



PLANNING COMMITTEE

DATE: Tuesday, 15 December 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 Bray (Vice-Chairman)
Councillor Alexander
Councillor Cawthron
Councillor Casey

Councillor Fowler
Councillor V Guglielmi
Councillor Harris
Councillor Placey

Most Council meetings are open to the public and press.

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

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

For further details and general enquiries about this meeting, contact Emma Haward Email: democraticservices@tendringdc.gov.uk or Telephone on 01255 686007

DATE OF PUBLICATION: Monday, 7 December 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 - 28)

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Tuesday, 17 November 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 - 19/01598/FUL - CROSSWAYS GARDEN CENTRE THORPE ROAD LITTLE CLACTON CLACTON ON SEA CO16 9RZ (Pages 29 - 66)

This application is referred to Planning Committee as it represents a departure from the adopted Tendring District Local Plan, as the site lies outside of the Settlement Development Boundary and due to viability issues the required contributions are not being fully provided.

This application seeks full planning permission for the erection of 21 no. dwellings on a site which was a former garden centre. The site whilst outside the Settlement Development Boundary in the Saved Plan is included within the Settlement Development Boundary in the Draft Plan and is therefore considered to be a sustainable location for residential development, which outweighs the potential for loss of employment land.

6 A.2 PLANNING APPLICATION - 20/00273/FUL - RIVERSIDE HOUSE RIVERSIDE AVENUE WEST LWFORD MANNINGTREE CO11 1UN (Pages 67 - 80)

The application has been referred to the Planning Committee at the request of Councillor G Guglielmi by virtue of overdevelopment of the site and a lack of residential amenities.

The application relates to the first and second floors above a commercial food-preparation outlet which sells fish and chips at the front of the building.

7 **A.3 PLANNING APPLICATION - 20/01285/FUL - SPENDELLS HOUSE NAZE PARK ROAD WALTON ON THE NAZE CO14 8JJ (Pages 81 - 96)**

The application is before Members as the site is within the ownership of Tendring District Council. The Assistant Director of Housing and Environment has made the application.

The application relates to Spendells House Sheltered Housing Scheme located on the southern side of Naze Park Road, Walton-on-the-Naze. The site lies within the Settlement Development Boundary of Walton-on-the-Naze as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). A mixture of residential development comprising single and two storey dwellings, with five storey blocks of flats to the west, surround the site.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Planning Committee is to be held at 6.00 pm on Tuesday, 19 January 2021.

Tendring District Council



PLANNING COMMITTEE MEETINGS PUBLIC SPEAKING SCHEME May 2017

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

TO WHICH MEETINGS DOES THIS SCHEME APPLY?

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

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

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

6. The applicant, his agent or representative; or (where applicable) one person the subject of the potential enforcement action or directly affected by the potential confirmation of a tree preservation order, his agent or representative. A maximum of 3 minutes is allowed; and
7. A member of the Council's Cabinet may also be permitted to speak on any application but only if the proposed development has a direct impact on the portfolio for which the Cabinet member is responsible. The Leader of the Council must approve the Cabinet Member making representations to the Planning Committee. A maximum of 3 minutes is allowed.

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

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

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

WHICH MATTERS ARE COVERED BY THIS SCHEME?

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

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

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

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

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

HOW DO I ARRANGE TO SPEAK AT THE MEETING?

You can:-

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

OR

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

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

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

WHAT WILL HAPPEN WHEN THE MATTER CONCERNED IS CONSIDERED?

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

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

WHAT SHOULD I SAY AT THE MEETING?

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

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

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

WHO DO I CONTACT FOR MORE INFORMATION?

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

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

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

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

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**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON TUESDAY, 17TH NOVEMBER, 2020 AT 6.00 PM**

Present:	Councillors White (Chairman), Bray (Vice-Chairman), Alexander, Casey, Cawthron, Fowler, Harris and Placey
Also Present:	Councillor Coley
In Attendance:	Ian Davidson (Chief Executive), Lisa Hastings (Assistant Director (Governance) and Monitoring Officer), Graham Nourse (Assistant Director, Planning), Keith Simmons (Head of Democratic Services and Elections), Trevor Faulkner (Acting Planning Manager), Nick Westlake (Planning Officer), Alison Cox (Planning Officer), Naomi Hart (Planning Officer), Debbie Bunce (Legal and Governance Administration Officer), Keith Durran (Democratic Services Officer), Emma Haward (Leadership Support Officer).

68. CHAIRMAN'S INTRODUCTIONS

The agenda for the Planning Committee had not been published according to statutory obligations and therefore, the Chairman of the Planning Committee chose to take the all applications submitted to the Committee on the published agenda as a matter of urgency. The Council's Monitoring Officer (Lisa Hastings) confirmed that the meeting had been included within the Schedule of Meetings, approved by Full Council in July 2020 and all other protocols had been followed with regards to speakers and issuing the relevant papers and was satisfied that it was appropriate for the meeting to continue.

69. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies were received from Councillor V E Guglielmi. There was no substitute.

70. MINUTES OF THE LAST MEETING

Upon an amendment to formatting on page 19, paragraph 11 of the previous minutes which read 'in addition, that any application made to discharge condition 11 will be submitted to the Committee for its determination', it was moved by Councillor Bray, seconded by Councillor Harris and **RESOLVED** that the minutes of the last meeting of the Committee held on Tuesday 20 October 2020 be approved as a correct record.

71. DECLARATIONS OF INTEREST

Councillor Coley declared a personal interest in **Planning Application 20/00479/DETAIL – Land North of Stourview Avenue, Mistley** due to being a representative of the Lawford Housing Enterprise Trust. He was not pre-determined.

Councillor Harris declared a personal interest in **Planning Application 20/00822/FUL – The Laurels, Parsonage Lane, Tendring CO16 0DE** due to being both the Ward Member and Parish Councillor for Tendring Parish Council. Councillor Harris had called-in the application as a direct request for Tendring Parish Council, he would speak however as a Committee Member as he was not pre-determined.

72. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were none on this occasion.

73. A.1 PLANNING APPLICATION 20/00479/DETAIL - LAND NORTH OF STOURVIEW AVENUE MISTLEY

Councillor Coley had earlier in the meeting declared a personal interest in **Planning Application 20/00479/DETAIL – Land North of Stourview Avenue, Mistley** due to being a representative of the Lawford Housing Enterprise Trust. He was not pre-determined.

It was reported that outline planning permission (all matters reserved) had been granted on 30th May 2017 for the erection of up to 70 dwellings and associated works, under application 15/01810/OUT. The current submission related to the outstanding reserved matters for this development.

In accordance with Members' previous request, the current submission had been brought to Planning Committee which sought consent with regard to the reserved matters of access, landscaping, layout, appearance and scale.

Members were made aware that the site lay 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 had been accepted by the granting of outline planning permission.

The site was accessed from Stourview Avenue with 62 dwellings accessed off the main central ring road. The remaining 8 dwellings were located off two separate private driveways. The scheme retained a substantial level of open space to the eastern and northern sections of the site. The railway line ran to the north of the development.

The detailed plans complied with the outline requirements in terms of the site plan having not changed and the access continued to be off Stourview Avenue. The usual design parameters (garden sizes, distance between dwellings and level of parking) and the reserved matters generally were considered acceptable with no material harm to visual or residential amenity, or highway safety.

A legal agreement was required for this application to secure a financial contribution towards the Essex Coast Recreational Disturbance and Avoidance and Mitigation Strategy (RAMS).

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

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

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

Ecology Update

The application had been reviewed by Essex Ecology Services and Natural England. Both these statutory consultees had offered no objections to this proposal subject to the bio diversity and ecology mitigation measures recommended within Condition 9 of the original application being followed. Also, that updated RAMS payments were made.

Notwithstanding these objections from both specialist ecology departments, the applicant had provided the LPA with an updated 'Ecological Mitigation and Enhancement Stagey' (Geosphere Environmental 12/11/2020). The report also included results for an updated walkover and various protected species surveys.

Surveys for the following ecological aspects were undertaken: habitats, reptiles, breeding birds, bats, badger. An Invertebrate survey had been undertaken and reported separately however, its results and recommendations had been drawn upon within this site-specific mitigation and enhancement strategy.

Main findings included the following:

- Reptiles: Common Lizard, Slowworm and Grass snake were using the habitats onsite.*
- Breeding Bird: A total of 39 species were recorded on site during the breeding bird survey, 15 of these were of conservation concern.*
- Bats: bat roosts were noted within the trees and woodland onsite. Seven bat species were found to be foraging along hedgerows, scrub and tree lines.*
- Badger: no badger setts were noted in the site boundary, although badgers were considered to use the site for foraging.*

These findings were similar to the initial HRA undertaken on site in 2015, however this recent study outlined exactly what had been found on site this year in recent months.

The Ecology Report (Geosphere Environmental 12/11/2020) concluded that providing the recommendations within sections 11, 12 and 13 of the report were followed; impacts to protected species could be minimised, and the scheme would provide an overall biodiversity enhancement in the long term.

These three chapters of the updated report covered the following areas:

- a) Bio diversity management (similar to Condition 9 of original outline)*
- b) Construction Phase Mitigation Strategy (CEMP)*
- c) Impact, Evaluation and mitigation Strategy*

Officers noted that the first topic area of Bio diversity management was covered by Condition 9 of the original outline report. This original condition also required additional updated survey work to be undertaken. Therefore, a more recent assessment of biodiversity and ecology would have been undertaken in any event.

The other two topic areas b) and c) above were 'new' recommendations and they were suggested to be included as 'new planning conditions' for the application.

Conditions Update

Suggested Additional Planning Conditions

1. No works should take place on site (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP) had 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 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. For example, detail how certain activities will be limited in time, location, light or noise level to minimise the risk of disturbance to SPA birds, in line with the findings of the Environmental Information Report, Environmental Action plan and Mitigation Plan*
- e) The times during construction when special 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.*

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 - In order to safeguard the ecological interests of the site, and to mitigate any adverse effects on the nearby internationally and nationally recognised; Special Areas of Conservation, Special Protection Areas, Sites of Special Scientific Interest and Ramsar locations.

2. No development should commence until an Ecological Impact, Evaluation and Mitigation Strategy had been submitted to and approved, in writing, by the Local Planning Authority. The document should include:

- i) the recommendations contained with the sections 11, 12 and 13 of the updated Ecology Report (Geosphere Environmental 12/11/2020)*

The approved Ecological Impact, Evaluation and Mitigation Strategy shall be adhered to and implemented strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

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

Councillor Alan Coley, a local Ward Member, spoke in support of the application.

Will Vote, the agent on behalf of the applicant, spoke in support of the application.

During the Committee's debate on this application, Members discussed and asked questions on the following matters:-

<i>Matter raised by a Committee Member:-</i>	<i>Officer Response thereto:-</i>
<i>What would be the Section 106 contributions?</i>	<i>Five Affordable Homes including £600,000.</i>
<i>Did the application meet the minimum amenity measurement and requirements?</i>	<i>Application was fully compliant.</i>
<i>Did the application provide for visitor parking?</i>	<i>Application was fully compliant with the necessary requirements regarding parking arrangements for visitors.</i>
<i>Concern about impact on the Stour Estuary from a pollution overspill.</i>	<i>Reference was made to a relevant planning condition that had been applied to the original outline planning approval.</i>
<i>Concern about the consequences of a failure of the Anglian Water pumping facility.</i>	<i>Reference was made to Anglian Water's consultation response and also to condition 10 applied to the original outline planning consent. Impact on the pumping facility was considered to be minimal.</i>
<i>Query raised about Anglian Water's consultation response to the outline planning application in relation to service water – had the Council consulted the Environment Agency on this?</i>	<i>Reference was made to Conditions 10 and 11 applied to the outline planning consent which related to a Surface Water Assessment Scheme. Confirmed that no necessary action needed to be taken in liaising with the Environment Agency.</i>

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

(a) the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):

- Financial contribution of £125.58 per new dwelling towards RAMS.
-

(b) the following Conditions and Reasons:

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

Rb003-pl-07 g Amended parking plan Received on 27 Oct 2020

Rb003-pl-08 g Amended garden areas plan 27 Oct 2020
Rb003-pl-09 g Amended refuse plan 27 Oct 2020
Rb003-pl-02 h Amended site layout 27 Oct 2020
Rb003-pl-03 g Amended detailed site layout 27 Oct 2020
Rb003-pl-04 g Amended storey heights plan 27 Oct 2020
Rb003-pl-05 g Amended surface finishes 27 Oct 2020
Rb003-pl-06 g Amended materials plan 27 Oct 2020
Rb003-ht-ame-02 rev b Amended amelia - proposed elevations 17 Sep 2020
Rb003-ht-ch-02 rev b Amended charlotte - proposed elevations 17 Sep 2020
Rb003-ht-al-01 rev b Amended alexander - proposed floor plans 17 Sep 2020
Rb003-ht-ch-01 rev b Amended charlotte - proposed floor plans 17 Sep 2020
Rb003-ht-ame-01 rev b Amended amelia - proposed floor plans 17 Sep 2020
Rb003-ht-op-02 rev b Amended ophelia - proposed elevations 17 Sep 2020
Rb003-ht-ro-02 rev b Amended rosemary (detached) - proposed floor plans and elevations 17 Sep 2020
Rb003-ht-ro-01 rev c Amended rosemary - proposed floor plans and elevations 17 Sep 2020
Rb003-ht-op-01 rev c Amended ophelia - proposed floor plans 17 Sep 2020
Rb003-ht-vi-01 rev c Amended victoria - proposed floor plans and elevations 17 Sep 2020
Rb003-ht-da-01 rev d Amended damask - proposed floor plans and elevations 17 Sep 2020
Rb003-ht-he-01 rev b Amended hebe - proposed floor plans and elevations 17 Sep 2020
Rb003-ht-al-02 rev b Amended alexander - proposed elevations 17 Sep 2020
Rb003-ht-amb-01 rev b Amended amber- proposed floor plans and elevations 17 Sep 2020
Rb003-ht-gr-01 rev b Amended grace - proposed floor plans and elevations 17 Sep 2020
Rb003-ht-ba-01 rev d Amended barbier - proposed floor plans and elevations 17 Sep 2020
Rb003-gr-sg1-01 Sg1a single garage floor plan, roof plan and elevations 06 April 2020
Rb003-gr-sg1-02 Sg1b double garage floor plan, roof plan and elevations 06 April 2020
19.5009.08 v1 Play area 06 April 2020
10831/fw1 Foul water drainage strategy plan 06 Apr 2020
10831/ra1b General arrangement of access road 06 Apr 2020
10831/sw1 Surface water drainage strategy plan 06 Apr 2020
1126 I 001 Site plan 06 Apr 2020

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

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

- Rb003-pl-02 h Amended site layout.
- Rb003-pl-03 g Amended detailed site layout
- Rb003-pl-07 g Amended parking plan

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

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

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

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

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

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

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

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

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

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

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

8. No works should take place on site (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP) had 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 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. For example, detail how certain activities will be limited in time, location, light or noise level

to minimise the risk of disturbance to SPA birds, in line with the findings of the Environmental Information Report, Environmental Action plan and Mitigation Plan

e) The times during construction when special 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.

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 - In order to safeguard the ecological interests of the site, and to mitigate any adverse effects on the nearby internationally and nationally recognised; Special Areas of Conservation, Special Protection Areas, Sites of Special Scientific Interest and Ramsar locations.

9. No development should commence until an Ecological Impact, Evaluation and Mitigation Strategy had been submitted to and approved, in writing, by the Local Planning Authority. The document should include:

- i) the recommendations contained with the sections 11, 12 and 13 of the updated Ecology Report (Geosphere Environmental 12/11/2020)

The approved Ecological Impact, Evaluation and Mitigation Strategy shall be adhered to and implemented strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

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

**74. A.2 PLANNING APPLICATION 20/00782/OUT - LAND SOUTH OF LONG ROAD
LAWFORD ESSEX CO11 2HS**

This application had been referred to the Planning Committee as the site was situated outside of any settlement development boundary (SDB), but adjacent to the SDB of Lawford. The development therefore represented a departure from the saved local plan.

Members were made aware that the application site was located on the southern side of Long Road at the eastern end of the settlement of the wider 'Lawford Green' development (15/00876/OUT) that contained, amongst other elements, 360 dwellings, a community building with public access toilets, village green, public open space and a playground. There was 3.4 hectares of land in the eastern portion of this wider site allocation that was currently left undeveloped.

Members were informed that this application sought outline planning permission for the erection of 76 dwellings on this land. The application was in outline form with all matters reserved except for access. This application therefore sought approval of the access along with the principle of development.

The application site was outside the adopted settlement boundary but within the emerging settlement boundary of the new local plan.

