (IATS); and;***

***(b) confirmation that the facility has been registered on the Football Association's Register of Football Turf Pitches;***

***have been submitted to and approved in writing by the Local Planning Authority.***

***Reason: To ensure the development is fit for purpose and sustainable, provides sporting benefits and to accord with Development Plan Policy.***

Informative: The applicant is advised that the pitch should be tested every three years by an accredited testing laboratory in order to achieve and maintain FIFA Quality accreditation.

Essex County Council Highways  
24.09.2020

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

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. construction vehicle route from the site entrance should be clearly signed and put in place.

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. Any 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.

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.

## **5. Representations**

5.1 No third party representations have been received.

## **6. Assessment**

### Site Context

- 6.1 The application site lies within the Clacton Leisure Centre complex situated centrally within the settlement of Clacton-on-Sea.
- 6.2 The subject area predominantly comprises of a rectangular pitch approximately 97.5m x 61.1m in area, surfaced in artificial grass and enclosed with a 3m high wire mesh fence defining the pitch boundaries, which is generally in a poor condition. Asphalt surrounds the playing area at 3.7m wide to north, 3.9m wide to east, 3.8m wide to south and 4m wide to east.
- 6.3 Existing floodlights include eight (8no.) masts (15m high) with four masts positioned along the western and four masts positioned along the eastern longitudinal side of the site. Each mast is mounted with four (4no.) luminaires.
- 6.4 The application site extends beyond the existing pitch and includes grassed areas outside of the fence, with the site boundary itself undefined. Tennis courts lie to the south-east, further small pitches to the north, grassland to the south-west and a public footpath to the western side of the site.
- 6.5 A railway line lies beyond the western boundary of the leisure centre site. The site and surrounding land are relatively flat, although there is a rise in levels from the southern extent of the site towards Vista Road. Several mature and semi-mature trees are present to the western, southern and eastern boundaries of the Leisure Centre.

### Proposal

6.6 This application proposes the following;

- A replacement 3G artificial grass pitch area measuring 106 x 70m;
- Adjoining hard standing goal storage areas, pedestrian circulation and pedestrian/vehicular access;
- New open steel mesh ball stop fencing (polyester powder coated RAL6005 Moss Green) and entrance gates around the entire AGP (Artificial Grass Pitch) perimeter measuring 4.50m above ground level;

- New open steel mesh pitch perimeter barriers and entrance gates (polyester powder coated RAL6005 Moss Green) internally within the AGP enclosure to segregate the artificial grass pitch surface from adjoining hard standing areas are 1.20m and 2.00m above ground level;
- New floodlight system measuring 15m above ground level comprising eight (8no.) masts mounted with sixteen luminaires with a 2no. / 2no. / 2no. / 2no. arranged the along north western and south eastern sides of the AGP; and
- New outdoor maintenance/sports equipment store measuring 2.59m above ground level.

- 6.7 The AGP will continue to be managed and operated as an amenity to current sports facilities at Clacton Leisure Centre; for local community groups and community sports clubs including local junior and youth football clubs.
- 6.8 The AGP will provide five principle types of football applications and will offer a variety of match play pitches and training areas within the same enclosed playing space to support The Football Association’s development plans into grassroots football and gain the maximum sport developmental outcomes; both during the day and during evenings and at weekends via pre-arranged and structured community access.
- 6.9 In accordance technical guidance, the proposal is to introduce multiple pitch markings to gain the maximum football developmental outcomes and benefit from the site footprint and the AGP will support the following formal pitch arrangement:

AGE GROUPING	TYPE	PITCH SIZE	QUANTITY
Youth U17/18 and Open Ages Football	11v11	100 x 64m	1
Youth U11 / U12*	9v9	63.8 x 45.9m	2
Mini Soccer U9 / U10**	7v7	55 x 37m	2
Mini Soccer U7 / U8* **	5v5	37 x 27m	4
Training Areas**	Various	48 x 30m	4

\*Smaller than recommended size, but acceptable for match play use  
 \*\*the variety of over markings will be agreed in due course, to be considered against the football development plan

- 6.10 This proposal has been prepared in accordance with published Design Guidance Notes (The Football Association (FA)/Sport England) pertinent to external artificial sports facility provision. The Artificial Grass Pitch (AGP) design is in accordance with The FA Guide to 3G Football Turf Pitch Design Principles and Layouts.