An area of land south of Long Road (approximately 50 metres in depth) was designated as being within the 'Green gap' of the emerging local plan. The application proposed development within this land of approximately 3 dwellings. The report indicated that Officers were against this idea and felt there was ample space to develop without needing to use this locally designated open land.

The site was located on the edge of what the emerging Local Plan called a 'smaller urban settlement'. Planning permission had been granted for residential development on land directly to the east for 485 dwellings. This had been built at approximately 30 dwellings per hectare. This application proposed approximately 22 dwellings per hectare. The original 360 dwelling development from the host developer was occurring immediately to the east. Therefore, there would be minimal landscape impact whilst sufficient spacing to existing residents was retained to safeguard amenity.

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

Subject to the applicant entering into a Section 106 agreement to cover the provision of affordable housing and healthcare/RAMS contributions, the proposal was considered by Officers to be acceptable with no material harm to visual or residential amenity, heritage assets, ecology interest or highway safety, and the application was therefore recommended for approval.

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

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

Will Vote, the agent on behalf of the applicant, spoke in support of the application.

During the Committee's debate on this application, Members discussed and asked questions on the following matters:-

Matter raised by a Committee Member:-	Officer Response thereto:-
Query regarding the houses within the 'Green Gap' referred to in condition number 19.	Confirmed that another planning application would be required to be submitted and approved in order to overturn that condition.
Clarification was sought as to whether this application was outside of the current	Confirmed that this site was not an adopted allocation in terms of settlement

Local Plan but was contributing to the emerging Local Plan.	areas but that it was included within the emerging Local Plan.
Query regarding at what stage of the process was the Council's housing waiting lists engaged.	Referred to the consultation response statements from the Council's Housing Services department which referred both to the Housing Register and the specific needs within Lawford.
Did the Section 106 Education contribution include an 'Early Years' contribution?	Confirmation that there would only be a contribution from the Section 106 monies to Early Years provision if monies delivered from the earlier scheme is not delivered which provides for a new nursery in Lawford

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

(a) 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
- Affordable Housing Provision:
- Education contribution
- NHS contribution
- Open Space

(b) the following Conditions and Reasons:

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

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

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

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

3 Approval of the details of the appearance, landscape, scale and layout (hereinafter called "the Reserved Matters") shall be obtained for 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 in outline and detailed matters require approval before development can commence.

4 The maximum number of dwellings to be contained in the development shall be up to (but no more than) 76 dwellings.

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

5 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.

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

a) A priority junction with ghosted 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 109m x 2.4m x 120m clear to ground visibility splay.

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

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

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, in accordance with policy DM1, DM9 and DM10.

7 Prior to occupation 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 No development shall take place until a surface water drainage scheme, 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. 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 No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.

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

10 No 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 No 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 A. No development or preliminary ground-works within the development can commence until a programme of archaeological trial trenching 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. 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.

C. 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 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.

14 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 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.

15 Within the hereby permitted development, no dwelling shall be occupied until a high-speed broadband connection is installed utilising resistant tubing to that dwelling, all in accordance with details that shall be submitted and approved, in writing, by the Local Planning Authority. 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.

16 Prior to commencement of development the applicants shall submit to the Local Planning Authority, in writing, a Local Recruitment Strategy to include details of how the applicant/ developer shall use their reasonable endeavours to promote and encourage the recruitment of employees and other staff in the locality of the application site, for the construction of the development and for the uses of the development thereafter. The approved Local Recruitment Strategy shall be adhered to therein after.

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

17 Prior to the commencement of development, a scheme for the provision and implementation of water, energy and resource efficiency measures, during the construction and occupational phases of the development shall be submitted to and agreed, in writing, with the Local Planning Authority. The scheme shall include a clear timetable for the implementation of the measures in relation to the construction and occupancy of the development. The scheme shall be constructed and the measures provided and made available for use in accordance with such timetables as may be agreed.

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

18 No development shall commence until an assessment of the risks posed by any contamination within that the application site is carried out. This assessment shall be 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 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.

19. No residential development shall take place in the land designated as a 'Green Gap' with the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

Reason - In the interests of visual amenity.

(c) that any planning application submitted to the Council to either vary or remove Condition Number 19 will be submitted to the Planning Committee for its determination.

75. A.3 PLANNING APPLICATION 20/01034/FUL - WALL OPPOSITE 16 YORK STREET, MANNINGTREE

This application had been referred to the Planning Committee as the applicant was Tendring District Council.

It was reported that this application sought retrospective planning permission to demolish and reinstate part of a wall located opposite 16 York Street, Manningtree.

Members were informed that the proposed demolition and reconstruction of the wall was considered acceptable by Officers. The proposed works would be a visual improvement

to the street scene and would not result in any harm to neighbouring amenities, cause any adverse impact on highway safety or cause any harm to the Conservation Area.

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

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

During the Committee’s debate on this application, Members discussed and asked questions on the following matters:-

Matter raised by a Committee Member:-	Officer Response thereto:-
Concern regarding the delay in retrospective applications being brought to the Committee	Understood that the works had to be carried out by the relevant department on health and safety grounds.
Query regarding whether it would have been beneficial to extend the wall for safety purposes to avoid road traffic collisions.	Confirmation that this was not considered as part of the application. However, all parties consultation responses had been taken into account.

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

Conditions and Reasons:

- 1 The development hereby permitted shall be carried out in accordance with the following approved plan and document;

- Drawing No. 102 Rev A – Elevations
- Drawing No. 103 Rev A – Panels and Sections
- Drawing No. 104 Rev A – Sections
- Drawing No. A/2020/16 – Site Plan and Block Plan
- Drawing No. TM1062-01-D-01 – Temporary Traffic Management Plan
- TDC – Dangerous Structure Report Sheet - dated 08/07/2020
- Method Statement - dated 06/07/2020
- Wall Survey – Ref 19/5679 – Dated 3rd June 2019

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

76. A.4 PLANNING APPLICATION 20/00822/FUL - THE LAURELS, PARSONAGE LANE, TENDRING, CO16 0DE

Councillor Harris had earlier in the meeting declared a personal interest in **Planning Application 20/00822/FUL – The Laurels, Parsonage Lane, Tendring CO16 0DE** due to being the Ward Member and Parish Councillor for Tendring Parish Council. Councillor Harris had called-in the application as a direct request for Tendring Parish Council, however he would speak as a Committee Member as he was not pre-determined.

The application had been referred to the Planning Committee at the request of Councillor Harris as Tendring Parish Council felt that by virtue of the site being 'backfill' development, the site was outside the settlement boundary; the site was an unsustainable development with insufficient infrastructure; overdevelopment, the development would lead to unacceptable disturbance to neighbours; unacceptable access and highways issues; and there was no proven need for this type of property in an area that had already seen significant development.

It was reported that the application related to what was essentially the rear garden area of The Laurels, Parsonage Lane, Tendring. The site was roughly 'L' in shape and approximately 0.2 hectares in size. The Laurels was one of a variety of dwelling types in the locale which comprised of detached and terraced two-storey, chalet and single-storey bungalows. The Laurels was unique in terms of its rear garden which was of a significant size in comparison to any other dwelling in the settlement.

Members were advised that the site was centrally located within the Tendring Green Settlement Development Boundary as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017. The principle of residential development in this location was therefore acceptable subject to detailed design and impact considerations.

The application sought full planning permission for the erection of 3 detached three-bedroom detached single-storey bungalows, served by way of a single access providing access to a parking/turning area. The dwellings were provided with surface parking and secure cycle-storage.

Officers felt that the proposal would not result in the loss of an area of public open space or safeguarded green space. The proposed bungalows were of a scale, design and appearance which was comparable with other bungalows in the vicinity. The retention of the brick-built garage provided a significant degree of screening from the public domain. The proposal would result in the loss of ten trees in total – the site did not benefit from any protection in the form of preservation orders, as such any trees could be removed without any consent required from the Local Planning Authority. Two of these trees were damaged/dangerous having limited life expectancy, five were small fruit trees and the remaining three were not mature or established specimens – all mature, established trees on the site were to remain and offer a significant verdant backdrop to the site. The proposed dwellings were single storey and located sufficient distances from neighbouring dwellings so as not to result in a material loss of residential amenities. The new dwellings and retained dwelling were served by private garden areas and parking that accorded with the Council's standards.

The proposed development was in a location supported by Local Plan policies and would not result in any material harm to the character of the area, residential amenities or highway safety.

The application was therefore recommended for approval by Officers subject to

conditions and the completion of the required legal agreement.

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

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

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

Updates and further clarification on sections of the officer report as follows:

1.0 Executive Summary

1.1 *The application has been referred to the Planning Committee at the request of Councillor Harris on behalf of Tendring Parish Council.*

1.7 *Clarification of the recommendation.*

Recommendation:

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

Subject to the conditions stated in section 8.2

5.0 Representations

Expansion on the nature of objections:-

<p><i>Drainage</i></p>	<p><i>No mains sewage on Parsonage Lane; only a communal sewer</i></p> <p><i>Are the gardens big enough for sub-surface irrigation systems</i></p> <p><i>It has not been demonstrated that surface water runoff from the site can be adequately dealt with without increasing localised flooding</i></p> <p><i>several local properties relying on septic tanks with soakaway beds</i></p>	<p><i>The application form states that there is a main sewer on Parsonage Lane.</i></p> <p><i>As this application is not defined as a 'major development' the requirement to incorporate a sustainable drainage system is not a material consideration in the determination of this planning application.</i></p>
<p><i>Pollution</i></p>	<p><i>Smell - As there is no mains sewer in Parsonage Lane, it is likely there will be three additional septic tanks that will need emptying.</i></p> <p><i>Parking will increase pollution levels in the immediate surroundings.</i></p>	<p><i>The application form states that there is a main sewer on Parsonage Lane.</i></p> <p><i>The number of vehicular movements in association with the property was not objected to by Environmental</i></p>

	<p><i>Light - Light intrusion into the back of Fir Tree Lodge will significantly increase.</i></p>	<p><i>Protection.</i></p> <p><i>Plot 3's flank elevation faces the rear of Fir Tree Lodge at a distance of 39m; this elevation contains one window which serves a bedroom. The light overspill resulting from this dwelling is not considered to have a materially damaging impact on the amenity of this adjoining property.</i></p> <p><i>The plans make no reference to security lights.</i></p>
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The Parish Council's objection are now highlighted in bold:-

Nature of objection	No. of Comments received	Where in the report this is addressed
The site is outside the settlement boundary	14	Paragraphs 6.11 to 6.12
Backland form of development	14	Paragraphs 6.19 to 6.23
Harm the amenity of neighbours (noise)	13	Paragraph 6.33
Ecology/Protected Species	15	Paragraphs 6.27 to 6.29
Vehicle access	16	Paragraphs 6.24 to 6.26
Not a sustainable location	15	Paragraph 6.11 to 6.12
Out of keeping/cramped development	6	Paragraphs 6.15 to 6.18
Decrease property values	1	This is not a material consideration in the determination of this planning application
Loss of a garden	1	Paragraph 6.32
Drainage	6	As this application is not defined as a 'major development' the requirement to incorporate a sustainable drainage system is not a material consideration in the determination of this planning application.
Sufficient housing exists	5	This is not a material consideration in the determination of this planning application
Loss of privacy	1	Paragraph 6.33
Speed limit	6	Paragraph 6.26
Removal of the garage	1	Paragraph 6.10

<i>Pollution</i>	<i>1</i>	<i>Paragraph 6.33</i>
<i>Loss of outlook</i>	<i>5</i>	<i>There is no "right to a view" which planning controls should seek to safeguard for the continuing benefit of an existing landowner, except where the view from a particular location is also a valued public asset. This was underlined by the judgement in Wood-Robinson v Secretary of State for the Environment (1998).</i>
<i>Security</i>	<i>1</i>	<i>It is the applicant's personal choice to have part of their garden un-enclosed; this is not a material consideration in the determination of this planning application.</i>
<i>Construction Noise</i>	<i>4</i>	<i>Noise generated during construction is not a material consideration in the determination of this planning application.</i>

6.0 Assessment

Principle of Development and the Settlement Boundary

The application site was located within the Tendring Green Settlement Boundary within the adopted local plan. The Emerging Plan indicated that Tendring Green would be taken out of the Settlement Boundary. The emerging plan was yet to pass through the full examination process; furthermore, the change to the settlement boundary as proposed was the subject of an unresolved objection. As such limited weight could be attributed to the plan to remove Tendring Green from the settlement boundary.

Highways

The speed limit along Parsonage Lane was confirmed as 40mph.

ECC Ecology raise **no objection** to the application **subject to securing:**

- a) A proportionate financial contribution towards effective visitor management measures in line with Essex Coast RAMS; and**
- b) Ecological mitigation and biodiversity enhancements**

Summary

ECC Ecology reviewed the submitted Preliminary Ecological Appraisal and Great Crested Newt Survey (Robson Ecology, June 2020) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats and mitigation measures to minimise impacts.

ECC Ecology were satisfied that there was sufficient ecological information available for determination. This provided certainty for the LPA of the likely impacts on protected and Priority species & habitats and, with appropriate mitigation measures secured, the development could be made acceptable.

ECC Ecology noted that Tendring DC prepared a project level HRA Appropriate Assessment which identified that the development was approximately 5.4km from the Hamford Water SAC, SPA and Ramsar site. Therefore this site lied within the Zone of Influence (ZOI) for the Essex Coast RAMS and delivery of mitigation measures in perpetuity would therefore be necessary to ensure that this proposal would 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 noted that Tendring DC would secure the Essex Coast RAMS contribution of £125.58 per dwelling under a legal agreement.

ECC Ecology were satisfied that the mitigation measures identified in the Preliminary Ecological Appraisal and Great Crested Newt Survey (Robson Ecology, June 2020) were appropriate and necessary to make the development acceptable. Recommend that these should be secured by a condition of any consent and implemented in full. This was necessary to conserve and enhance protected and Priority Species.

The Preliminary Ecological Appraisal and Great Crested Newt Survey (Robson Ecology, June 2020) identified a single tree (T13), adjacent to the site boundary, and proposed for retention, which had suitability for roosting bats. Neighbour comments suggested that bats do roost in this tree. As the tree was to be retained, and was off-site, the Preliminary Ecological Appraisal and Great Crested Newt Survey (Robson Ecology, June 2020) confirms that this tree "would not be impacted by the proposed development if a sensitive lighting scheme is implemented". ECC Ecology therefore recommended that a wildlife sensitive lighting scheme was secured by a condition of any consent.

Neighbour comments also identified that there was an additional pond, adjacent to the site boundary, which had not been assessed for Great Crested Newts, and supported an unidentified species of newt. However, the Preliminary Ecological Appraisal and Great Crested Newt Survey (Robson Ecology, June 2020) identified that the pond on-site supports substantial number of smooth newts, and it was therefore considered likely that any adjacent ponds with newts, were also likely to contain smooth newts. Additionally, the Preliminary Ecological Appraisal and Great Crested Newt Survey (Robson Ecology, June 2020) posed that the majority of the site was closely mown amenity grassland, and was considered unlikely to support Great Crested Newts.

However, there were records of Grass Snakes within 200m of the site, and neighbour objections stated that Grass Snakes had been identified in adjacent gardens, and the site was considered suitable for hedgehogs and foxes. With the exception of foxes, these species were protected under the Wildlife and Countryside Act 1981 (as amended) from killing and all reptiles and Hedgehog were also listed as Priority species under s41 Natural Environment and Rural Communities (NERC) Act 2006.

Given the suitability of the off-site tree (T13) for roosting bats, and the identification of suitability for several Priority species on-site, ECC Ecology therefore recommended that a Biodiversity Mitigation Method Statement was secured as a condition of any consent. This should include detailed mitigation measures to ensure that any wildlife likely to enter the construction footprint were not harmed during the construction phase of the development.

Additionally, as the Preliminary Ecological Appraisal and Great Crested Newt Survey (Robson Ecology, June 2020) identified that New Zealand Pgymyweed and Wall Cotoneaster were present onsite, an Invasive Non-Native Species Protocol should also be secured as a condition of any consent. This should include details for the removal of these species, and detailed biosecurity measures.

The Proposed Site Plan (Medusa Design, November 2019) identified that a number of trees on the development site would be removed to facilitate the development. However the Preliminary Ecological Appraisal and Great Crested Newt Survey (Robson Ecology, June 2020) included biodiversity enhancements, which had been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 170d of the National Planning Policy Framework 2019. This included the planting of native species rich boundary hedgerow, log piles and bird and bat boxes. ECC Ecology also recommended that further enhancements, such as re-instatement of a pond onsite, and wildlife friendly fencing could be included in the proposals. The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy which should be secured as a condition of any consent. If there is uncertainty that the development can secure 10% Net Gain for Biodiversity, as the Neighbour comments suggested, then the Biodiversity Metrics 2.0 could be completed to demonstrate this. However, these metrics were still in Beta version, and were more suitable for use in Major developments and there was currently no requirement for a specific percentage as proposed in the Environment Bill which was still making its way through Parliament. The NPPF (2019) required measurable net gain for biodiversity and a Biodiversity Enhancement Strategy was an appropriate mechanism to secure this for all development. This would enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006. Impacts would be minimised such that the proposal was 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 and Great Crested Newt Survey (Robson Ecology, June 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 COMMENCEMENT: RESTRICTIONS ON OPERATIONS INVOLVING INVASIVE NON-NATIVE SPECIES

“An invasive non-native species protocol shall be submitted to and approved by the local planning authority. This shall include details of the containment, control and removal of the New Zealand Pygmyweed and Wall Cottoneaster present on site. The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.”

Reason: *To allow the LPA to discharge its duties under the Wildlife & Countryside Act 1981 as amended and the Environmental Protection Act 1990 and the Environmental Protection Act Duty of Care Regulations 1991*

3. PRIOR TO COMMENCEMENT: BIODIVERSITY METHOD STATEMENT

“No development shall take place (including any demolition, ground works, site clearance) until a Biodiversity Method Statement for Protected and Priority species has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include the following:

- a) purpose and objectives for the proposed works;*
- b) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);*
- c) extent and location of proposed works shown on appropriate scale maps and plans;*
- d) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;*
- e) persons responsible for implementing the works;*
- f) initial aftercare and long-term maintenance (where relevant);*
- g) disposal of any wastes arising from works.*

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

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

4. PRIOR TO SLAB LEVEL: BIODIVERSITY ENHANCEMENT STRATEGY

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

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

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

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

Reason: *To enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties 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. This should also demonstrate how any lighting required during the construction phase of the development will not affect features sensitive for wildlife. 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)*

Late papers were submitted by the Agent's; these were appended to the update sheet.

Ellie Kellett, a local resident, spoke against the application.

Parish Councillor Ted Edwards, representing Tendring Parish Council, spoke against the application.

Jack Wilkinson, the agent on behalf of the applicant, spoke in support of the application.

During the Committee's debate on this application, Members discussed and asked questions on the following matters:-

Matter raised by a Committee Member:-	Officer Response thereto:-
Query regarding the proposed drainage system.	Confirmation that the site followed a mains drainage system.
Query regarding the side elevation which in the original application Essex County Council had referenced a 5.5 metre measurement.	Clarification that this was in relation to the width of the main road in order to support highway regulations. Previously the width of the access in regards to the width of the road had been turned down.
Query regarding the social sustainability of the application.	Confirmation that the site currently lies within the designated settlement area of 'Tendring Green' within the adopted Local Plan. The emerging Local Plan does not provide a settlement designation for Tendring Green but this is subject to unresolved objections and will need to be tested at the Part 2 Local Plan Examination and can be attributed limited weight at this time.
Query regarding the consultation response of the Essex Wildlife Trust.	Confirmed that the EWT had not responded within the eight week statutory period that had commenced in July. However, ECC Ecology had submitted a representation on 17 November 2020 which had stated that in relation to the ecological appraisal the Ecology Report was sufficiently detailed to confirm that there was no harm to current or adjoining sites however, ECC Ecology had proposed a number of conditions relating to pre-commencement work.
Concerns regarding light pollution.	Confirmed that there would be an increase in light pollution along the access road and within the site, however this was deemed to be at a level that would be acceptable in terms of residential amenities.
Query whether Planning Policy RA4 was applicable to this application.	Policy RA4 of the adopted Local Plan relates to housing development within 'defined villages' of which 'Tendring Green' is defined as an 'other defined village' where housing development could take the form of infilling development for up to 3 dwellings.
Query whether pedestrians would be able to use a pavement or would have to walk on the road and also whether there was street lighting in the interests of public safety.	Confirmed that pedestrians would have to walk in the road and that no street lighting had been proposed.
Query whether there would be an increase in noise pollution from delivery vehicles attending the new properties.	Confirmed that there would be a small increase in noise pollution but that the amount would depend on the numerical reoccurrences of deliveries.

<p>Query regarding the dimensions of the roadway. ECC suggested 5.5m which could then be reduced to 4.7m.</p>	<p>Confirmed that the reduced width of the main road set the parameters for the first 6m of access road due to being lower than the recognised standard. Standards were typically 5.5m, the reduction to 4.7 in this application was due to the road width.</p>
<p>Query regarding the drainage and sewerage systems.</p>	<p>Confirmed the application would require a foul drainage assessment of the alternate system if it were not connected to a mains drainage system.</p>

Following the discussion by the Committee, it was moved by Councillor Bray, seconded by Councillor Alexander and **RESOLVED** that consideration of the application be **deferred** on the following grounds:

- (1) to allow for further clarification to be obtained on the means of foul drainage from the site and whether it would be to a public or private sewer system; and
- (2) in order to allow a ECC Highways Officer to attend to respond to highway specific matters that might be raised by the Committee.

77. A.5 PLANNING APPLICATION 20/00611/FUL - GARAGE BLOCK 1-10, WARGRAVE ROAD, CLACTON ON SEA, CO15 3EQ

This application was referred to the Planning Committee as the applicant was Tendring District Council.

It was reported that the application involved the replacement of the already-demolished row of eleven flat roofed garages with ten flat-roofed garages.

Members were informed that, in the opinion of Officers, the garages 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. Furthermore, the proposal would not result in any harm to the safety of the surrounding public highway network.

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

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

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

Conditions and Reasons:

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

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

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans: DM/2020/01/B; received 15th May 2020.

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

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

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

The meeting was declared closed at 9.43 pm

Chairman

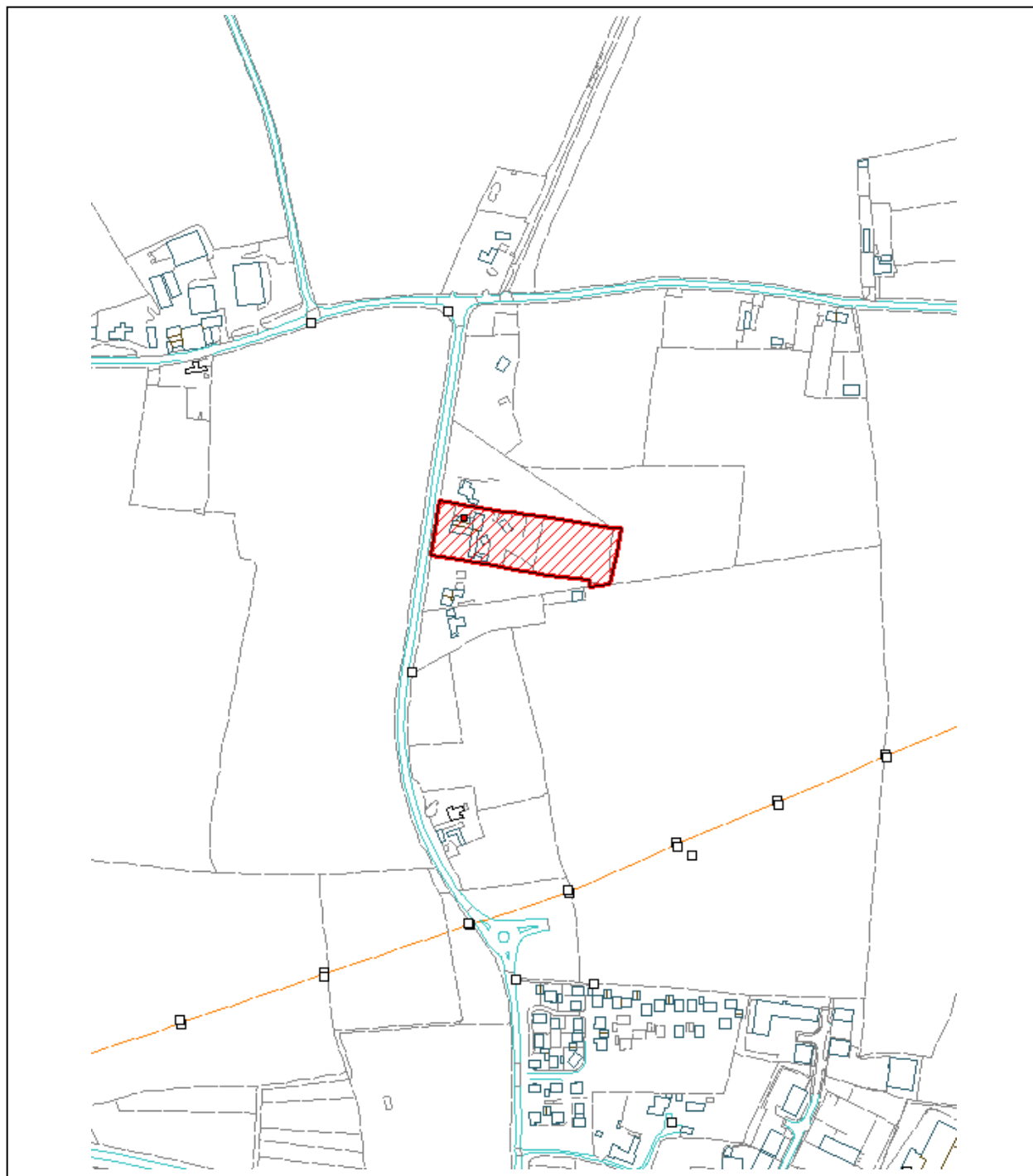
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PLANNING COMMITTEE

15th December 2020

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.1 PLANNING APPLICATION – 19/01598/FUL – CROSSWAYS GARDEN CENTRE THORPE ROAD LITTLE CLACTON CLACTON ON SEA CO16 9RZ



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Application: 19/01598/FUL

Town / Parish: Little Clacton Parish Council

Applicant: Ms Perry

Address: Crossways Garden Centre Thorpe Road Little Clacton Clacton On Sea Essex
CO16 9RZ

Development: Erection of 21 houses and associated development following demolition of existing buildings.

1. **Executive Summary**

- 1.1 This application is referred to Planning Committee as it represents a departure from the adopted Tendring District Local Plan, as the site lies outside of the Settlement Development Boundary and due to viability issues the required contributions are not being fully provided.
- 1.2 This application seeks full planning permission for the erection of 21 no. dwellings on a site which was a former garden centre. The site whilst outside the Settlement Development Boundary in the Saved Plan is included within the Settlement Development Boundary in the Draft Plan and is therefore considered to be a sustainable location for residential development, which outweighs the potential for loss of employment land.
- 1.3 The design, density, scale and layout of development is considered to be acceptable and the impact on neighbouring resident's amenities is not considered sufficient to warrant a reason for refusal.
- 1.4 The proposal does not provide the full financial contributions or affordable housing, however, this has been supported by a Financial Viability Assessment which has been independently assessed. It is therefore considered that the payments proposed are reasonable given the nature of the site.

Recommendation:

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

- a) Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):
 - Financial Contribution towards RAMS (£2,637.18)
 - Primary Education Contribution (£91,456.50)
 - Primary School Transportation (£90,744.57)
 - Financial Contribution towards future speed reduction measures for Thorpe Road (£10,925)
 - Affordable Housing Off-Site Financial Contribution (£120,000)
 - Open Space financial contribution (£53,504.95)
 - Management of amenity areas and open space by Management Company
 - Review mechanism in relation to viability
- 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

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
ER3	Protection of Employment Land
HG1	Housing Provision
HG3A	Mixed Communities
HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
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
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
HP5	Open Space, Sports and Recreation Facilities
LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
PP6	Employment Sites

PP12	Improving Education and Skills
PPL1	Development and Flood Risk
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
CP1	Sustainable Transport and Accessibility
CP2	Improving the Transport Network

Status of the Local Plan

- 2.1 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.
- 2.2 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.
- 2.3 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.
- 2.4 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.

In relation to housing supply:

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

- 2.6 At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF (which applies until such time that the figures in the new Local Plan are adopted).
- 2.7 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

00/01226/FUL	Proposed porch	Approved	12.09.2000
95/00124/FUL	(Crossways Garden Centre, Thorpe Road, Little Clacton) New vehicular access	Approved	28.09.1995
98/00423/FUL	Erection of protective canopy over existing garden centre display area	Approved	18.05.1998
05/02134/FUL	Extension and detached garage/gym	Refused	15.02.2006
06/00349/FUL	Extension and detached garage/gym	Approved	25.04.2006
00/01718/FUL	Retention of polythene clad growing tunnel and timber shed. Buildings for garden centre/horticultural use	Approved	30.05.2001
95/00124/FUL	(Crossways Garden Centre, Thorpe Road, Little Clacton) New vehicular access	Approved	28.09.1995
95/01354/FUL	(Crossways Garden Centre, Thorpe Road, Little Clacton) Amendment of position for new vehicular access granted under application TEN/95/0124	Withdrawn	19.07.1996
96/00742/FUL	(Crossways Garden Centre, Thorpe Road, Lt Clacton) Use of land as garden to Crossways and variation of condition 1 of 262/77	Approved	16.04.1997
06/01756/FUL	New refreshments building and erection of security railings to road	Approved	15.02.2007

frontage.

4. Consultations

Essex County Council Ecology
02.11.2020

No objection subject to securing:

- a) A proportionate financial contribution towards effective visitor management measures in line with Essex Coast RAMS; and
- b) biodiversity mitigation and enhancement measures

The Extended Phase 1, Bat Emergence and Reptile Surveys relating to the likely impacts of development on designated sites, protected species and priority species & habitats has been reviewed and the Ecology Team are satisfied that there is sufficient ecological information available for determination.

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

The mitigation measures identified in the Extended Phase 1, Bat Emergence and Reptile Surveys (Hillier Ecology, November 2019) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority Species. As mentioned in the report, a Reptile Mitigation Strategy will be required as the site supports a low population of Common Lizards.

It is noted that Tendring DC have prepared a project level HRA Appropriate Assessment which identifies that the development is approximately 6km from Hamford Water Special Protection Area and Ramsar and also a similar distance from the Colne Estuary Special Protection Area and Ramsar and the Essex Estuaries Special Protection Area. 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. It is also noted that Tendring DC will secure the Essex Coast RAMS contribution pre dwelling under a legal agreement.

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

secured 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.

1. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Extended Phase 1, Bat Emergence and Reptile Surveys (Hillier Ecology, November 2019) 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. No development shall take place until a Reptile Mitigation Strategy addressing the mitigation and translocation of reptiles has been submitted to and approved in writing by the local planning authority. The Reptile Mitigation Strategy shall include the following.

- a) Purpose and conservation objectives for the proposed works.
- b) Review of site potential and constraints.
- c) Detailed design(s) and/or working method(s) to achieve stated objectives.
- d) Extent and location/area of proposed works on appropriate scale maps and plans.
- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g) Persons responsible for implementing the works.
- h) Details of initial aftercare and long-term maintenance of the Receptor area(s).
- i) Details for monitoring and remedial measures.
- j) Details for disposal of any wastes arising from works.

The Reptile Mitigation Strategy shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

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

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

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

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

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

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

4. 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)

It has been calculated that this development would generate 1.9 EY & C pupils, 6.3 primary school pupils and 4.2 Secondary school pupils.

Early Years and Childcare

The proposed developments located within the Little Clacton & Weeley ward and will create the need for an additional 1.9 places. According to Essex County Council's childcare sufficiency data, published in Summer 2018 there are 7 providers of early years and childcare in the area. Overall there are more than 20 vacant childcare places recorded. 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. 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

The proposed development sits within the area served by Engaines Primary School which offers 38 places each year. As at May 2019 the School was full in all year groups and was again expected to be so this September. The site also abuts the area served by Burrsville Infant Academy and Great Clacton Junior School. These schools are likewise full and expected to remain so. According to Essex County Council's 'Ten Year Plan' to meet demand for school places, the wider area is also under pressure with the groups covering both Little Clacton (Tendring Primary Group 1) and Clacton on Sea (Tendring Primary Group 2) potentially requiring additional capacity within the period. As set out in Tendring District Council's emerging Local Plan, the level of potential extra demand from new housing requires new school sites to be allocated.

A project to provide sufficient school capacity is proposed. An additional 6.3 places would be provided with an estimated cost of £96,270 at April 2019 prices. This equates to £15,281 per place and so, based on demand generated by this proposal set out above, a developer contribution of £96,270 index linked to April 2019 is sought to mitigate its impact on local primary education.

Having reviewed the proximity of the site to the nearest primary school, Essex County Council will also be seeking a primary school transportation contribution as there are no current safe walking routes from the development to the nearest primary school. The cost for providing this is £95,520.60 Index linked to April 2019 prices.

ECC Highways Dept
05.03.2020

Secondary Education

This proposed development is not considered to attract an education contribution in relation to secondary education needs as it is below Essex County Council's current threshold for places.

The information that was submitted in association with the application has been fully considered by the Highway Authority.

The proposed site will utilise an existing vehicular access. When compared with the former commercial use, the level of activity will be considerably reduced while the nature of vehicles will also change for the site. It appears that the application will retain adequate off-street parking and turning, for the proposed dwellings therefore:

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following 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 management plan

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. Prior to commencement of the development the planning application drawings shall be revised and submitted to and approved in writing by the Local Planning Authority to show the following:

- a) A revision to the vehicle access and parking arrangements for Plots 6 to 10.
- b) Kerb radii measuring 6m.
- c) A straight section of carriageway to be provided from the entrance junction for 10 metres.
- d) Special junction detail featuring entrance ramp/table.
- e) 2x2m Footways on both sides of the access road/

- bell mouth.
- f) Visibility splays clear of any parking spaces.
- g) 2 x 20 metre visibility splays at all junctions between a private road and adoptable road
- h) 6 metres in front of all parking spaces.
- i) A 0.5 metres no build zone on both sides of the 6-metre road.
- j) No windows, doors or other projections should extend over public areas.
- k) 1.5 x 1.5 metre pedestrian visibility splays at all vehicle accesses and clear of trees.
- l) 13.6 metres centre line bend radius kerbs on the 6-metre road and appropriate forward visibility (25 metres).
- m) The footways tapered to join the shared surface.
- n) Areas within the site identified for the purpose of loading/unloading/reception and storage of building materials and manoeuvring clear of the highway and retained at all times for that sole purpose as approved in writing by the Local Planning Authority.

The development shall be carried out in accordance with the approved drawings.

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, in accordance with policy DM1 and DM9.

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

a) A priority junction off Thorpe Road to provide access to the proposal site. Junction shall include but not be limited to a 6.0-metre wide carriageway, 2no. 6 metre kerbed radii and a 2.4 x 180 metre visibility splay southbound and 2.4 x 205 metre visibility splay northbound.

b) A financial contribution of £11,500 (to be index linked) towards future speed reduction measures for Thorpe Road. This condition requires a Legal Agreement between the Applicant/Developer and the Highway Authority using the powers in Section 106 of the Highways Act, 1980.

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible, in accordance with policy DM1 and DM17.

4. Prior to commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water

drainage) shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure roads/footways are constructed to an appropriate standard in the interests of highway safety in accordance with Policy DM7.

5. 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

6. Prior to occupation of the development each vehicular access shall be constructed at right angles to the highway boundary and to the carriageway. The width of the access at its junction with the highway shall not be more than 3.6 metres (equivalent of 4 low kerbs) for an individual access, shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge

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

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

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

in accordance with Policy DM8.

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

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

10. All single garages should have a minimum internal measurement of 7m x 3m

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

11. 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.

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

Reason: 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, in accordance with policy DM1, DM9, DM10 and DM17.

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.

Tree & Landscape Officer
12.11.2019

There are no trees or other significant vegetation in the main body of the application site however there appear to be a few isolated trees on the boundary of the site comprising primary Lombardy Poplar (*Populus nigra* 'Italica'). These trees are not a significant constraint on the development potential of the land and do not merit

retention or protection by means of a tree preservation order.

With regard to the layout and visual appearance of the development it appears that the shape and size of the public open space will help to provide a pleasant open character for the development but would not function well as a play space or recreational open space.

In terms of the way that the development will impact on and influence the character of the public realm it is considered that the design of the element fronting Thorpe Road would result in an undesirable urbanisation of the locality: primarily by the creation of hard surfacing for car parking in front of plots 1 to 5. Consideration should be given to this aspect of the development. If the dwelling and car parking were to be set back from Thorpe Road and new soft landscaping were to be carried out on the boundary with Thorpe Road then a more visually pleasing layout could be achieved.

The eastern boundary of the site is demarcated by an established hedgerow comprising indigenous species. It would be desirable to retain this boundary feature or to secure its replacement if it were necessary for it to be removed to facilitate the development of the land.

If planning permission is likely to be granted then a condition should be attached to secure details of soft landscaping ' including new tree planting.

UU Open Spaces
13.01.2020

There is currently a deficit of 2.22 hectares of equipped play in Little Clacton.

There is one play area in the village which is located along London Road and is a designated LEAP plus the Parish Playing Field has open space and used for all sports.

Due to the significant lack of play and open spaces facilities in the area, a contribution is justified and relevant to the planning application. The contribution would be used towards creating additional facilities and improvements at the Parish Playing Fields.

Housing Services

The application proposes 21 dwellings for older people. The Council's emerging Local Plan requires that 30% of dwellings on sites containing 11 more homes should provide affordable housing. This would equate to 6 dwellings on this application.

There is a high demand for housing from older people in the district, which is not surprising given the demographics of the district. There are currently 202 households over the age of 60 on the housing register seeking housing in the Clacton-on-Sea area.

Given the high demand for housing from older people in the Clacton area, my department would be looking to see affordable housing delivered on site.

ECC SuDS Consultee
06.11.2019

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

Condition 1

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

- Limiting discharge rates to 1.1l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change. If foul water is proposed to be treated and discharged to the watercourse then it should be done so within the 1.1l/s discharge rate in order to ensure that flood risk is not increased.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1:100 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753. It should be noted that downstream defenders do not provide treatment for soluble metals and therefore, alone, are not a suitable form of treatment.
- 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

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 before commencement of works 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 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.

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.

TDC Building Control and Access
Officer
04.11.2019

No comments at this stage.

Anglian Water Services Ltd
05.11.2019

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

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

This response has been based on the following

submitted documents: Drainage strategy 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. It is noted that two options are proposed. A discharge via Package Treatment Plant or discharge via pumped regime to the public foul network. As previously stated, there is insufficient capacity in the network to accommodate a pumped regime with network upgrades/onsite storage. We therefore request a condition requiring an on-site drainage strategy

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

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 Environmental Protection
19.11.2019

Environmental Protection have reviewed the Geo-Environmental Desk Study and are satisfied with the findings. It should be noted that should contamination be found that was not previously identified during any stage of the application hereby approved or previous to this and not considered in the any remediation scheme it shall be made safe and reported immediately to the local planning authority.

Also a Construction Method Statement. This will be required and should be secured by condition and include the following:

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

TDC Waste Management
22.11.2019

Access roads to be of sufficient width to allow access of 26 tonne refuse HGV and allow vehicle to manoeuvre and turn so vehicles can drive in and out with minimal reversing. All access roads to be constructed to standard to withstand weight of 26 tonne refuse collection vehicle.

5. Representations

Little Clacton Parish Council

Object to the application:

The site has no pedestrian facilities and the nearest bus stops are approximately 1km away. The area already has high vehicle movement making it unsafe to cyclists. All of which goes against the NPPF 2019 which states applications should create places that are safe, secure and attractive, which minimise the scope for conflicts between pedestrians, cyclists and vehicles. This site would require all daily connections to shops, work and schools to be completed using vehicles.

If TDC are mindful to approve we will require S106 monies – consider open spaces/Plough Corner along with named school monies for Engaines Primary School.

6. Assessment

Site Context

- 6.1 The application site is located to the north of Clacton and the east of Little Clacton. It measures approx. 0.8 hectares and is currently occupied by a former garden centre known as 'Crossways'. It contains numerous buildings and infrastructure; a car park to the front of the site, a collection of larger warehouse type buildings housing the main customer commercial areas and numerous smaller buildings. The rear of the site is grass and low scale scrub planting to the boundaries.
- 6.2 To the immediate north of the site lies a detached 2 storey dwelling and large associated garden, where planning permission was granted (16/00912/FUL) for the erection of 5 no. dwellings and associate garaging and ancillary works. However, as there have been no Building Control applications or discharge of condition application it is considered that this consent has now expired.
- 6.3 Further north lies a chicken farm where planning permission was granted in June 2017 (16/00421/FUL) for 81 predominately single storey retirement dwellings. This consent has not yet been implemented but due to the pandemic they are legible to apply for an extension of time through an environmental approval process, which can only be refused if EIA or habitat regulation requirements are not met. Adjacent to this site there was also a further application for 81 no. dwellings (19/01081/OUT) which was refused due to viability issues and lack of an agreed S106 agreement.
- 6.4 To the south of the site lies a detached 2 storey dwelling, beyond which lies a more recently constructed chalet bungalow known as Shires. To the south of Shires lies land which was granted reserved matters consent in July 2019 (18/01800/DETAIL) for 250 dwellings (known as Oakwood Park).

Proposal

- 6.5 This application seeks planning permission for 21 two storey dwellings (5 no. 3 bed dwellings and 16 no. 4 bed dwellings), with access from Thorpe Road.
- 6.6 The proposal involves a parking area to the front of the site which provides visitor parking and parking for Plots 1-5, which are semi-detached and terraced units set back from the front boundary of the site in line with the neighbouring dwellings. Towards the centre of the site the proposed dwellings are arranged in a linear form either side of the access road with boulevard planting on one side. Towards the rear of the site is a private drive with a more informal layout. To the rear of the proposed terraced units is a private kitchen garden for residents use.

- 6.7 The proposed dwellings will have a contemporary appearance due mainly to the size and proportions of the windows. The proposed materials are grey/black slate roof tiles; red facing brickwork and grey UPVC windows.

Principle of Development

- 6.8 The application site is located outside of the defined Settlement Development Boundary as defined within the adopted Tendring District Local Plan (2007) but within the defined Settlement Boundary in the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). However, given that the Emerging Plan is yet to be formally adopted and the fact that it could be argued that Policy QL1 of the Adopted Plan is out dated, it is considered that the assessment of the principle of development falls to be considered under the NPPF.
- 6.9 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.
- 6.10 At this current time, 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).
- 6.11 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.
- 6.12 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.
- 6.13 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 and it is accepted that the site is not in a preferred location for growth.
- 6.14 In line with Paragraph 8 of the National Planning Policy Framework (2019), achieving sustainable development means meeting an economic objective, a social objective and an

environmental objective. The sustainability of the application site is therefore of particular importance. These are assessed below.

Economic

- 6.15 It is considered that the proposal would contribute economically to the area, for example by providing employment during the construction of the properties and from future occupants utilising local services. The site was a former garden centre, so was in employment use. Policy ER 3 of the Saved Plan states that:
- a) the Council will ensure that land in, or allocated in this Plan for employment use will normally be retained for that purpose. Its redevelopment or change of use for non-employment purposes will only be permitted if the applicant can demonstrate that it is no longer viable or suitable for any form of employment use. The applicant should either:
 - Submit evidence of a sustained but ultimately unsuccessful marketing exercise, undertaken at a realistic asking price; or
 - Show that the land (site or premises) is inherently unsuitable and/or not viable for any form of employment use.
 - b) Where the loss of an employment site is permitted, the applicant will normally be expected to provide a suitable alternative elsewhere in the district, or a financial contribution towards the Council's employment, training or regeneration programmes and initiatives.
 - c) This policy will not be applied where vacant business premises form a subordinate but integral part of an existing dwelling in the same ownership.
- A similar approach is set out in Policy PP6 of the Emerging Plan.

- 6.16 No evidence of any marketing campaign has been submitted. However, the Garden Centre has been closed for approx. 2 years and the employment use has already been lost. Furthermore, the site is in a poor state of repair and the opportunities for employment use will be severely limited without significant investment. In addition the site has been included within the Settlement Development Boundary but not allocated specifically for employment use. It is therefore considered that the loss of employment use would not be sufficient to justify refusal of the application.

Social

- 6.17 The NPPF seeks to support a prosperous rural economy. It promotes sustainable transport and seeks a balance in favour of sustainable transport modes to give people a real choice about how they travel recognising that opportunities to maximise solutions will vary between urban and rural areas. With regard to the social dimension, this means supporting strong, vibrant and healthy communities by supplying the housing required to meet the needs of present and future generations and creating a high quality environment with accessible local services. The site is located on the edge of Clacton.
- 6.18 In the Council's "Local Plan Settlement Hierarchy" document (April 2016), Clacton is identified as a Strategic Urban Settlement which is considered one of the most socially sustainable locations for development in the district, with good access to jobs, shops, services and public transport by foot and cycle. The inclusion of the site within the Settlement Development Boundary of the Emerging Plan further indicates the sustainability credentials of the site.

Environmental

- 6.19 The environmental role is about contributing to protecting and enhancing the natural and built environment which is considered below under the heading Scale, Layout and Appearance.

Scale, Layout and Appearance

- 6.20 Paragraph 8 of the National Planning Policy Framework 2019 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment. Furthermore, Paragraph 127 of the NPPF requires that development should respond to local character and history, and reflect the identity of local surroundings. It goes on to say that local distinctiveness should be promoted and reinforced. Saved Policy QL9 of the Tendring District Local Plan (2007) and Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seek to ensure that development is appropriate in its locality.
- 6.21 The site is located in an area which will undergo significant change with residential development permitted to the north, east and south-east of the proposed site. The consent granted to the north of the site (16/00912/FUL) was a low density development but this has now expired. Other nearby developments granted under (16/00421/FUL and 18/01800/FUL) are much higher density. It is therefore considered that whilst the proposed development is a high density it would not be out of character with the surrounding area.
- 6.22 The design of the dwellings has a modern appearance and will appear different to the surrounding development, with the large windows and grey window frames. However, in terms of size and scale they would not appear significantly out of place with the approved schemes and the use of red brick is a feature in the surrounding area. It is therefore considered that the design and appearance of the proposed dwellings is acceptable.
- 6.23 Policy HG9 of the Tendring District Local Plan 2007 sets out the following requirements for private amenity space:
- For houses with 3 or more bedrooms a minimum of 100 square metres
 - For houses with 2 bedrooms a minimum of 75 square metres
 - For one bedroom houses a minimum of 50 square metres
- All proposed dwellings have garden areas of 100 square metres or more and therefore are policy compliant.

Highway Safety/Parking

- 6.24 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.
- 6.25 The site is to be served by one access point onto Thorpe Road, the proposed access is approx. 1.5 metres further north than the existing access. Essex County Council Highways have been consulted on the application and raise no objection (subject to conditions), they have stated that when compared with the former commercial use, the level of activity will be considerably reduced while the nature of vehicles will also change for the site.
- 6.26 Conditions have been recommended by Essex County Council Highways to cover the following: the submission of a Construction Management Plan; the detailed layout, including a footpath on both sides of the access road/bellmouth; a priority junction off Thorpe Road; a financial contribution towards future speed reduction measures for Thorpe Road (to form part of the S106 obligations); further details of estate roads, footpaths and turning facilities;

location of boundary treatment planting; provision of vehicle and cycle parking and the provision of Residential Travel Packs. These are included within the recommendation.

- 6.27 Conditions are also recommended with regards to sizes of car parking spaces and garage, however these are not included in the recommendation as with regards to car parking spaces the plans show compliance and whilst the garages do not meet the required size standards of 3m by 7m, there are not relied upon to provide car parking spaces in order to meet the standards.
- 6.28 The Essex County Council Parking Standards state that for dwellings with 2 or more bedrooms, 2 vehicle parking spaces are required, which measure 2.9 metres by 5.5 metres. The proposal complies with this requirement and adequate off-street parking is provided, together with 4 visitor parking spaces.

Landscaping

- 6.29 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.
- 6.30 The site lies outside the Settlement Development Boundary in the Saved Plan but is not in any area designated for landscape value and is included within the Settlement Development Boundary in the Emerging Plan.
- 6.31 There are no trees or other significant vegetation in the main body of the application site however there are a few isolated trees on the boundary of the site comprising primary Lombardy Poplar (*Populus nigra 'Italica'*). These trees are not a significant constraint on the development potential of the land and do not merit retention or protection by means of a tree preservation order.
- 6.32 The layout of the proposed development with the boulevard planting, open space and shared kitchen garden will provide a pleasant open character for the development. It will not function well as play space or recreational space, but a contribution towards this type of provision will be secured by the S106.
- 6.33 The development will impact the surrounding area, which is an area already going through change with the Oakwood Park development and where it has been accepted that change will occur with the granting of other applications referred to in the 'Site Context' section of this report.
- 6.34 It is the Landscape Officers view that the element fronting Thorpe Road would result in an undesirable urbanisation of the locality; primarily by the creation of hard surfacing for car parking in front of Plots 1 to 5. It is accepted that the proposal could be improved with further landscaping to the front of the site, however, given that the existing hardstanding currently exists it is considered that this would be unreasonable to refuse the application on this basis, especially as some planting is proposed which is a benefit to the current situation.
- 6.35 It is therefore considered that the landscape impact of the proposal is acceptable subject to a condition to secure details of soft landscaping. It also will be advised that any approved scheme should include new tree planting and that it would be desirable to retain the established hedgerow along the eastern boundary.

Biodiversity

- 6.36 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.
- 6.37 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.
- 6.38 An Extended Phase 1, Bat Emergence and Reptile Survey has been submitted with the application this concludes that:
- The inspection of the buildings identified 'Building 3' as having moderate potential to support roosting bats and the building was subject to two emergence surveys; all other buildings have negligible potential to support roosting bats;
 - The emergence surveys produced a negative result for roosting bats and no specific licencing or mitigation is necessary; two species were recorded commuting and foraging during the surveys;
 - The survey of the trees indicated negligible potential to support roosting bats;
 - Installation of bat boxes, complemented by bat friendly lighting, would offer enhancements;
 - There was no evidence of Barn Owls using or having used the buildings;
 - There were no Badger setts and no evidence of Badgers using the site;
 - The reptile survey recorded a maximum of four Common Lizard during any one survey of the area comprising of 0.35 hectares indicating that a small population is present which will need protecting using an exclusion, capture and translocation method to prevent injury or death resulting from the development;
 - There was no evidence of Hedgehogs; and
 - All species of flora recorded are considered common and widespread.
- 6.39 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 Extended Phase 1, Bat Emergence and Reptile Surveys; the submission of a Reptile Mitigation Strategy addressing the mitigation and translocation of reptiles; a Biodiversity Enhancement Strategy for Protected Species 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.
- 6.40 Subject to the recommended conditions the application is acceptable in relation to ecology and biodiversity.

Impact on Residential Amenity

- 6.41 Paragraph 127 of the National Planning Policy Framework 2019 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Saved Policy QL10 of the adopted Tendring District Local Plan (2007) requires that all new development should meet functional requirements. In particular the policy states that planning permission will only be granted if; buildings and structures are orientated to ensure adequate daylight, outlook and privacy and provision is made for functional needs including private amenity space. Emerging Policy SPL3 of the Tendring

District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives.

- 6.42 The proposal provides a good level of amenity for the proposed residents; there is adequate amenity space and no direct overlooking between properties.
- 6.43 With regards to the impact on neighbouring properties the proposal will have a significant impact on the amenities of both neighbouring residents, due to the proposed dwellings being 2 storey in height. There will be overlooking into both neighbouring properties, however, there will be a small area of amenity space that would not be overlooked for both properties. Also there was a development proposed on the land to the north and the land to the south is surrounded by new development and included within the Settlement Development Boundary, and therefore there is a reasonable prospect of both these sites being re-development.
- 6.44 The proposal will increase the level of activity on the site because at present it is vacant with no activity. However, the level of activity generated by the proposed development is not considered to be greater than that which could be generated by a commercial use (which is its authorised use).
- 6.45 Plots 12, 13 and 14 are situated a sufficient distance from the dwellings proposed under application 16/00421/FUL. The Essex Design Guide states that where habitable rooms are located at the rears of neighbouring properties and the rear facades face each other, a minimum spacing of 25m between the rears of the properties is required. An intervening fence or other visual barrier of above eye-level height (as viewed from the potential vantage point) should be incorporated to maintain an adequate level of privacy. A back to back distance of 27 metres is proposed.
- 6.46 On balance, it is considered that the proposal would not have a significant adverse impact on neighbour's amenities to warrant a reason for refusal, subject to conditions to remove permitted development rights for extensions, outbuildings and loft conversions.

Drainage

- 6.47 The site lies in Flood Zone 1 and the development area is less than 1 hectare, therefore no site specific flood risk assessment is required. However, the application is a major application and paragraph 65 of the NPPF states that "major developments should incorporate sustainable drainage systems unless there is clear evidence this would be inappropriate".
- 6.48 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).
- 6.49 As part of the application a Drainage Strategy has been submitted, Essex County Council SUDS as Lead Local Flood Authority have reviewed the submitted document and have no objection subject to the conditions which require a detailed surface water drainage scheme and maintenance plan to be submitted and approved and yearly logs of maintenance to be carried out.
- 6.50 Anglian Water have confirmed that they will need to plan effectively for the proposed development, if permission is granted and work with the applicant to ensure any infrastructure improvements are delivered in line with the development. It is noted that two options are proposed. A discharge via Package Treatment Plant or discharge via pumped

regime to the public foul network. There is insufficient capacity in the network to accommodate a pumped regime with network upgrades/onsite storage. Therefore request a condition requiring an on-site drainage strategy is recommended.

- 6.51 Subject to the recommended conditions relating to foul and surface water the drainage aspects of the development are acceptable.

Viability

- 6.52 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.”
- 6.53 As part of this application, the applicant has submitted a Financial Viability Assessment which has been independently reviewed on the Council’s behalf.
- 6.54 The Viability Assessment originally submitted proposed 1 affordable dwelling to be provided on site and the Council’s Independent Review concluded that *‘the Applicant has understated their sales values and the affordable housing offer should be in excess of 1 unit’ and have made an initial assessment that the ‘scheme can support a surplus of c. £1.09m’*. This was based on the scheme generating residual land value of c. £1.25m and a benchmark site value of c. £0.16m.
- 6.55 Following further discussions between the Applicant’s Viability Consultants and the Council’s Independent Reviewer, a residual land value of c. £0.48m and a benchmark site value of c. £0.32m was agreed. This was in light of the scheme being amended by the 5 bed units being removed, the scheme being 100% market housing (with no on-site affordable housing provision) and additional information being provided. Based on this proposal the Council’s Independent Reviewer concluded that the scheme generates a surplus of c. £0.12m and therefore can support a payment of £0.12m towards affordable housing and £0.25m towards S106 payments. This conclusion has not been disputed by the Applicant’s.
- 6.56 The required financial contributions are set out below and for ease of reference the recommendation sets out the requested financial contributions and that being sought. The amount is a decreased amount due the viability issues; and each financial contribution (apart from the RAMS contribution, which is a legal requirement), has been proportionally decreased. Officers consider that this is a fair approach, but this can be amended if Members do not agree, subject to it not adversely affecting the viability of the scheme.
- 6.57 The recommendation also includes a review mechanism within the S106 for the viability to be re-assessed at the time of commencement of development, in case the viability of the proposal improves.

Section 106 of the Town and Country Planning Act 1990

- 6.58 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

- 6.59 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.
- 6.60 The application scheme proposes new dwellings on a site that lies within the Zone of Influence (Zoi) being approximately 6km from Hamford Water Special Protection Area and Ramsar and also a similar distance from the Colne Estuary Special Protection Area and Ramsar and the Essex Estuaries Special Protection Area. 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.
- 6.61 The applicant has agreed to provide the required financial contribution (£2,637.18) 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
- 6.62 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.
- 6.63 There is currently a deficit of 2.22 hectares of equipped play in Little Clacton. A contribution towards play and open space is therefore justified and relevant to this development. There is one play area in the village which is located along London Road and is a designated LEAP plus the Parish Playing Field has open space and used for all sports. The contribution would be used towards creating additional facilities and improvements at the Parish Playing Fields.
- 6.64 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 £56,321.00.
- 6.65 The applicant has agreed to provide a financial contribution in a legal agreement but due to the viability issues it is proposed to be a reduced amount of £53,504.95
- Affordable Housing
- 6.66 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.

- 6.67 There is a high demand for housing from older people in the district, which is not surprising given the demographics of the district. There are currently 202 households over the age of 60 on the housing register seeking housing in the Clacton-on-Sea area.
- 6.68 30% of dwellings equates to 6 dwellings. Given the high demand for housing from older people in the Clacton area, the Council would prefer to see the 6 affordable dwellings delivered on site.
- 6.69 However, as confirmed by the viability assessment the proposal cannot provide any on site affordable housing but an off-site financial contribution of £120,000 is proposed.

- Education

- 6.70 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.
- 6.71 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 (£96,270) and primary school transport (£95,520.60). The total contribution requested is £191,790.60 as detailed below:

Essex County Council confirm a development of this size can be expected to generate the need for up to 1.9 Early Years and Childcare (EY&C) places; 6.3 primary school, and 4.2 secondary school places.

Early Years and Childcare - 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 - The proposed development sits within the area served by Engaines Primary School which offers 38 places each year. As at May 2019 the School was full in all year groups and was again expected to be so this September. The site also abuts the area served by Burrsville Infant Academy and Great Clacton Junior School. These schools are likewise full and expected to remain so. According to Essex County Council's 'Ten Year Plan' to meet demand for school places, the wider area is also under pressure with the groups covering both Little Clacton (Tendring Primary Group 1) and Clacton on Sea (Tendring Primary Group 2) potentially requiring additional capacity within the period. As set out in Tendring District Council's emerging Local Plan, the level of potential extra demand from new housing requires new school sites to be allocated.

A project to provide sufficient school capacity is proposed. The demand generated by this development would be 6.3 places, therefore a developer contribution of £96,270 is sought to mitigate its impact on local primary school provision.

Secondary Education - This proposed development is not considered to attract an education contribution in relation to secondary education needs as it is below Essex County Council's current threshold for places.

School Transport - Having reviewed the proximity of the site to the nearest primary school, Essex County Council will also be seeking a primary school transportation contribution as there are no current safe walking routes from the development to the nearest primary school. The cost for providing this is £95,520.60.

6.72 The applicant has agreed to provide a financial contribution in a legal agreement but due to the viability issues it is proposed to be a reduced amount of £182,201.07 (£91,456.50 towards Primary School Places and £90,744.57 towards Primary School transportation).

- Highways

6.73 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 £11,500 towards future speed reduction measures for Thorpe Road. The applicant has agreed to provide a financial contribution but due to the viability issues it is proposed to be a reduced amount of £10,925.

7. Conclusion

7.1 This application seeks full planning permission for the erection of 21 no. dwellings on a site which was a former garden centre. The site whilst outside the Settlement Development Boundary in the Saved Plan is included within the Settlement Development Boundary in the Draft Plan and is therefore considered to be a sustainable location for residential development, which outweighs the potential for loss of employment land.

7.2 The design, density, scale and layout of development is considered to be acceptable and the impact on neighbouring resident's amenities is not considered sufficient to warrant a reason for refusal.

7.3 The proposal does not provide the full financial contributions or affordable housing, however, this has been supported by a Financial Viability Assessment which has been independently assessed. It is therefore considered that the payments proposed are reasonable given the nature of the site.

7.4 Subject to completion of the S106 and the conditions set out below the application is recommended for approval.

8. Recommendation

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

CATEGORY	TERMS	POLICY REQUIREMENT
Affordable Housing Provision	Off-Site Financial Contribution - £120,000	6 Affordable Dwellings provided on-site
Primary Education Provision	Financial Contribution - £91,456.50	Financial Contribution - £96,270
Primary School Transportation	Financial Contribution - £90,744.57	Financial Contribution - £95,520.60

RAMS	Financial Contribution £2,637.18	Financial Contribution £2,637.18
Open Space	Financial Contribution - £53,504.95	Financial Contribution - £56,321
Highways – Speed Reduction measures for Thorpe Road	Financial Contribution - £10,925	Financial Contribution - £11,500
Open Space/Amenity Areas	On-going Management by a Management Company	Management by Management Company or transfer to Council with financial contribution
Viability	Review Mechanism prior to commencement	

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 Drawing Nos:

0493_A_DD_001
0493_A_DD_010/D
0493_A_DD_011_A
0493_A_DD_012_A
0493_A_DD_013_A
0493_A_DD_014_A
0493_A_DD_015_B
0493_A_DD_016_B
0493_A_DD_017_B
0493_A_DD_018_B
0493_A_DD_019_A
0493_A_DD_020_A
0493_A_DD_021_B
0493_A_DD_022_A
0493_A_DD_023_C

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

- 3 No development shall be commenced until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have

been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.

Reason - To ensure that materials of an acceptable quality appropriate to the area are used and insufficient information has been submitted in this regard.

- 4 No development shall commence, including any groundworks, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The Construction Method Statement shall provide for:
- safe access to/from the site;
 - the parking of vehicles of site operatives and visitors;
 - the loading and unloading of plant and materials;
 - the storage of plant and materials used in constructing the development;
 - the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - wheel washing facilities;
 - measures to control the emission of dust and dirt during demolition and construction;
 - a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - details of hours of deliveries relating to the demolition and construction of the development;
 - details of hours of site clearance or construction;
 - a scheme to control noise and vibration during the demolition and construction phase, including details of any piling operations.

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

Reason - In the interests of residential amenity.

- 5 Prior to commencement of the development the planning application drawings shall be revised and submitted to and approved in writing by the Local Planning Authority to show the following:
- a) A revision to the vehicle access and parking arrangements for Plots 6 to 10.
 - b) Kerb radii measuring 6m.
 - c) A straight section of carriageway to be provided from the entrance junction for 10 metres.
 - d) Special junction detail featuring entrance ramp/table.
 - e) 2x2m Footways on both sides of the access road/ bell mouth.
 - f) Visibility splays clear of any parking spaces.
 - g) 2 x 20 metre visibility splays at all junctions between a private road and adoptable road
 - h) 6 metres in front of all parking spaces.
 - i) A 0.5 metres no build zone on both sides of the 6-metre road.
 - j) No windows, doors or other projections should extend over public areas.
 - k) 1.5 x 1.5 metre pedestrian visibility splays at all vehicle accesses and clear of trees.
 - l) 13.6 metres centre line bend radius kerbs on the 6-metre road and appropriate forward visibility (25 metres).
 - m) The footways tapered to join the shared surface.

The development shall be carried out in accordance with the approved drawings.

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 No occupation of the development shall take place until a priority junction off Thorpe Road to provide access to the proposal site has been completed. The junction shall include but not be limited to a 6.0-metre wide carriageway, 2no. 6 metre kerbed radii and a 2.4 x 180 metre visibility splay southbound and 2.4 x 205 metre visibility splay northbound.
- Reason - To protect highway efficiency of movement and safety and to ensure the proposal site is accessible.
- 7 Prior to commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- Reason - To ensure roads/footways are constructed to an appropriate standard in the interests of highway safety.
- 8 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.
- 9 Prior to occupation of the development each vehicular access shall be constructed at right angles to the highway boundary and to the carriageway. The width of the access at its junction with the highway shall not be more than 3.6 metres (equivalent of 4 low kerbs) for an individual access, shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.
- Reason - To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety.
- 10 The proposed 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 No dwelling shall be occupied until such time as the vehicle parking area indicated on the approved plans, for that dwelling, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.
- Reason - To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided.
- 12 Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council, (to include six one day travel vouchers for use with the relevant local public transport operator free of charge).

Reason - 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.

- 13 No above ground 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 the site, which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction.

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

- 14 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 interests of visual amenity and the character of the area.

- 15 No above ground development shall take place until precise details of the provision, siting, design and materials of screen walls and fences have been submitted to and approved in writing by the Local Planning Authority. The approved screen walls and fences shall be erected prior to the dwellings to which they relate being first occupied and thereafter be retained in the approved form.

Reason - To protect the amenities and privacy of occupiers and in the interest of visual amenity.

- 16 All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Extended Phase 1, Bat Emergence and Reptile Surveys (Hillier Ecology, November 2019) 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 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).

- 17 No development shall take place until a Reptile Mitigation Strategy addressing the mitigation and translocation of reptiles has been submitted to and approved in writing by the local planning authority.
The Reptile Mitigation Strategy shall include the following.
- a) Purpose and conservation objectives for the proposed works.
 - b) Review of site potential and constraints.
 - c) Detailed design(s) and/or working method(s) to achieve stated objectives.
 - d) Extent and location/area of proposed works on appropriate scale maps and plans.

- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
 - f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
 - g) Persons responsible for implementing the works.
 - h) Details of initial aftercare and long-term maintenance of the Receptor area(s).
 - i) Details for monitoring and remedial measures.
 - j) Details for disposal of any wastes arising from works.
- The Reptile Mitigation Strategy shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason - To allow the Local Planning Authority to discharge its duties under the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

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

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

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

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

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

- 19 Prior to any above ground works, 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 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)

- 20 No works except demolition shall takes place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:
- Limiting discharge rates to 1.1l/s for all storm events up to an including the 1 in 100 year rate plus 40% allowance for climate change. If foul water is proposed to be treated and

discharged to the watercourse then it should be done so within the 1.1l/s discharge rate in order to ensure that flood risk is not increased.

- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1:100 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753. It should be noted that downstream defenders do not provide treatment for soluble metals and therefore, alone, are not a suitable form of treatment.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

Reason

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

- 21 Prior to first 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. The development shall be maintained in accordance with the approved details.

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.

- 22 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.

- 23 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.

- 24 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with a scheme to assess the nature and extent of any contamination on the site, and any necessary remediation measures. The works shall be carried out in accordance with the approved details.

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

- 25 Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A, B and C of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling shall be erected or carried out except in accordance with drawings showing the siting and design of such enlargement, improvement or other alteration which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - In the interests of the amenities of the occupants of neighbouring property.

- 26 Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Class E of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no provision of buildings, enclosures, swimming or other pool shall be erected except in accordance with drawings showing the design and siting of such building(s) which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - In the interests of the amenities of the occupants of neighbouring property.

8.3 Informatives

1. 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.
2. The applicant is reminded that this permission is linked to a planning obligation under Section 106 of the Town and Country Planning Act 1990.
3. 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.
4. Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
5. 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.

6. 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.
7. 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.
8. The area(s) directly adjacent to the carriageway(s) in which the trees are to be planted should not be less than 3 metres wide, exclusive of the footway and the trunks of the trees should be no nearer than 2 metres to the channel line of the road. The same dimensions should be used in situations where the footway is located adjacent to the carriageway. In paved areas, whether the planted areas are to be adopted highway, trees should be sited no closer than 2 metres to the defined (or undefined) edge of the carriageway. Where the adopted highway is to be an independent path, trees should be planted no closer than 1 metre from the edge of the highway. In all cases, trees should be provided with root barriers to prevent damage to underground services.
9. Any work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to 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
10. 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.
11. With regard to the proposed landscaping scheme, it is advised that this should include new tree planting and that it would be desirable to retain the established hedgerow along the eastern boundary.

12. Additional Considerations

Public Sector Equality Duty (PSED)

- 12.1 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:
 - A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - 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
 - C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.

- 12.2 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.
- 12.3 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.
- 12.4 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

- 12.5 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.
- 12.6 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).
- 12.7 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

- 12.8 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.
- 12.9 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.

13. Background Papers

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

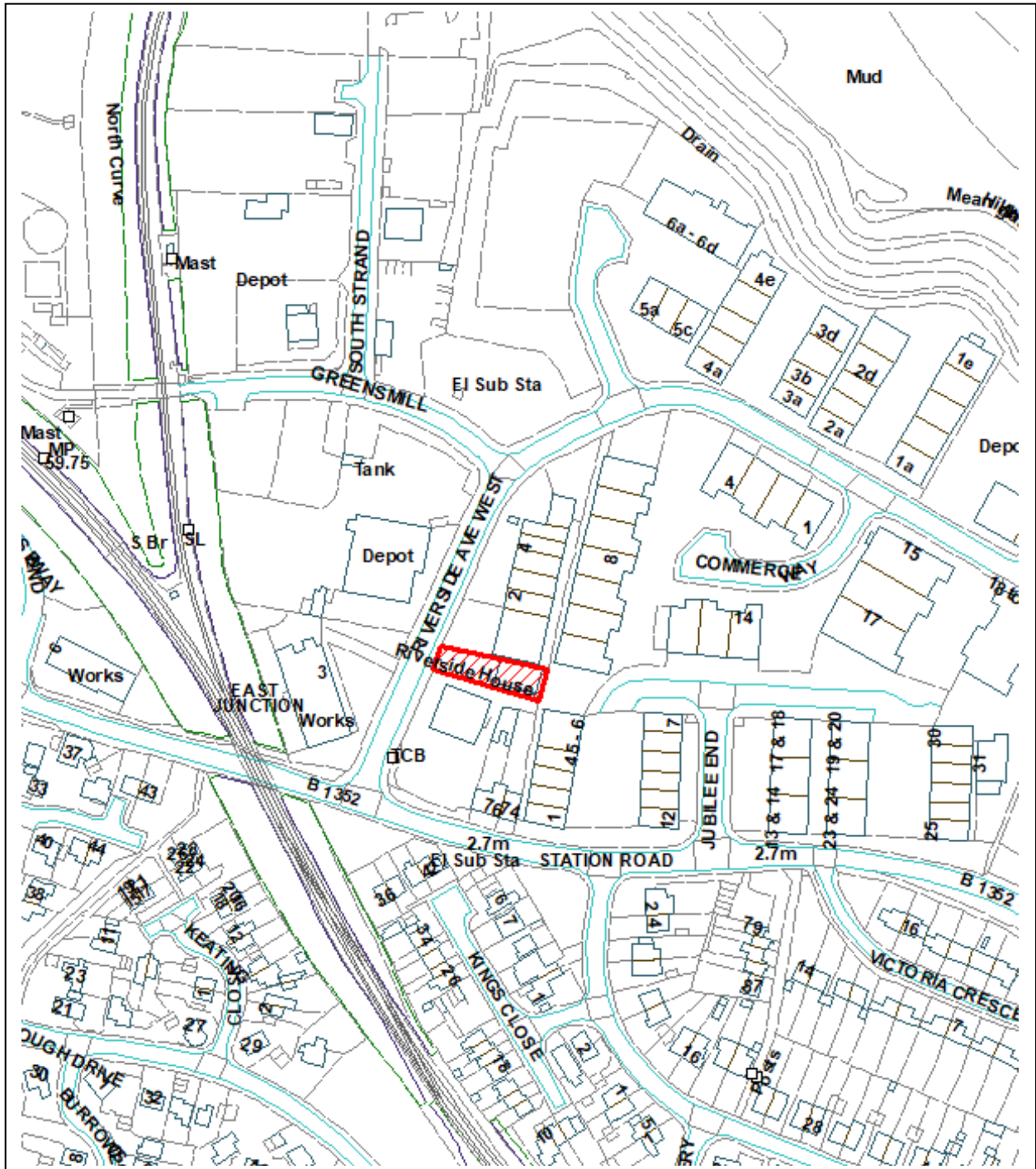
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PLANNING COMMITTEE

15th December 2020

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.2 PLANNING APPLICATION – 20/00273/FUL – RIVERSIDE HOUSE RIVERSIDE AVENUE WEST LAWFORD MANNINGTREE CO11 1UN



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Application: 20/00273/FUL

Town / Parish: Lawford Parish Council

Applicant: Mr David Wood

Address: Riverside House Riverside Avenue West Lawford Manningtree Essex CO11 1UN

Development: Sub-division of first floor flat to create two flats with additional flat at second floor. Retrospective.

1. **Executive Summary**

- 1.1 The application has been referred to the Planning Committee at the request of Councillor Guglielmi by virtue of overdevelopment of the site and a lack of residential amenities.
- 1.2 The application relates to the first and second floors above a commercial food-preparation outlet which sells fish and chips at the front of the building.
- 1.3 The site is centrally located within the Lawford Settlement Development Boundary as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017. The principle of residential development in this location is therefore acceptable subject to detailed design and impact considerations. It is also recognised that the site unusually lies on a trading estate which is in this case a 'Principal Business and Industrial Area' within the adopted Local Plan 2007 where employment development is directed and sought to be retained. In this case, it should be noted that the existing ground floor business (commercial food-preparation and Fish & Chip Shop), allowed on appeal in 2007, is to be retained and as such an employment generating use will not be lost from this site. Whilst it is unusual to find residential accommodation in such a location, it is material to note that the use of the first floor for residential use has already been established through the 2016 'Prior Approval' application to change the use from B1 (Business) to Residential flat. Furthermore, the site is considered highly sustainable as it is within walking distance of local shops and services and public transport (including Manningtree Railway Station).
- 1.4 The application seeks retrospective full planning permission for the conversion of the first and second floors to three flats. Adequate access to a parking/turning area exists forward of the shop-front.
- 1.5 The building benefitted from a Prior Approval notification granted in June 2016 for the conversion of the first floor into one flat. The development which was undertaken was the sub-division of the one flat into two flats and a further flat at second floor level. Other alterations undertaken were the re-orientation of the extension to the side, thereby creating a specific entrance to the flats and containing the staircases internally to the original structure and the provision of an external staircase to provide an emergency fire escape/flood evacuation refuge.
- 1.6 The development is in a location supported by Local Plan policies and material considerations and will not result in any material harm to the character of the area, residential amenities or highway safety.
- 1.7 The application is therefore recommended for approval subject to conditions and the completion of the required legal agreement.

Recommendation:

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

- the conditions stated in section 8.2
- A legal agreement has been completed to account for contributions towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) and toward improvements at the play area located on Heath Road, Tendring.

2. **Planning Policy**

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

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1	Spatial Strategy
QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
COM6	Provision of Recreational Open Space for New Residential Development
EN6	Biodiversity
EN11A	Protection of International Sites European Sites and RAMSAR Sites
ER2	Principal Business and Industrial Areas
ER3	Protection of Employment Land
HG1	Housing Provision
HG9	Private Amenity Space
LP1	Housing Supply
QL3	Minimising and Managing Flood Risk
TR1A	Development Affecting Highways
TR7	Vehicle Parking at New Development

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

SP1	Presumption in Favour of Sustainable Development
SPL1	Managing Growth
SPL2	Settlement Development Boundaries

SPL3	Sustainable Design
HP5	Open Space, Sports & Recreation Facilities
LP4	Housing Layout
PP6	Employment Sites
PPL1	Development and Flood Risk
PPL4	Biodiversity and Geodiversity

Local Planning Guidance

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

- 2.1 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.
- 2.2 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.
- 2.3 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.
- 2.4 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.

In relation to housing supply:

- 2.5 The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.
- 2.6 At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF (which applies until such time that the figures in the new Local Plan are adopted).
- 2.7 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**

93/00030/FUL	(Unit 7 Riverside Avenue West, Lawford) Change of use to laboratory for food and water analysis	Approved	19.02.1993
05/01897/FUL	Change of use from laboratory to provide food preparation facilities together with ancillary take away and local buffet	Withdrawn	14.12.2005
06/00470/FUL	Change of use of premises to provide food preparation facility (commercial kitchen) with ancillary takeaway. Re-submission of 05/01897/FUL.	Refused Appeal Allowed	12.07.2006 07.06.2007
06/01809/FUL	First floor extension to form B1 Offices.	Approved	07.02.2007
08/00065/FUL	Variation of Condition 1 of 06/00470/FUL to extend opening hours to 07:00 to 23:00 hours on any day.	Approved	27.03.2008

16/00704/COUNOT	Change of Use from B1 (Business) to residential (1 or 2 bed flat) for the first floor area of the unit.	Prior Approval not Required	22.06.2016
20/00273/FUL	Sub-division of first floor flat to create two flats with additional flat at second floor. Retrospective.	Current	

4. Consultations

Environment Agency
20.04.2020

Thank you for your consultation dated 30 March 2020. We have reviewed the application as submitted and are raising a holding objection on Flood Risk grounds.

Flood Risk

Our maps show the application site lies within tidal Flood Zone 3, the high probability zone. Paragraph 163, footnote 50 of the National Planning Policy Framework (NPPF) requires applicants for planning permission to submit a site-specific flood risk assessment (FRA) when development is proposed in such locations. No FRA has been submitted to support this application and we are therefore raising a holding objection.

An FRA is vital if the local council is to make an informed planning decision. In the absence of an FRA, the flood risk resulting from the proposed development is unknown. The absence of an FRA is therefore sufficient reason in itself for a refusal of planning permission.

Environment Agency
04.11.2020

Thank you for your re-consultation, we have reviewed the additional documents and we are now satisfied that the holding objection to this application can be removed for this planning application because the site is currently defended and the SMP policy for this area has an aspiration for hold the line. If the SMP policy is not taken forward the development would be unsafe in the future.

ECC Highways Dept

The information that was submitted in association with the application has been fully considered by the Highway Authority. The building is set back from the public highway and will be utilising the existing vehicular access and parking spaces located at the front; with four spaces being allocated to the flats. The site is located near to existing bus facilities at Queensway on Station Road therefore:

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

UU Open Spaces
14.05.2020

No contributions is being requested from open spaces of this occasion.

5. Representations

- 5.1 One contribution was received in response to the site notice displayed on 2nd April 2020 and consultation process.
- 5.2 Councillor Guglielmi commented that, if the unpermitted development remains in-situ it will create a material planning consideration for any future application on this commercial estate; there over 100 units and if every one of them comes forward with a residential application we shall have well in excess of 200 new residential units, again with no residential amenity space.
- 5.3 It is acknowledged that the two of the three flats have been created without either the express grant of planning permission or a prior approval application. The only reason why the application for full planning permission is being recommended for approval, contrary to Policy HG9 is the granting of the prior approval application. There isn't an Article 4 Direction on the industrial estate, as such the Local Planning Authority would have to consider the lawfulness of each subsequent submission for conversion to residential in accordance with the relevant requirements of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

6. Assessment

Site Context

- 6.1 Riverside Avenue West is a mid-1970's commercial estate on the border between Lawford and Manningtree. The majority of the buildings are either single storey or two-storey with further limited space in the loft area.
- 6.2 The application site is situated on the eastern side of the main thoroughfare, close to the junction with Station Road (B132).
- 6.3 The wider area has a well-established residential settlement within walking distance to the south and a variety of shops, small supermarkets and eating establishments approximately 500m to the west, with Manningtree railway station approximately 600m to the east. The area is well developed and highly sustainable.

Planning History

- 6.4 The site's use changed from a laboratory to a part commercial food-preparation/part take-away in 2006. The ground floor of the building still trades as a Fish & Chip shop and no changes are proposed to this use.
- 6.5 In June 2016, under application 16/00704/COUNOT the Prior Approval for the change of use from B1 (Business) to residential (1 or 2 bed flat) for the first floor area of the unit was deemed not to be required.

Proposal

- 6.6 In November 2016 works commenced on the conversion of the first floor to residential. The development which resulted was the subdivision of the single flat at first floor to two separate 2-bedroom flats and a further 1-bedroom flat in the loft space.
- 6.7 In addition to the internal conversion to residential flats, the one-and-a-half storey extension, having a footprint around 9.6sqm to the side (housing the staircase to the upper parts) was demolished. This footprint was replaced with an extension housing a clear entrance to the building and internalising the staircase. A further external staircase has been erected for the purposes of providing a fire-escape route and flood-risk safety platform.

Principle of Development

- 6.8 The site is located within the Lawford/Manningtree Development Boundary and as such there is no in principle objection to the proposal. However, the site does fall within a 'Principal Business and Industrial Area' as defined within the adopted Local Plan, where Policy ER2 seeks to direct employment development and Policy ER3 seeks to retain it for this purpose; similarly emerging Local Plan Policy PP6 (Employment Sites) seeks to safeguard employment uses on existing employment sites and only support non-employment uses where it can be demonstrated that the alternative use will not have an adverse impact on the primary employment uses or result in land use conflict. In this case, the employment use on the site (a commercial food preparation and Fish and Chip Shop allowed on appeal in 2007) is to be retained at ground floor level for such purpose and as such an employment generating business will not be lost from the site. There is not, in this instance, considered to be a level of conflict between the ground floor use and residential uses above that would make it unacceptable.

Appearance

- 6.9 The Government attach great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. One of the core planning principles of The National Planning Policy Framework (NPPF) as stated at paragraph 130 is to always seek to secure high quality design.
- 6.10 Saved Policies QL9, QL10 and QL11 aim to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties. Emerging Policy SP1 reflects these considerations.
- 6.11 In regards to the external changes to the property, these comprise the replacement small front/side extension, the new staircase and three rooflights to each of the north and south elevations.
- 6.12 In regards to the front/side extension; this is approximately 0.8m wider than the built form it replaced (2.2m versus 1.4m) and clearly demarks the entrance to the flats; this results in a less-cluttered façade.
- 6.13 In regards to the new external staircase; this is of 'open' form and only the upper safety handrail would be visible in the public domain. On the grounds that the locale has a distinctly commercial nature, the introduction of a staircase is not considered to introduce an alien feature which would harm either the host building or wider streetscene in general.
- 6.14 In terms of the rooflights, the right hand roofslope is entirely masked from public view by the bulk of the adjacent building, glimpses of the roofslope are possible from the north-east approach from within the estate but they are of a scale and appearance which would not cause harm to either the host building or wider streetscene in general.

Highway Safety/Parking

- 6.15 Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. These objectives are supported by emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

- 6.16 The Council's current Parking Standards require that for dwellings with 3 bedrooms a minimum of 2 parking spaces be provided per unit. The preferred bay size for cars is 5.5 metres by 2.9 metres and the minimum bay size is 5 metres by 2.5 metres. In this case, the flats will comprise 2 x 2 bed and 1 x 1 bed, so below the 3 bed requirement for 2 spaces. The site is in a main urban area with good access to public transport, so accordingly 1 space per dwelling can be applied to this proposal.
- 6.17 The information that was submitted in association with the application has been fully considered by the Highway Authority. The building is set back from the public highway and will be utilising the existing vehicular access and parking spaces located at the front; with four spaces being allocated to the flats. The site is located near to existing bus facilities at Queensway on Station Road and the impact of the proposal is acceptable to the Highway Authority.

Flood Risk

- 6.18 The site lies within Flood Zone 3, this land is assessed as having a 1 in 100 or greater annual probability of river flooding (>1 %), or a 1 in 200 or greater annual probability of flooding from the sea (>0.5%) in any year. These flood zones refer to the probability of river and sea flooding, ignoring the presence of defences. Paragraph 155 of the NPPF states inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.
- 6.19 The Environment Agency (EA) acknowledge that the site lies within tidal Flood Zone 3, defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for the conversion of the first and second floor to three flats, which are classified as a 'more vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance (PPG). Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment.
- 6.20 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."
- 6.21 The planning history for the site indicates that a Prior Approval for the conversion of the first floor to a residential flat was granted under planning reference 16/00704/COUNOT. One of the attributes of the Prior Approval is that development under Class O is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to (amongst others) flooding risks on the site.
- 6.22 Neither compliance nor non-compliance with adopted planning policies forms any part of the assessment of such submissions; if the site is located within a flood zone, the only requirement is that a site-specific flood risk is submitted. This was done in the case of the submission and the Environment Agency confirmed their satisfaction with the document.
- 6.23 There are no limitations contained within Class O which would have prevented the conversion to three flats; the only matter which prevents the current scheme from being a viable submission under Class O is that the submission is made 'prior to commencement'. The development is retrospective and a Class O prior approval submission for the conversion would not therefore be valid.
- 6.24 It is therefore considered that, as the outcome of a prior approval would have likely been that the prior approval would not have been required for three flats in addition to the Environment

Agency having no objection to the scheme; these material considerations have sufficient enough weight to make a recommendation which is not in accordance with the development plan.

Amenities of Existing & Future Occupiers

- 6.25 The NPPF, at paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.26 The site in an entirely commercial area and does not introduce any additional windows or built form which would have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.27 As detailed above, Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states *"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*
- 6.28 In reference again to 16/00704/COUNOT, neither compliance nor non-compliance with adopted planning policies forms any part of the assessment of such submissions.
- 6.29 The proposed flats have no amenity space; again as the outcome of a prior approval would have likely been that the prior approval would not have been required for three flats, the determination of which does not require the provision of amenity space; this material consideration has sufficient enough weight to make a recommendation which is not in accordance with the development plan.

Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)

- 6.30 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. The contribution is secured by unilateral undertaking.
- 6.31 The application scheme proposes three new dwellings on a site that lies within the Zone of Influence (Zoi) being approximately 292m from Stour and Orwell Estuaries SPA and Ramsar. Since the development is for 3 dwellings only, the number of additional recreational visitors would be limited and the likely effects on Stour and Orwell Estuaries from the proposed development alone may not be significant. However, new housing development within the Zoi would be likely to increase the number of recreational visitors to Stour and Orwell Estuaries; and, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.
- 6.32 A unilateral undertaking has been prepared to secure this legal obligation. This will ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

7. Conclusion

- 7.1 The site lies within the settlement boundaries of Lawford and as such the principle of residential development in this locality is supported by Local Plan policy and material considerations. Conversely, it is also recognised that the site unusually lies on a trading estate which is recognised as a 'Principal Business and Industrial Area' within the adopted Local Plan 2007 where employment development is directed and sought to be retained. In this case, it should be recognised that the existing ground floor business (commercial food-preparation and Fish & Chip Shop), allowed on appeal in 2007, is to be retained and as such an employment generating use will not be lost from this site. Whilst it is unusual to find residential accommodation in such a location, it is material to note that the use of the first floor for residential use has already been established through the 2016 'Prior Approval' application to change the use from B1 (Business) to Residential flat. Furthermore, the site is considered highly sustainable as it is within walking distances of local shops and services and public transport (including Manningtree Railway Station).
- 7.2 The proposal does not amount to any visual harm, harm to residential amenities nor harm to highway safety that would warrant refusal of planning permission. The application is therefore recommended for approval.

8. Recommendation

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

CATEGORY	TERMS
Financial contribution towards RAMS.	£125.58 per dwelling

8.2 Conditions and Reasons

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans: RMJ/DW/03A, RMJ/DW/04A and RMJ/DW/05A; received 1st December 2020.

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

8.3 Informatives

Legal Agreement Informative - Recreational Impact Mitigation

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

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.

Highways – reduced parking standards

In main urban areas with frequent and extensive public transport, cycling and walking links, the EPOA Parking Standards recommend that a reduced parking standard provision may be applied to residential developments. A reduced parking standard provision level can be applied to this proposal as it is located very close to regular public transport services and public car parking facilities.

Highways – works affecting the highway

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

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

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

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - 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
 - C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.2 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.
- 9.3 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.

- 9.4 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

- 9.5 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.
- 9.6 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).
- 9.7 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

- 9.8 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.
- 9.9 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

10. Background Papers

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

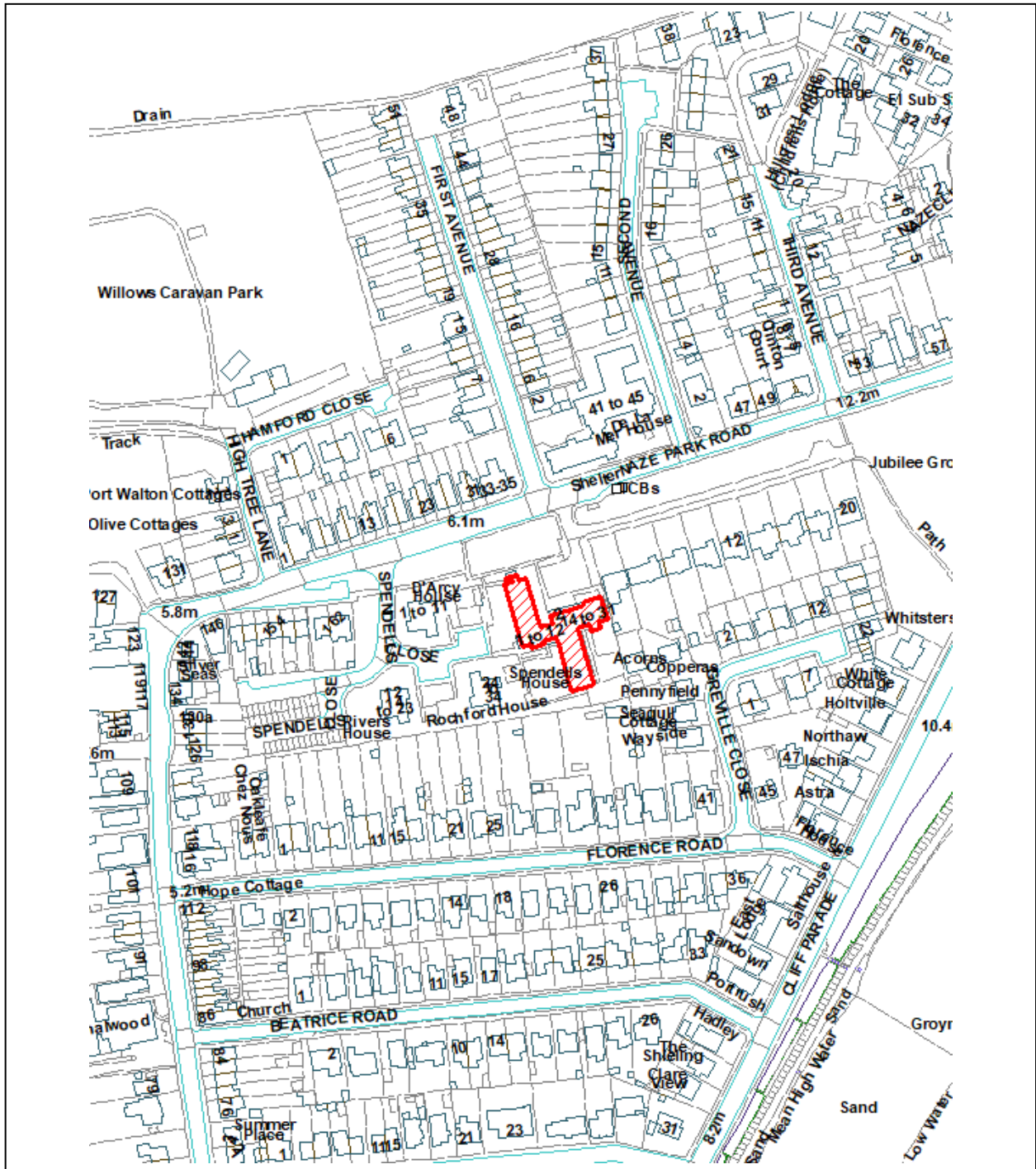
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PLANNING COMMITTEE

15th December 2020

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.3 PLANNING APPLICATION – 20/01285/FUL – SPENDELLS HOUSE NAZE PARK ROAD WALTON ON THE NAZE CO14 8JJ



DO NOT SCALE

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Application: 20/01285/FUL

Town / Parish: Frinton & Walton Town Council

Applicant: Mr Tim Clarke - Tendring District Council (Housing)

Address: Spendells House Naze Park Road Walton On The Naze Essex CO14 8JJ

Development: Proposed change of use from sheltered housing scheme (dwelling house, C3) to a hostel (sui generis) for temporary accommodation purposes.

1. **Executive Summary**

- 1.1 The application is before Members as the site is within the ownership of Tendring District Council. The Assistant Director of Housing and Environment has made the application.
- 1.2 The application relates to Spendells House Sheltered Housing Scheme located on the southern side of Naze Park Road, Walton-on-the-Naze. The site lies within the Settlement Development Boundary of Walton-on-the-Naze as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). A mixture of residential development comprising single and two storey dwellings, with five storey blocks of flats to the west, surround the site.
- 1.3 On 23rd March 2018 the decision was made by Cabinet to close Spendells House due to very low demand from those eligible to live in sheltered housing; whilst homelessness applications and temporary accommodation placements have been increasing over recent years. Temporary accommodation is currently sourced externally via local property owners and bed and breakfast establishments.
- 1.4 The development proposal consists of a change of use from C3 (dwellinghouse) to a Sui Generis (Hostel accommodation). The building will provide council owned and managed temporary accommodation to households to whom the Local Housing Authority owe a statutory duty to accommodate under homelessness legislation. The development does not propose any significant external changes to the building. Internal alterations will consist of changes to the layout and accommodation including some new bathrooms, a fully accessible flat and staff/office areas, but overall the layout will remain largely unchanged.
- 1.5 Given the current shortage of affordable homes in the district, facilities such as this play a vital role in providing short-term accommodation for sections of society in need, which is supported by national policy. Furthermore, the site is located in a highly sustainable, built up area within easy walking distance of a local convenience store, a café, the beach and other amenities. There is a bus stop to the front of the site providing regular services to Walton, Frinton and Clacton.
- 1.6 The proposal is for a residential use comparable to the residential use currently permitted within Spendells House. Whilst it is recognised that the proposed use would adopt a more transient nature and include younger residents and families, officers do not consider that any material harm to the character of the area, residential amenities or highway safety would result.
- 1.7 The development will ensure a vacant premises is brought back into use as council owned and managed temporary accommodation providing a better quality and more versatile provision than is currently available externally, thus providing a valuable contribution to the housing mix for the District in a sustainable location. The application is therefore recommended for approval subject to conditions.

Recommendation: Full Approval

- a) Subject to the conditions stated in section 8.2

2. Planning Policy

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

HG3 Residential Development within Defined Settlements

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

COM6 Provision of Recreational Open Space for New Residential Development

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL4 Biodiversity and Geodiversity

SP1 Presumption in Favour of Sustainable Development

- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- CP1 Sustainable Transport and Accessibility
- HP5 Open Space, Sports & Recreation Facilities

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

- 2.1 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.
- 2.2 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.
- 2.3 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.
- 2.4 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.

In relation to housing supply:

- 2.5 The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less

than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

- 2.6 At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF (which applies until such time that the figures in the new Local Plan are adopted).
- 2.7 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

FRW/215/65	Council Housing – Older Persons Units (application made by Frinton and Walton Unitary District Council)	Approved	15.2.1966
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4. Consultations

ECC Highways Dept 13.11.2020	The Highway Authority understands the complexities of those homeless, the urgency in securing suitable accommodation for those in need and the constraints that exist. The proposal is for a change of use from sheltered accommodation where residents would not be expected to be car owner/drivers to a use where significantly more occupiers could and will be car owners and where insufficient off street parking provision exists. The proposal is likely to lead to additional vehicles being parked in the adjoining highway causing conditions of danger, obstruction and congestion to road users contrary to the interests of highway safety and Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.
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If your Council is minded to Approve the proposal then the Highway Authority suggests the following Condition being applied:

The development shall not be occupied until such time as details of public transport facilities (timetables and locations of bus stops etc), walking and cycling being prominently displayed and regularly updated and maintained in perpetuity within the site, which shall be approved by Local Planning Authority.

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 of the Highway Authority's Development Management Policies February 2011.

NHS East Essex CCG No comments received.

Adult Social Care No comments received.

ECC Schools Service No comments received.

5. Representations

5.1 Frinton and Walton Town Council recommend approval.

5.2 Five letters of objection have been received. The concerns and objections raised can be summarised and addressed as follows (***officer response in italics***);

- Unsuitable, cramped accommodation for families.
- Insufficient number of rooms and space for maximum capacity of 81.
The information provided in support of the application demonstrates that the use of Spendells House would be appropriately managed based on the level and layout of accommodation within the building and the individual circumstances of the families; thus ensuring good living conditions for residents during their temporary stay.
- Noise and disturbance.
This is covered in the 'Residential Amenities' section of the main report below.
- Trees and shrubs on boundary provide screening and should be retained.
Nothing within the application proposals includes the removal of any boundary planting.
- Inadequate refuse area will cause untidy site.
The precise siting and details of the proposed outside refuse area will be secured by condition to be approved by the Council's Waste Team.
- 24/7 warden and support should be provided on site.
The building will have two full time members of staff on site during office hours, Monday to Friday, with flexible staffing provision available out of hours and at weekends and bank holidays. The buildings Careline system will be upgraded providing individual modules in each flat with connecting smoke detectors. These modules will allow staff members to communicate with residents during office hours or out of hours.
- Will increase pressure on schools and doctors.
The supporting information confirms that any school age children will continue to attend their current school. This is supported by the provisions within the Essex County Council Education Policy Document. Section 3 of the Policy covers 'Family residing in temporary accommodation and on the housing list' and states:

'Where a family has been temporarily re-housed consideration will be given to provide transport assistance to the child's current school for one term at a time whilst they are waiting for permanent housing providing the distance criteria is met. This would be considered for a maximum of three academic terms in order for families to find alternative accommodation or make their own transport arrangements'

Due to the temporary nature of this accommodation, clients would also remain with their current doctor until a settled home was found.

- Anti-social behaviour.
Should any anti-social behaviour occur, this would be a matter for the police.
- Should be kept as flats – homes for the elderly are needed.
Evidence provided by Housing Services demonstrates that there is no demand for sheltered housing accommodation of this nature in this location.
- Inaccurate plans not showing new development directly adjacent.
An up to date block plan has been provided.
- Insufficient parking causing overspill into surrounding streets.
Due the unfortunate circumstances of the residents using such a facility, few occupants are likely to own a car. Through appropriate management of the potential residents in need, the limited car parking areas can be used appropriately. The site is within a highly sustainable location with access to a frequent bus service and amenities/facilities within comfortable walking distance.

6. Assessment

6.1 The main planning considerations are:

- Background and Site Context;
- Site Description;
- Description of Proposal;
- Principle of Development;
- Visual Impact;
- Access and Parking;
- Residential Amenities;
- Financial Contribution – Recreational Disturbance; and
- Financial Contribution – Open Space and Play Space.

Background and Site Context

- 6.2 Following Cabinet’s decision on 23 March 2018, ‘Spendells House’ was closed as a sheltered housing scheme and residents relocated to other housing in the district. The primary reason for its closure was due to very low demand from those eligible to live in sheltered housing, in this instance, over 60 year olds.
- 6.3 Homelessness applications and temporary accommodation placements have been increasing over recent years, a trend that shows no sign of diminishing. Currently temporary accommodation is sourced externally via local property owners and bed and breakfast establishments.
- 6.4 In 2019/20, 268 households were placed in emergency temporary accommodation with the average time spent in the accommodation being 5 weeks. The longest period of time a household stayed in emergency temporary accommodation was 27 weeks, but in contrast, the shortest time was 1 day.
- 6.5 The need for council owned temporary accommodation has arisen due to the need to:
- Mitigate the use of Bed and Breakfast and other poorer quality temporary accommodation;
 - Provide suitable accommodation with cooking facilities for families;
 - Reduce the cost of outsourced temporary accommodation; and

- Increase provision resulting from the increased demand and the national shortage of affordable housing.

6.6 The supporting statement explains that the proposals will allow an empty building to be easily adapted and brought back into use as temporary accommodation for homeless households in the Tendring District making efficient use of the land. Importantly, the temporary accommodation will be Council owned and managed thus providing a better quality and more versatile provision than is currently available externally.

Site Description

6.7 The application relates to 'Spendells House' which is a two-storey building formally in use as a sheltered housing scheme for over 60 year olds located on the southern side of Naze Park Road, Walton-on-the-Naze.

6.8 The application site lies within the Settlement Development Boundary of Walton-on-the-Naze as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). The site is also within the Urban Regeneration Area of Walton. A mixture of residential development comprising single and two storey dwellings, with five storey blocks of flats to the west, surround the site.

6.9 For the purposes of describing the existing site and proposals, the building can be broken down into 4 sections comprising:

- **Section 1** - The central block with main entrance, utilities and bin store areas together with shared kitchen, dining, lounge, recreation and store areas at ground floor (part single storey);
- **Section 2** - The eastern side projection accommodating an adjoining 2 bedroom warden's flat with integral garage, 1 parking space to the front and a self-contained garden (single storey);
- **Section 3** - The south, rear projection accommodating 7 flats at ground floor plus a large shared bathroom and 9 flats above together with a shared laundry room and guest room (two storey containing 16 no. bedsit flats); and,
- **Section 4** - The north-west, front projection accommodating 6 flats at ground floor and 8 flats at first floor together with a rear balcony and large shared bathroom (two storey containing 10 bedsit flats and 4 no. 1 bed flats).

6.10 The car park is accessed via an existing driveway directly off Naze Park Road. To the front of the site, there is currently parking available for nine cars in total, one of which is accessible and one that is used for staff parking for the warden.

6.11 In summary, 'Spendells House' includes 26 no. bedsits and 4 no. 1 bed flats across two floors. All bedsits and flats benefit from their own toilet, washbasin and a kitchenette. On each floor, there are currently 2 communal toilets, 2 disabled friendly wet rooms and 2 self-contained bathrooms. On the ground floor, there are a small office, a toilet, 3 communal recreational rooms, a kitchen, a storage room, and on the first floor there is a laundry room. The building has two stairways and a lift. There is a large garden to the rear of the property. The adjoining bungalow contains 2 bedrooms, a lounge, a kitchen, a bathroom and a self-contained garden. The bungalow has its own private access as well as adjoining access to the main building, which is currently blocked off.

Proposal

6.12 The development proposal consists of a change of use from C3 (dwellinghouse) to a Sui Generis (Hostel accommodation). The building will provide Council owned and managed temporary

accommodation to households to whom the Local Housing Authority owe a statutory duty to accommodate under homelessness legislation.

- 6.13 The development does not propose any significant external changes to the building other than refurbishment/ replacement of windows (some windows will be replaced with frames and glazing to match existing). The only discernible external change will be the loss of the existing rear first floor balcony and installation of a lean-to roof.
- 6.14 As a sheltered scheme, Spendells House provided 30 flats for residents and an adjoining Warden's flat. This layout of the building will remain largely unchanged. In addition to the existing 30 flats the following internal alterations are proposed;

Changes to Central Block Section 1 of the building (ground floor) –

- Convert the communal recreational lounge area into a wheelchair accessible self-contained flat with a level access shower and kitchen.
- Convert the existing communal dining area into a communal laundry room for residents with direct access to the garden.
- Convert the communal ground floor kitchen into a large family bathroom.
- Convert the store room into 2 additional self-contained shower/bathrooms.

Changes to Eastern Side Section 2 of the building (formally Warden's Flat) –

The former adjoining Warden's flat will be converted into office space for staff and a meeting/interview room. Hot desks will also be available for visiting officers and other agencies, who will be offering support to residents.

- The adjoining door from the main building to the bungalow will be re-installed with secure access for staff.
- The former lounge will be used as the main office space.
- Bedroom 1 will be used as an interview room.
- Bedroom 2 will be used as a meeting room.
- The garage will be used as a storage room.
- A new internal door will be installed for direct access from the main office to the interview room.

Changes to Southern Rear Section 3 of the building (ground floor) –

- An internal door will be added between ground floor flats 6 and 7.

Changes to Southern Rear Section 3 of the building (first floor) –

- Convert the existing laundry room into a shower room to provide additional washing facilities with self-contained shower cubicles.
- Add internal connecting door between first floor flats 20 and 21.
- Convert existing guest room into a separate bedroom and provide connecting internal door, altering flat 23 into a 1 bedroom flat.
- Add internal connecting door between first floor flats 22 and 23.

Changes to Northern Forward section 4 of the building (ground floor) –

- No changes.

Changes to Northern Forward Section 4 of the building (first floor) –

- Add internal connecting door between first floor flats 25 and 26.
- 6.15 An additional/amended plan showing the external proposals has been provided. Originally, it was proposed to occupy an existing parking bay for bin storage. It is now proposed to remove an existing planting bed to the front of the building, enlarging an existing hard surfaced area for bin storage. These amendments allow for the retention of the parking bay and the addition of a further staff parking space added alongside the existing staff parking space to the front of Section 2 of the building (formerly Warden's flat and parking). A secure cycle store to the front of the building is also proposed.
- 6.16 A bin store area is proposed to the front of the building alongside the staff parking and cycle parking areas.
- 6.17 The existing outside space to the side of Section 3 and the rear of Section 4 of the building will continue to be used as amenity space for residents. The former self-contained Warden's garden will remain self-contained as amenity area for staff only with no access for tenants.
- 6.18 Spendells House will primarily be used to accommodate households whilst their homelessness application is assessed. The building will not be used to accommodate households that pose any known risk to other individuals and will mainly be used for homeless families.
- 6.19 Examples of households who could be placed in Spendells House:
- Homeless households with a priority need i.e. households with children, a disability or other vulnerability;
 - Decants from council owned property i.e. Floor/ fire damage;
 - Responding to an Emergency Plan incident. For example, in a serious flooding emergency rest centres are used in the immediate aftermath, and whilst most people go home, some may be in need of temporary accommodation.
- 6.20 The building will have two full time members of staff on-site during office hours, Monday to Friday, with flexible staffing provision available out of hours and at Weekends and Bank Holidays. The staff on-site will manage the building and support residents with any queries. Staff will make referrals to external support agencies should residents need any specialist support. Support agencies will be invited to use the hot desk facility at Spendells House, and will be able to provide drop-in services to support residents should this be required. All residents will have an allotted Housing Solutions Officer who will remain responsible for their homelessness application and the Accommodation Officer, within the Housing Solutions Team, will assist with sourcing moving on accommodation.
- 6.21 Households will sign a non-secure Licence Agreement when they move into the accommodation with rules and regulations, which they have to follow. The Licence can be ended, with reasonable notice or with immediate effect, if there are any breaches of rules or if the Council has no ongoing duty to accommodate the applicant.
- 6.22 The buildings Careline system will be upgraded providing individual modules in each flat with connecting smoke detectors. These modules will allow staff members to communicate with residents during office hours or out of hours.
- 6.23 CCTV will be in operation around the perimeter, and at the communal entrance to the building for security, which can be viewed by council staff.

Principle of Development

- 6.24 The National Planning Policy Framework 2019 (NPPF) states that housing applications should be considered in the context of the presumption in favour of sustainable development and that

the Council should deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. It is important to help create mixed and inclusive communities, which offer a choice of housing and lifestyle. It does not accept that different types of housing and tenures make bad neighbours. As such, local planning authorities should encourage the development of mixed and balanced communities; they should ensure that new housing developments help to secure a better social mix by avoiding the creation of large areas of housing of similar characteristics.

- 6.25 Saved Policy HG3 of the adopted Local Plan deals with residential development within defined settlements stating that, within the defined development boundaries of towns and villages, residential development will be permitted provided it satisfies amenity, design, density, environmental and highway safety as appropriate, and can take place without material harm to the character of the local area. Emerging Policy SPL2 states that within the Settlement Development Boundaries, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies.
- 6.26 The site lies within the Settlement Development Boundary of Walton-on-the-Naze as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) where residential development is supported subjected to relevant detailed considerations.
- 6.27 Furthermore, given the current shortage of affordable homes in the District, facilities such as this play a vital role in providing short-term accommodation for sections of society in need, which is supported by national policy.

Visual Impact

- 6.28 Paragraph 127 of the NPPF states that developments should; function well, add to the overall quality of the area, be visually attractive as a result of good architecture and layout and be sympathetic to local character. Saved Policies QL9, QL10 and QL11 of the adopted Tendring District Local Plan (2007) seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Emerging Plan.
- 6.29 As stated above, the proposed external alterations are minimal. The alterations to the existing first floor balcony area is to the rear of the building and will not be publically visible. The proposal alterations will not materially alter the external appearance of the building from the public domain therefore resulting in no visual impact on the character of the area.

Highway Safety/Parking

- 6.30 Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 6.31 The Essex County Council Parking Standards - Design and Good Practice September 2009, set out the minimum parking requirements for new development. The parking standards for Use Class C3: Dwellinghouses require 1 space per unit. Also falling within this category are retirement developments including warden assisted independent living accommodation. The requirement for this type of accommodation is also 1 space per unit. Parking Standards for other

uses falling within the 'Sui Generis' category includes 'Hostels providing no significant element of care'. The parking standards for hostels require 1 space per full time staff equivalent. No resident parking requirements are given.

- 6.32 Access to the site is gained via an existing driveway leading to the car parking area to the front of the building. There is currently parking for 9 cars serving the existing 30 units; one of which is accessible and one that is used for Staff Parking (former Warden's space).
- 6.33 Following the receipt of an amended plan, the application now proposes the retention of the existing 9 spaces and the addition of 1 further staff parking space alongside the existing to the front of Section 2 of the building (former Warden's flat and parking area).
- 6.34 In addition to parking, a new bicycle rack will be installed at the front of the building for residents to use.
- 6.35 The building will have two full time members of staff on site during office hours, Monday to Friday. The proposal provides 2 staff parking spaces in accordance with the requirements set out for Hostel accommodation within the Parking Standards.
- 6.36 Essex County Council Highway Authority have provided comments on the application raising concerns with the level of parking for the development. The Highway Authority state that the proposal is for a change of use from sheltered accommodation where residents would not be expected to be car owner/drivers, to a use where significantly more occupiers could be car owners, thus insufficient off street parking provision is provided. On this basis, they raise concerns that proposal is likely to lead to additional vehicles being parked in the adjoining highway causing conditions of danger, obstruction and congestion to road users contrary to the interests of highway safety. However, if the local planning authority are minded to support this application it is recommended that a condition be imposed to support sustainable travel choices relating to full details of public transport facilities (timetables and locations of bus stops etc), walking and cycling being prominently displayed and regularly updated and maintained in perpetuity within the site.
- 6.37 The Highway Authority formulate their recommendation based upon residents within the permitted sheltered housing scheme being unlikely to own a car. Whereas, the Parking Standards do not differentiate between dwellinghouses and retirement accommodation. However, the Parking Standards do recognise the different character of Hostel accommodation to that of standard dwellings or retirement accommodation.
- 6.38 In this regard and based on information provided in support of the application, it is not unreasonable for officers to conclude that the unfortunate circumstances of those seeking temporary accommodation would mean they cannot afford to run a car and many will rely on public transport. The emergency accommodation currently provided by Housing Services has no access to car parking and no concerns have been raised from clients.
- 6.39 Assessing the application against the parking standards set out for Hostels, the application complies as 2 staff parking spaces are provided. Furthermore, with careful management of potential occupants based on their individual circumstances, the Council can ensure parking availability meets those needs.
- 6.40 Moreover, the site benefits from direct access to public transport. A bus stop directly to the front of the site provides regular buses to the town facilities in Walton and Clacton, as well as to the train stations with links to the surrounding area. The site is also within easy walking distance of a local convenience store and recreational facilities.
- 6.41 For any households being placed in Spendells House who do not have their own transportation, or funds to pay for the public transport that is needed to reach the accommodation, they will be

provided with free transportation that could be in the form of a bus ticket or a licensed taxi. A list of licensed taxis will be obtained from the Licensing Manager within the Council.

Residential Amenity

- 6.42 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.
- 6.43 The existing outside space to the western side and rear of the site will continue to be used as amenity space for residents. The former self-contained Warden's garden to the rear of Section 2 of the building will remain self-contained for use by staff only with no access for tenants.
- 6.44 The main area of amenity space to the western side of the building is bounded by the bin store, parking and open grassed areas associated with the flats in Spendells Close. The former Warden's garden area is located directly adjacent to the recently built dwellings off Greville Close with the property known as 'Acorns' sharing a boundary with the site.
- 6.45 Having regard to the location of the site within a well built up area surrounded by existing residential properties and their gardens; and the permitted use of the building, use of the allocated outside space by residents will not result in any significant noise nuisance or disturbance. The use of the former Warden's garden area by staff only during office hours will see a reduction in potential noise to those neighbours closest in Greville Close.
- 6.46 In terms of noise and disturbance to residents from construction works, a condition controlling hours of working and associated vehicular movements is included.

Financial Contributions – Recreational Disturbance

- 6.47 Under the Habitats Regulations, where necessary, a proportionate financial contribution will be secured in line with the Essex Coast Recreational Disturbance Avoidance Mitigation Strategy (RAMS) requirements to ensure that development will not have an adverse effect on the integrity of European sites from recreational disturbance, when considered 'in combination' with other development.
- 6.48 The development site lies within the Zone of Influence. The site is not within or directly adjacent to one of the European designated sites but is approximately 500 metres from the Hamford Water Special Areas of Conservation (SAC), Special Protection Areas (SPA) and Ramsar sites.
- 6.49 Having regard to the aims and objectives of RAMS; the current C3 Residential Use of the site; and the transient nature of the proposed residential accommodation, a financial contribution is not considered necessary in this instance.
- 6.50 The existing building can be used for sheltered housing for local residents on a permanent basis. The proposed use will provide temporary accommodation for local residents in need; being moved from elsewhere in the district and then moved on to a more permanent housing solution. The proposal does not result in an increase in permanent housing numbers or a net increase in residents and is comparable to the existing permitted use.
- 6.51 Having considered the aims of the strategy and the merits of the proposal, Tendring District Council conclude that the development will not result in an adverse effect on the integrity of the European sites included within the Essex Coast RAMS and no contribution is being sought on this occasion.

Financial Contribution – Open Space and Play Space

- 6.52 Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built". These sentiments are carried forward within emerging Policy HP5. In line with the requirements of saved Policy COM6 and emerging Policy HP5, the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open space or play space.
- 6.53 There is currently a deficit of 14.12 hectares of equipped play in Frinton, Walton & Kirby.
- 6.54 Although there is a deficit of play and open space facilities in the catchment area, it is not felt that there will be a net gain of residents caused by this development. The residents using the facility will be there on a temporary basis, some very short term, and moved from within the Tendring District. Therefore on balance, any added pressure to local open space and facilities from the use would see reduced pressure elsewhere in the District.
- 6.55 The site was previously used for the over 60's with the opportunity to use existing open space facilities and possibly play space when visited by grandchildren and family. As there will be no significant impact on the current facilities, on this occasion no contribution is being requested from the Council's Open Space Team.

7. Conclusion

- 7.1 The proposal will ensure a vacant premises is brought back into use providing a valuable contribution to the housing mix for the District in a sustainable location.

8. Recommendation

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

Conditions and Reasons

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

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

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

A2020/20/01 P Proposed First Floor Plan
A2020/20/01 P Proposed Ground Floor Plan
A2020/20/04 P Proposed Elevations
A2020-02-03 Amended Site Plan and Block Plan
A2020/20/PARK Parking Provisions and Public Transport Links

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

- 3 Prior to the beneficial use of the development details of public transport facilities (timetables and locations of bus stops etc), walking and cycling routes to shops and local

amenities shall be made available to residents and prominently displayed and regularly updated and maintained in perpetuity within the site.

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

- 4 The development shall not be occupied until such time as the car parking provision and cycle store shown on the approved drawings have been hard surfaced, sealed and made available. The parking and cycle parking provision shall be retained in this form at all times for the sole purpose of parking in relation to the approved use.

Reason – To ensure parking provision for the site is maximised and retained in the interests of highway safety.

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

Reason - In the interests of sustainable development and to ensure that run-off water is avoided to minimise the risk of surface water flooding.

- 6 No vehicle connected with construction works shall arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours shall be restricted to between the hours of 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.

Reason – In the interests of residential amenities and noise sensitive premises in close proximity of the application site.

- 7 Prior to the occupation of the development hereby approved, precise details of the siting and appearance of the refuse and recycling stores shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained in the approved form.

Reason – In the interests of visual amenity as insufficient details have been provided with the application.

Informatives

Positive and Proactive Statement

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

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.

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/>.