Principle of Development

- 6.11 The National Planning Policy Framework (NPPF) at paragraph 96 recommends that ‘access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate’.
- 6.12 In this respect the proposal is to provide an enhanced outdoor sporting facility to replace the existing sub-standard AGP. Clacton Leisure Centre was chosen as the optimum site for grassroots football development for this project and the factors that were considered included community sporting demands and benefits, deliverability, site constraints and access and movement.
- 6.13 In particular the Playing Pitch Strategy (PPS) for Tendring stated there is a both a current and future shortfall of youth 11v11 and 9v9 football pitches which is further exacerbated when future demand is factored in. It also noted overplaying on several sites and a number of the pitches have been assessed as standard or poor.

- 6.14 In this context the proposed AGP will provide a high-quality artificial grass pitch surface to allow structured football activities to provide certainty that scheduled training and matches would not be disrupted in all but the most inclement weather.
- 6.15 The AGP will also allow more intensive football activities to be played at the Leisure Centre which will broaden the opportunity to take part in sport by local community groups and football club players.
- 6.16 The National Planning Policy Framework (2019) introduced a presumption in favour of sustainable development set out as three dimensions – economic, social and environmental objectives. This proposal aims to contribute to the above areas as follows;
- Economic objective – providing a self-funding facility for use by community visitors to Clacton Leisure Centre.
  - Social objective – providing a modern facility that will encourage the physical activity and engagement with the benefits to health and wellbeing associated with this.
  - Environmental role – ensuring that the existing natural environment is not harmed post development and the AGP is designed and implemented to conserve and reduce energy wastage wherever possible.
- 6.17 Therefore, taking into account the benefits of the scheme, it is considered the proposals are compliant with national and local planning policies governing proposed leisure uses.
- 6.18 Notwithstanding the above, Sport England are a statutory consultee on this planning application as the proposal affects an existing playing field.
- 6.19 Originally they lodged an objection to the application as a statutory consultee due to the impact of the change of surface on current hockey use. The objection from Sport England set out a suggested course of action to be followed to reach a solution that would allow the objection to be withdrawn with respect to mitigating the impact of the proposals on the current hockey use of the pitch.
- 6.20 Following discussions and correspondence between Sport England and the Council's Leisure Team, further information has been provided in relation to proposed hockey mitigation. In this regard it is proposed that the impact on hockey would be mitigated through relocating hockey use to the AGP at the Brightlingsea Sports Centre (Colne Community College) site in Brightlingsea. In particular, the mitigation package that has been offered can be summarised as follows:
- AGP Improvement Works at Brightlingsea Sports Centre, which is currently of a poor standard, including the removal of existing infill, vacuum washing and the replacement of the infill combined with a suitable maintenance programme;
  - Security of Booking: The Council have offered to provide a secure booking arrangement for Clacton Hockey Club that would be equivalent or better than the current arrangement on the Clacton Leisure Centre site;
  - Phasing and Delivery: The Council have advised that the improvement works to the AGP at Brightlingsea Sports Centre would be implemented prior to any works commencing on the surface of the Clacton Leisure Centre AGP to convert it to 3G if Clacton Hockey Club agree to relocate.
- 6.21 In view of the above hockey mitigation package being secured, Sport England have removed their objections to this planning application as they consider that the sports development benefits that the proposals would offer, in conjunction with the proposed mitigation measures,

would outweigh the detriment caused by the impact upon hockey use. Consequently, they consider the development meets exception 5 of their adopted Playing Fields Policy and paragraph 97 of the NPPF subject to two planning conditions being imposed relating to securing the Hockey Mitigation Scheme and an Artificial Grass Pitch Certification for the new AGP.

#### Appearance/Design

- 6.22 Saved Policy QL9 sets out a range of general design principles, including requirements for developments to have regard in their design approach to local character and distinctiveness, architectural quality, scale and massing, and landscaping. This policy requires all new development to make a positive contribution to the quality of the local environment, and to protect or enhance local character. Draft Policy SPL3 sets out the requirement for development to achieve sustainable design.
- 6.23 Paragraph 124 of the NPPF states that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 6.24 The proposal will replace an existing outdoor sports facility and is complimentary to a sports complex setting and will not result in an unacceptable visual impact looking into the application site. The proposed AGP and associated paraphernalia would not be out of keeping with the character of Clacton Leisure Centre, whilst the proposed purpose and uses to satisfy community sporting demands are compatible with current uses of the overall site.
- 6.25 The proposed perimeter fencing at 4.5m high would be 1.5m higher than the existing fencing. However, the high level ball stop fencing would reduce the frequency that balls are retrieved from the surrounding grassed playing field whenever kicked over the fenced enclosure. Moreover, the intention to finish the fencing in a powder coated RAL6005 Moss Green colour along with its transparent nature ensures it would not appear overly prominent and would not appear incongruous within the leisure centre complex.
- 6.26 The replacement floodlighting columns are of the same height as existing and will consist of slim line poles. Consequently, in this respect the visual impact of the development would be reduced.

#### Highway Safety/Parking

- 6.27 It is considered that existing parking provision at the leisure centre can accommodate the expected vehicular traffic for existing and new community visitors during operational hours of use including changeover times.
- 6.28 Essex County Council Highways have no objections to the application subject to the submission of a Construction Method Statement and details of cycle parking provision is secured.

#### Landscaping/Trees

- 6.29 The perimeter of the application site is well populated with established trees that make a significant positive contribution to the character and appearance of the recreation ground.
- 6.30 In order to show the extent of the constraint that the trees are on the development potential of the land the applicant has submitted an Arboricultural Impact Assessment (AIA). This information is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction - Recommendations.

- 6.31 The AIA shows how the Root Protection Areas (RPA's) of retained trees will be physically protected for the duration of the construction phase of any development for which planning permission may be granted.
- 6.32 The report identifies the removal of an established Ash (*Fraxinus excelsior*) and the removal of some lower branches of trees on the western boundary. The pruning works will not adversely affect the health of the pruned trees but the removal of the Ash is unfortunate. Nevertheless taking into account the primary use of the recreation ground and the proximity of other existing trees as well as the proposal to replant trees and shrubs to compensate for its removal it is considered that no significant long term harm will result from the removal of the Ash. The benefits of providing an enhanced playing facility giving rise to a considerable benefit to the wider community are considered to outweigh the harm caused by the removal of this tree.
- 6.33 A condition is included within section 8.2 of this report to secure replacement planting for the felled Ash and additional planting to supplement the proposal.

#### Impact on Residential Amenity

- 6.34 The NPPF (2019) at paragraph 127 states that planning should secure developments with a high standard of amenity for existing and future users. Saved Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.35 In this case the proposals result in a change in noise at the nearest residential properties of less than 1 decibel. According to the Institute of Environmental Management and Assessment guidelines this has a negligible impact and generally it is not expected that a 1 decibel change would be perceptible.
- 6.36 It is also important to note that the change in surface would make it unsuitable for hockey and thus the maximum noise levels generated when hockey balls hit the strike boards would no longer occur.
- 6.37 Based on the above, the proposals result in a negligible change in noise level and also displace the activity which generates the highest noise levels. On this basis the proposals are considered acceptable when considering the impact upon local residents in respect of noise and disturbance.
- 6.38 Having regard to the impact of the floodlighting columns these will replace the existing 8 no. columns. A lighting plan has been provided which shows the luminance calculations to the closest residential properties to the west along Oxford Road and to the south along Vista Road. The calculations demonstrate that that luminaire intensity (glare) created whilst floodlights are operated is below the threshold for an Environmental Zone E2 location and as such; does not create an unacceptable impact by way of artificial lighting.
- 6.39 The Council's Environmental Protection Department have looked at this application and confirm that the Floodlight Illuminance survey sufficiently evidences that the lights will have minimal intrusion on nearby properties.

#### Drainage

- 6.40 The current AGP contains a permeable construction which includes a positive drainage system (pipe drainage) installed beneath the pitch base and foundations area comprising UPVC perforated carrier and lateral pipe drains.

6.41 It is proposed to maintain current arrangements and discharge surface water into local sewers around the Leisure Centre via surface water drainage inspection chambers and pipework which are located around the current AGP perimeter. There will be no foul water discharge associated with the proposed development.

## **7. Conclusion**

7.1 The proposals relate to the replacement and refurbishment of the Artificial Grass Pitch (AGP) facility at Clacton Leisure Centre and would deliver an enhanced playing facility, with better qualities, in a suitable location. It would give rise to a considerable benefit to the wider community through the provision of an enhanced playing facility and the continued opportunity for usage throughout the year. Moreover, the proposed AGP would make a significant contribution towards addressing the unmet demand for modern football facilities in the District.

7.2 The planning application therefore accords with the requirements of local and national planning policies and in the absence of any objections from Sport England and other statutory consultees the proposals are considered to be acceptable.

## **8. Recommendation**

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

### **8.2 Conditions and Reasons**

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

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

2. No development shall commence until a hockey mitigation scheme to ensure the continuity of provision for the existing hockey use on the artificial grass pitch has been submitted to and approved in writing by the Local Planning Authority (after consultation with Sport England). The scheme must set out details of the contractor's specification and maintenance programme for the enhancement works to the artificial grass pitch at Brightlingsea Sports Centre based on the recommendations in the Surface Performance Ltd Test Report (January 2020), the implementation programme for the enhancement works and the arrangements for securing Clacton Hockey Club's use of the facility. The approved scheme shall be implemented and complied with in full.

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

3. Use of the 3G artificial grass pitch surface hereby permitted shall not commence until:

(a) certification that the Artificial Grass Pitch surface hereby permitted has met the FIFA Quality accreditation or equivalent International Artificial Turf Standard (IATS) and;  
(b) confirmation that the facility has been registered on the Football Association's Register of Football Turf Pitches;

have been submitted to and approved in writing by the Local Planning Authority.

Reason - To ensure the development is fit for purpose and sustainable, provides sporting benefits and to accord with Development Plan Policy.

4. The floodlights permitted shall not be switched on or used outside the following times:  
- 09:00 hours to 22:00 hours on any day

Reason - To protect the amenities of local residents, by limiting the potential for any disturbance.

5. 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 (including boundary treatments and lighting), 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 – To secure replacement tree planting in the interest of visual amenity and the character of the area.

6. 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.

7. The proposed times of construction, demolition and site clearance operations shall be limited to the following hours; 0800 to 1900 Monday to Friday and 0800 to 1300 on Saturdays with no construction operations on Sundays or public holidays.

Reason – To protect the amenity of local residents.

8. 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. construction vehicle route from the site entrance should be clearly signed and put in place.

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.

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

- 19-0182 BM25583 0478 02
- 19-0182 BM25583 0478 03
- 19-0182 BM25583 0478 04
- 19-0182 BM25583 0478 05
- 19-0182 BM25583 0478 06
- 19-0182 BM25583 0478 07
- 19-0182 BM25583 0478 08
- JKK10672\_600 (Tree Protection Plan)

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

### 8.3 Informatives

#### Positive and Proactive Statement

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

The applicant is advised that the pitch should be tested every three years by an accredited testing laboratory in order to achieve and maintain FIFA Quality accreditation.

It is advised that the applicant contacts Network Rail at [AngliaASPROLandClearances@networkrail.co.uk](mailto:AngliaASPROLandClearances@networkrail.co.uk) prior to any works commencing on site to agree an Asset Protection Agreement to enable approval of detailed works.

### 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/>.

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank