



PLANNING COMMITTEE

DATE: Wednesday, 17 February 2021

TIME: 6.00 pm

VENUE: Meeting to be held online pursuant to Statutory Instrument 2020/392. Live stream will be available to watch @ <https://www.tendringdc.gov.uk/livemeetings>

MEMBERSHIP:

Councillor White
Councillor Bray
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: Tuesday, 9 February 2021

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 - 12)

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Tuesday 19, January 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 - 20/01551/DISCON - Redhouse Farm Oakley Road Wix Manningtree Essex CO11 2SF (Pages 13 - 24)

Discharge of condition 11 (Traffic Management Plan) of previously approved planning application 20/00194/FUL.

6 A.2 - 20/01498/FUL Land North West of Redhouse Farm Oakley Road Wix Manningtree Essex CO11 2SF (Pages 25 - 52)

Erection of an agricultural building to house a straw burning biomass boiler to provide a renewable heating system for the approved poultry farm.

7 A.3 - 20/00385/OUT - Land East of Pond Hall Farm Ramsey Road Ramsey Harwich Essex CO12 5ET (Pages 53 - 84)

Variation of conditions 1 and 19 of approved application 14/01431/OUT to allow up to 80 residential unit occupations prior to completion of associated highway works and improvements including a new roundabout off the A120 as prescribed by condition 19.

8 Report of the Monitoring Officer - A.4 - The Planning Committee's Public Speaking Scheme (Pages 85 - 122)

To consider recommending amendments to Full Council to re-arrange the order of speakers in the Public Speaking Scheme to ensure that the Ward Councillor spoke last on a planning application prior to the Planning Committee's determination.

9 Exclusion of Press and Public

The Committee is asked to consider passing the following resolution:

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

10 Exempt Minute of the Meeting of the Committee held on Tuesday 19 January 2021 (Pages 123 - 132)

To confirm as a correct record the exempt minute of the meeting of the Committee held on Tuesday 19 January 2021.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Planning Committee is to be held at 6.00 pm on Wednesday, 17 March 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, 19TH JANUARY, 2021 AT 6.00 PM
THE MEETING WAS HELD PURSUANT TO THE PROVISIONS OF STATUTORY
INSTRUMENT 2020/392.**

Present:	Councillors White (Chairman), Bray (Vice-Chairman)(except item 93), Alexander, Cawthron, Casey (except item 93), Fowler (except item 93), V E Guglielmi (except item 93), Harris and Placey
Also Present:	Councillors Coley (items 85 - 89 only) and G V Guglielmi (except item 93)
In Attendance:	Ian Davidson (Chief Executive), Paul Price (Deputy Chief Executive & Corporate Director (Place and Economy)), Graham Nourse (Assistant Director (Planning)), Lisa Hastings (Assistant Director (Governance) & Monitoring Officer), Andy White (Assistant Director (Building and Public Realm))(except item 93), Trevor Faulkner (Planning Manager), Ian Ford (Committee Services Manager), Joanne Fisher (Planning Solicitor), Karen Harges (IT Training Officer), Debbie Bunce (Legal and Governance Administration Officer) and Matt Cattermole (Communications Assistant)

85. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none on this occasion.

86. MINUTES OF THE LAST MEETING

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

RESOLVED that the minutes of the last meeting of the Committee, held on 15 December 2020, be approved as a correct record.

87. DECLARATIONS OF INTEREST

Councillors Bray, Casey and Fowler each declared that they would take no part in the consideration and determination of item B.1 of the Report of the Assistant Director (Planning) in relation to the forthcoming planning appeal for Oakleigh Residential Park, Clacton Road, Weeley insofar as they each considered themselves to be pre-determined on this matter.

Councillor Harris, as a point of information, declared for the public record that he was the local Ward Member for Oakleigh Residential Park.

88. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were none on this occasion.

89. A.1 - PLANNING APPLICATION – 20/00662/FUL – ANCHOR INN, HARWICH ROAD, MISTLEY, MANNINGTREE, CO11 1ND

Members were informed that the application had been referred to the Planning Committee by Councillor Coley, due to, in his opinion:

“the negative impact upon the neighbours, and as the Anchor Inn is the last remaining Public House in the centre of the Parish and served the immediate surrounding community. The Anchor Inn is integral to the Parish and has a historical and cultural benefit. The Councillor has great sympathy for the situation the licensee finds himself in during the depth of the Coronavirus Pandemic. Operating a public house in these circumstances is extremely challenging. However, everything possible must be done to retain this facility within the community. Before the Anchor is lost to the community and replaced with two dwellings there must be clear evidence that this business is no longer viable. Before this application is approved the owner must provide evidence that it has been offered for sale as a going-concern and that a sale as a Public House has been impossible.”

It was reported that this application sought planning permission for the change of use of the premises from a public house and residential unit to two residential units with the associated demolition and removal of the single storey attached outbuildings.

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

It was considered by Officers that sufficient marketing information had been provided by the applicant to demonstrate that a sustained marketing campaign had been undertaken since July 2018. Supporting information demonstrated that the Anchor Inn had experienced an extended period of declining trade and had been vacant for a number of months. It was for this reason that the applicant had explored other uses for the property. The applicant had demonstrated that the proposed development complied with Policy COM3 of the Tendring District Local Plan, as the applicant had demonstrated that there was an alternative facility within walking distance and that the Anchor Inn was no longer viable and that reasonable attempts had been made to sell or let the premises for continued operation in its existing or last use without success.

Therefore it was the view of Officers that the principle of residential development in this location was acceptable and subject to conditions there was not considered to be any material visual harm, harm to neighbouring amenities, harm to highway safety and parking provision or harm to the Conservation Area. A completed unilateral undertaking had secured a financial contribution towards 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 in respect of the application.

The Chairman of Mistley Parish Council, Charlotte Howell, spoke against the application.

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

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

Matters raised by a Committee Member:-	Officer's response thereto:-
<p>The effect of a community run public house on the local area and the progress made with any bid.</p> <p>Would the loss of the public house be a gain or a loss for the local community?</p> <p>Benefit versus Harm</p>	<p>The Anchor Inn has been added to the Council's List of Assets of Community Value (ACV). This would now require the Applicant to inform TDC that they were in the process of selling the property. This would then trigger a six week period for Mistley PC or a community group to formally register its intention to submit a bid. This would then trigger a period of six months for the full bid to be submitted. However, the applicant would not be obliged to accept that bid.</p> <p>Property has been on the market since July 2018.</p> <p>Accepted that it would be a shame to lose the public house from the local community but the application had to be considered on its planning merits against relevant policies such as COM3 and HP2. Site is within the defined settlement area of Mistley. No objections had been received on heritage or archaeological grounds.</p> <p>Accepted that The Mistley Thorn is a more formal setting and therefore not a like-for-like comparison.</p>
<p>Was application contrary to paragraph 85 of NPPF? Has the rise in population expected from the building of approximately 1,000 new homes in eastern Mistley and the potential for an increased custom at the Anchor Inn been taken into account?</p>	<p>Yes – that had been taken into account.</p>
<p>Could the application be deferred until such time as a community bid had been submitted?</p>	<p>Application had been submitted and must be duly considered now on its planning merits. There was a risk that the Applicant would appeal on the grounds of non-determination.</p> <p>Granting planning permission would not override the requirements of the ACV legislation.</p>
<p>Can the Committee take into account that the Council has a five year plus supply of housing land into consideration in determining</p>	<p>Yes – in view of the fact that Section 1 was at the point of imminent formal adoption this could be given significant material weight. Planning Inquiry</p>

<p>applications even though Section 1 of the Local Plan has not yet been adopted?</p>	<p>Inspectors had already used this aspect in determining recent appeals in the Council’s favour. However, this site lay within the defined settlement area of Mistley and was not therefore contrary to policy.</p>
<p>Are the Officers satisfied that there has been a sustained adequate marketing campaign for the public house to continue as a going concern?</p> <p>When did the public house close?</p> <p>What price is the public house being advertised at and is it being advertised as a business premises?</p> <p>Is it reasonable to still market as a business given the current circumstances of an ongoing pandemic?</p> <p>Could the Committee determine that the asking price was unrealistic in the current circumstances?</p>	<p>Yes – on the basis of the evidentiary material provided by the applicant.</p> <p>The public house closed in and around March 2020 at the time of the first Covid-19 related ‘lockdown’.</p> <p>£425,000. It was being marketed as a going concern complete with fixtures & fittings and a residential flat above.</p> <p>Yes – the property remains as a public house (albeit closed at present). It had been on the market since July 2018 and had had quite a lot of initial interest. Submitted documentation had shown that in eight of the ten years prior to May 2020 the public house had operated at a loss and had been de-registered for VAT purposes in December 2019.</p> <p>Yes, on balance, the Committee’s judgement was final. Officers could only operate on the basis of the evidence provided.</p>

Following discussion by the Committee, it was moved by Councillor Fowler and seconded by Councillor Cawthron that planning application 20/00662/FUL be approved, subject to conditions, which motion on being put to the vote was declared **LOST**.

After further discussion around the planning reasons to support refusal, it was then moved by Councillor Harris, seconded by Councillor Bray and:-

RESOLVED that, contrary to the Officer’s recommendation of approval, the Assistant Director (Planning) (or equivalent authorised officer) be authorised to refuse planning permission for the development due to the following reasons:-

“Section 8 of the National Planning Policy Framework 2019 relates to ‘Promoting healthy and safe communities’ and, at paragraph 92, states that:

‘To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should [amongst other items] ...(c) guard against

the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs; [and] (d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community...'

Policy COM3 of the Tendring District Local Plan 2007 states that in order to ensure that basic community facilities and local services are retained, redevelopment that would result in their loss will not be permitted unless [amongst other items]; that:

'(b) : there is adequate provision of similar facilities within reasonable walking distance (800m); or

(c) it has been demonstrated that there is no longer a local need for the facility or it is no longer viable...."

Policy HP2 of the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) states that the Council will work with the development industry and key partners to deliver and maintain a range of new community facilities. This policy includes the following provisions:

'The loss or change of use of existing community or cultural facilities will be resisted unless:

(b) replacement facilities are provided on site, or within the vicinity, which meet the need of the local population, or necessary services can be delivered from other facilities without leading to, or increasing, any shortfall in provision; or

(c) it has been demonstrated that there is no longer a community need for the facility or demand for another community use on site.'

Insufficient evidence has been submitted to demonstrate that there is an adequate provision of similar facilities within reasonable walking distance of the Anchor Inn. Furthermore, it has not been demonstrated that due to the loss of the facility, any replacement facilities will be provided on site or within the vicinity; or that there is no longer a community need for the facility given that an application for the registering of the public house as an 'Asset of Community Value' (ACV) was submitted in August 2020 and agreed to be added to the Council's ACV List in October 2020. The development would result in the loss of a community facility and is therefore contrary to Paragraph 92 of the National Planning Policy Framework; Policy COM3 of the Tendring District Local Plan 2007; and Policy HP2 of the Emerging Tendring District Local Plan 2013 - 2033."

90. A.2 - PLANNING APPLICATION – 20/01409/FUL – LAND ADJACENT 2 WIVENHOE ROAD, ALRESFORD, CO7 8AD

Members were informed that this application was to be determined by the Planning Committee as one of the applicants was employed by Tendring District Council within the Planning Department.

The Committee was made aware that the application site was located within the defined Settlement Development Boundary for Alresford, as defined by the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). The principle for residential development is therefore acceptable.

It was reported that the proposal was for a variation to the approved planning permission for this site, which had recently been allowed on appeal. The proposal was for erection of three dwellings on this site.

Members were advised that the submitted plans showed a reconfiguration to the approved turning head and changes to Plot 1 in terms of the rear elevation including the introduction of a rear gabled section along with new solar panels to the rear and side roof slopes.

Officers considered that the proposed variation would not represent a significant departure from the approved scheme. It would not result in harm to the existing trees or to neighbouring amenities. County Highways supported the application subject to conditions. A legal agreement to cover financial contributions towards Open Space and RAMS had been completed as part of the approved application. Therefore, subject to a number of conditions, the application was recommended by Officers for approval.

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

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

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

- (i) Corrections to Paragraphs 1.4, 6.4, 6.7, 6.8 and 6.9 of the Officer report i.e. they should have referred to solar panels rather than roof lights; and
- (ii) Amended wording for proposed Planning Condition No.2.

Following discussion by the Committee, it was moved by Councillor Bray, seconded by Councillor V E Guglielmi 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 begin no later than 14 August 2023.

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: 40 Rev B, 41 Rev B, 42 Rev B, 43 Rev B, 44 Rev A, 45 Rev A, 46 Rev A, 47 Rev A 48 Rev B and 49 Rev B.

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

- 3 Prior to any equipment, machinery or materials being brought onto the site for the purposes of the development hereby approved, details of tree protection measures shall be submitted to and approved in writing by the local planning authority (LPA).

Development shall be carried out in accordance with such measures, which shall be installed prior to development commencing.

Reason - To ensure the protection of the retained trees on site.

- 4 Prior to the first occupation of the dwellings hereby permitted, a Landscaping Plan, including details of boundary treatments, hard surfacing, ground levels and the species and size of any trees and hedges to be planted, shall be submitted to and approved in writing by the LPA. Development shall be carried out in accordance with the approved details prior to occupation or, for any new trees or hedges, within the first available planting season.

Reason - In the interests of protecting the semi-rural landscape and in the interests of visual amenity.

- 5 If, within a period of 5 years from the date of planting, any new tree or hedge is removed, uprooted, destroyed or dies or becomes, in the opinion of the LPA, seriously damaged or defective, another tree or hedge of the same size and species as that originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original tree or hedge.

Reason - To ensure and maintain the enhance enhancement of the site.

- 6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no enlargement of the dwelling houses, additions to their roofs or the construction of buildings incidental to their enjoyment, as permitted by Classes A, B and E of Part 1 of Schedule 2 of that order, shall take place.

Reason - To protect the semi-rural landscape and in the interests of visual amenity.

- 7 Prior to the first occupation of the dwellings hereby approved, the vehicular access and off street parking and turning facilities as shown on approved drawing 41 Rev B, and an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority, shall be provided.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety.

- 8 No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the LPA. The Statement shall provide for; the parking of vehicles of site operatives and visitors, loading and unloading of plant and materials, storage of plant and materials and wheel washing facilities. The approved CMS shall be adhered to throughout the construction period for the development.

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

- 9 No unbound materials shall be used in the surface treatment of the vehicular access within 6m of the highway boundary.

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

91. A.3 - PLANNING APPLICATION – 19/01910/LBC – TENDRING DISTRICT COUNCIL, CLACTON TOWN HALL, STATION ROAD, CLACTON-ON-SEA, C015 1SE

Members recalled that this Listed Building Consent application had been previously considered by the Planning Committee at its meeting held on 10 March 2020.

The application had been put before the Committee as Tendring District Council was the applicant. The application sought permission for internal changes to Clacton Town Hall Committee Room including:

- Refurbishment and restoration of the plasterwork to both the walls and the ceilings and coving;
- Restoration of the windows to insert new mullions;
- Covering of the original glazing panels to the rooflight in Black Perspex;
- Forming a new entrance into the committee room within the existing larger opening incorporating new entrance doors from the corridor;
- Restoration of wall panelling around the new door opening;
- Restoration of the timber parquet flooring;
- Installation of speakers to the walls and ceiling suspended lighting scheme;
- New service installations and fire protection; and
- Existing original features including moulded architraves, cornices, skirting and picture rails to be repaired and where required replicated.

Officers had felt that, having regard to the supporting documents and the submitted heritage statement it was evident that the works did not harm the special character, fabric and appearance of the listed building and in several cases represented an enhancement as original features were to be restored.

The proposed alterations were therefore considered to meet the requirements of the Council's saved and draft planning policies relating to the protection of listed buildings and the relevant paragraphs of the National Planning Policy Framework (2019).

After discussion at its meeting held on 10 March 2020 the Committee had decided to defer its decision for the following reasons:

- *Scheme refinement and better drawings to be provided.*
- *Further thought to be given to the form and detailing of the roof light as the Committee do not consider the black perspex panels proposed within the roof light to be sensitive to the heritage asset; and*
- *Further consideration to be given to lighting and ability to introduce natural light.*

Further matters discussed by the Committee at that meeting had included the need to maintain a very traditional feel to the room and its size and capability to host large meetings.

It was reported that, following the March 2020 meeting, further information had now been provided in the form of updated drawings and a statement addressing each of the above issues raised by Members. A summary of the additional information submitted was as follows:-

Scheme refinement and more detailed drawings

All internal elevations and cross sections including matters such as the colour scheme and heater boxing that were previously to be secured via condition were now provided. The proposed work was to remove late twentieth century internal partitioning and to repair and restore the built form as it was constructed.

Form and detailing of the roof light

It was proposed that the form of the roof light will remain as it was in the 1930s. Further modification of the structure would not be optimal. The roof light could not be returned to lighting/ventilation use because office accommodation had been built above it.

The advice of the historic building specialist at Essex County Council Heritage had been sought and the consensus of officers was that it would not be proportionate to remove the office accommodation above and that the re-glazing of the roof light with opaque material (Perspex – Light Grey) was the most appropriate compromise in the circumstances.

Room colour scheme

Officers had researched past paint colours in the room. It appeared that those colours had been:

- White (original)
- Pine effect wood graining
- Cream
- Mixed by later subdivisions: magnolia, blue and white

Officers had agreed with the historic building advisor that the most sympathetic colour scheme would be a white palette referencing the original scheme. Building Regulations required a tonal contrast between walls and doors to make the building accessible for users with impaired vision. Therefore the proposed colour scheme was as follows:-

Element	Colour	Finish
Ceilings and cornice	Lime Wash White	Flat Matt
Walls and columns	Aged White	Diamond Matt
Skirtings frames and architraves	Lime Wash White	Gloss paint
Rooflight Framing	Lime Wash White	Gloss paint
Rooflight glazing	Grey 9981	Gloss
High level window glazing	Grey 9981	Gloss
Doors	Grey 91 YY 31/059	Gloss paint
Flooring	Self-colour – mid oak	Satin polish

Further consideration to be given to lighting and ability to introduce natural light

As indicated in the submitted cross-sections and elevations drawings all of the former high level windows and the bulk of the roof light were now covered by later first floor additions. The roof light was covered by the floor of an office and the side windows adjoined voids between levels of the building. The result was that none of those could be used to introduce natural light.

Accordingly it was not feasible to introduce natural light. Officers had considered the potential to add artificial lighting to the roof light but had found that this would be out of keeping with the likely use of the room at night and produce an uneven distribution of light in the room.

It was unlikely that pendant fittings as seen in historical photographs would provide adequate intensity and distribution of illumination for modern use. The proposed lighting design by manufacturers, Ansell, was intended to compliment the rectilinear form of the ceiling beams and distribute light appropriately over the working areas. Modern materials provided clear legibility to distinguish historical and modern references.

Restoration of traditional feel to the room

The proposal was to return the room essentially to its 1930s original form and colour scheme. The room had a clear architectural form with strong articulation of the panelling and ceilings.

The proposed colour scheme respected the original vision for the room while meeting modern requirements.

Size of room for meeting requirements

Whilst not relevant to the determination of this Listed Building Consent application, for some years the Full Council and larger Planning Committees had been held in the Princes Theatre. It was proposed that this was continued in the future. The proposed Committee Room was around 20m² smaller than the Council Chamber at Weeley. However, it was more conveniently shaped for a range of uses and would accommodate the furniture required for such meetings/committees.

Additionally, the Town Hall had a number of rooms for overspill if required. Officers were in the process of procuring new audio and visual systems that would be able to broadcast proceedings to other rooms and to the web as desired.

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 in respect of the application.

The Assistant Director (Building & Public Realm) (Andy White), acting on behalf of the Council as 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:-

Matters raised by a Committee Member:-	Officer's response thereto:-
Will Councillors enter/leave the committee room by the same entrance/exit as the public?	Separate entrance/exit will be available.
Will wall panelling be as provided in the illustration?	No – the wall panelling will be as near the original features as possible.
When will the committee room be available?	It was hoped that all building work at the Town Hall will be completed by the Summer of 2021.

Following discussion by the Committee, it was moved by Councillor Bray, seconded by Councillor Casey 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 works hereby permitted shall begin before the expiration of three years from the date of this consent.

Reason - To comply with the requirements of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

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

- 52310/B/TDCrev – 1 Revision B
- 52310/B/TDCrev – 3 Revision B
- 52310/B/TDCrev – 2
- 52310/B/TDCrev – 4
- 52310/B/TDCrev – 5
- 52310/B/TDCrev – 6
- 52310/B/TDCrev – 7
- Schedule of Works Document (as prepared by Richard Jackson Building Consultants)
- Document Titled – ‘The design & installation of a Sound and Video system’
- Document Titled – ‘Proposed New Lighting’ (as prepared by Ansell Lighting – dated 17.07.19)
- Audio Specification Details (as prepared by EVID)
- Daikin Concealed Floor Standing Unit Specification
- Daikin Ventilation Technical Data Sheet

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

92. EXCLUSION OF PRESS AND PUBLIC

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

RESOLVED that under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during the consideration of Agenda Item 9 on

the grounds that it involves the likely disclosure of exempt information as defined in paragraph 5 of Part 1 of Schedule 12A, as amended, of the Act.

93. REPORT OF ASSISTANT DIRECTOR (PLANNING) - B.1 - PLANNING APPEAL REFERENCE 20/00089/REFUSE - OAKLEIGH RESIDENTIAL PARK, CLACTON ROAD, WEELEY

The Chairman informed Members that he had agreed that this matter could be brought before the Planning Committee, as an urgent item, in order to meet the Planning Appeal timetable relating to the current Public Inquiry pertaining to the refusal of application 20/00119/FUL – Oakleigh Residential Park, Clacton Road, Weeley.

RESOLVED that –

1. the summary legal advice received from external Counsel be noted;
2. in the light of the clear legal advice the Planning Committee confirms that it does not wish to continue defending ground 3;
3. the Assistant Director (Planning), in consultation with the Chairman of the Committee, be authorised to work with Counsel to decide the affordable housing offer that would be acceptable to the Council in defending ground 5;
4. should the Appellant agree to accept the amount of Affordable Housing contribution, the Committee approves that the reasons for refusal on ground 5 will no longer be progressed; and
5. Officers be instructed to work with Counsel to defend the planning appeal on the grounds of reasons 1, 2 and 4 (and 5, subject to the above).

The meeting was declared closed at 9.54 pm

Chairman

PLANNING COMMITTEE

17th February 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.1 PLANNING APPLICATION – 20/01551/DISCON – REDHOUSE FARM OAKLEY ROAD WIX MANNINGTREE CO11 2SF



Site Plan taken from 20/00194/FUL.

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Application: 20/01551/DISCON

Town / Parish: Wix Parish Council

Applicant: Mr Adam Brown

Address: Redhouse Farm Oakley Road Wix Manningtree Essex CO11 2SF

Development: Discharge of condition 11 (Traffic Management Plan) of previously approved planning application 20/00194/FUL.

1. **Executive Summary**

- 1.1 Full planning permission (ref: 20/00194/FUL) was granted at Planning Committee on October 2020 for, 'Proposed erection of 2 No. agricultural buildings for poultry production together with associated infrastructure and a new highway access to Oakley Road'. This permission was made subject to 20 conditions. Condition 11 was agreed and amended by the Planning Committee and related specifically to the Traffic Management of all HGV movements and construction vehicles associated with the development, providing certainty of routing through key local junctions.
- 1.2 In accordance with Members' request, the application to discharge condition 11 has been brought to Planning Committee for consideration. Importantly, for all HGV and construction traffic associated with the development, there is to 'right hand turn' off the A120 proposed. Also, a system of management is also in place to ensure this is enforced.
- 1.3 The principle of the development has been accepted by the granting of the original full planning permission, which also established the position of the access. The details subject of this application has been scrutinised by Highways England and ECC Highways, both of whom offered no objections.
- 1.4 The detailed plans comply with the requirements of Condition 11 and are considered acceptable with no significant material harm to visual or residential amenity, or highway safety.

Recommendation:

That the Head of Planning be authorised to discharge of condition 11 (Traffic Management Plan) of previously approved planning application 20/00194/FUL.

2. **Planning Policy**

NPPF National Planning Policy Framework February 2019
National Planning Practice Guidance

Tendring District Local Plan 2007

QL3 Minimising and Managing Flood Risk
QL9 Design of New Development
QL11 Environmental Impacts and Compatibility of Uses

EN1	Landscape Character
EN6	Biodiversity
EN16	Agricultural and Related Development
EN23	Development within the Proximity of a Listed Building
TR1A	Development Affecting Highways

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)
SPL3 Sustainable Design

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

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Tendring Landscape Character Assessment

Essex Farm Buildings (1994)

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. In this latter regard, as of 26th January 2021, 'Section 1' of the emerging Local Plan for Tendring (Tendring District Local Plan 2013-2033 and Beyond Publication Draft) has been adopted and forms part of the 'development plan' for Tendring.
- 2.2 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) has been examined by an Independent Planning Inspector who issued his final report and recommended 'main modifications' on 10th December 2020. The Inspector's report confirms that, subject to making his recommended main modifications (including the removal from the plan of two of the three 'Garden Communities' proposed along the A120 i.e. those to the West of Braintree and on the Colchester/Braintree Border), the plan is legally compliant and sound and can proceed to adoption. Notably, the housing and employment targets in the plan have been confirmed as sound, including the housing requirement of 550 dwellings per annum in Tendring.
- 2.3 The Council has now formally adopt Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26th January 2021, at which point it became part of the development plan and carries full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan.
- 2.4 The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will proceed in early 2021 and two Inspectors have been appointed by the Secretary of State to undertake the examination, with the Council preparing and updating its documents for the examination. In time, the Section

2 Local Plan (once examined and adopted in its own right) will join the Section 1 Plan as part of the development plan, superseding in full the 2007 adopted plan.

- 2.5 Where emerging policies are particularly relevant to a planning application and can be given 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.

3. **Relevant Planning History**

18/30245/PREAPP	Proposed poultry farm comprising no.2 poultry buildings with associated feed bins, hardstandings, access road and a new highway access to Oakley Road.		29.01.2019
20/00194/FUL	Proposed erection of 2 No. agricultural buildings for poultry production together with associated infrastructure and a new highway access to Oakley Road.	Approved	27.10.2020
20/01498/FUL	Erection of an agricultural building to house a straw burning biomass boiler to provide a renewable heating system for the approved poultry farm.	Current	
20/01551/DISCON	Discharge of condition 11 (Traffic Management Plan) of previously approved planning application 20/00194/FUL.	Current	

4. **Consultations**

Highways England
11.01.2021

Offered no objection to the application.

Highways England
04.02.2021

Highways England have reviewed the material, it supports their view that it would be safer for HGV traffic to u-turn at the [Ramsey] roundabout and turn left into the Harwich Road.

However, an objection to the increase in right turns at the junction would be unsustainable as the risk would be very small. HGV traffic visiting the site should be advised to left turn into and out of the A120 junction; albeit it is acknowledged that this would be difficult to enforce.

Given this has permission and they have offered to route all their HGV traffic right turning into the junction up to the roundabout to make u turns, nothing in this material would cause Highways England to change their advice.

ECC Highways Dept
04.02.2021

The Highway Authority confirms that the amended document and supporting information is sufficient to enable the Discharge of Condition 11 (Traffic Management Plan) only.

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

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

SMO1 - Development Management Team
Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
CO7 7LT

5. Representations

5.1 None

6. Assessment

Site Context

- 6.1 The site is set in the Countryside between Wix, to the west, and Great Oakley, to the east. The site is formed from the southern part of an agricultural field and a means of vehicular access across another field to the south. The vehicular access would be on the northern side of the road some 170m northwest of Redhouse Farm itself.
- 6.2 Access to the A120 from the site would be along Oakley Road to the junction with Harwich Road and then onto the A120.

Planning History

- 6.3 The host site benefits from Full planning permission (ref: 20/00194/FUL), granted at Planning Committee in October 2020, for the *'Proposed erection of 2 No. agricultural buildings for poultry production together with associated infrastructure and a new highway access to Oakley Road'*. Permission was subject to 20 Planning

Conditions. Condition 11 was agreed and amended by the Planning Committee and related specifically to the Traffic Management of all HGV movements and construction vehicles connected to the construction and daily operations of the development. The objective was to provide certainty of routing through key junctions in the interests of Highway Safety.

Condition 11 reads as follows:

No development shall take place, including any grounds works or demolition, until an appropriate Traffic Management Plan and Route Card, to include inbound and outbound routings at the junctions of the A120/Harwich Road and Harwich Road/Oakley Road, and which shall outline a designated route to and from the development for all HGV movements and construction vehicles, has been submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority. The Traffic Management Plan and Route Card shall subsequently be implemented as approved, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To control the location and direction of HGV and construction vehicle movements to and from the site in the interests of highway safety.

Proposal

- 6.4 Within the original application 20/00194/FUL, a Transport Statement report (DTA Report 21314-01) was submitted in support of the planning application. The report stated that the development proposals would generate 22 two-way HGV movements (11 in, 11 out) during the busiest day of the flock cycle, that being day 38. There will be some days where the site would not generate any vehicle movements. However, on average the site would generate 2 two-way movements per day. Officers assume that the peak demand would be circa 22 HGV movements during the day when fully operational.
- 6.5 However, this application also deals with construction vehicle movements; this was not addressed as part of the original application. In response to this aspect of the project, the applicant has produced the following specific document:
- Construction Traffic Schedule
- 6.6 This document details that the construction process shall take approximately 30 weeks. During this time, the busiest or peak construction vehicle movements occur on two distinct phases. Firstly, during Weeks 4 – 8 when there shall be the importation of stone. During this time, a total of 130 loads are expected. The applicant states ‘not more than 20 deliveries per day’ will arrive, the vehicles themselves will be ‘6 wheel rigid quarry lorries’. The second peak period is during Week 16 – 18, when the concreting of the floors occurs. At this time a total of 40 deliveries per day are expected over two weeks via ‘6 wheel concrete lorries’. These are the peak traffic movements during the Construction stage. During the remaining 24 week construction time frame the construction vehicle movements are relatively modest.
- 6.7 The applicant has stated during these peak times of expected construction traffic, they shall erect site notices in the locality to inform nearby residents of the expected short term increase in construction traffic in the area.

- 6.8 The applicant has also produced the following documents to discharge all HGV movements and construction vehicles to and from the host site.
- Traffic Routing Plan
 - Safety Risk Assessment
 - Traffic Management Plan
 - Traffic Routing Management
- 6.9 These details demonstrate that for all HGV movements and construction vehicles, inbound movements from the east (Ramsey roundabout, A120) would route via the A120 and turn off left at the Harwich Road junction. The vehicles would progress to Wix War Memorial and take the first left onto the Oakley Road.
- 6.10 For all inbound HGV movements and construction vehicles originating from the west (Horsley Cross roundabout, A120) will proceed past the Harwich Road junction via the A120 and U-turn at the Ramsey roundabout. These vehicles shall then double back on the A120 and enter the Harwich Road junction turning left off the A120. Once more, when on the Harwich Road, as they enter Wix, they take the first left at War Memorial onto Oakley Road, and proceed for 0.6 miles to the farm site on the left.
- 6.11 Essentially, there is no right hand turn proposed off the A120 to the Harwich Road for all the HGV movements and construction vehicles associated with the host development.
- 6.12 This provision is in line with the request of Planning Committee when the original planning application, 20/00194/FUL, was approved at Planning Committee in October 2020.
- 6.13 All outbound HGV movements and construction vehicles shall depart the host site by turning right onto Oakley Road. At the War Memorial junction with Harwich Rd, they shall take the second right, before joining the west bound traffic on the A120. No right hand turn is permitted towards the Ramsey roundabout.
- 6.14 Site management principles have been introduced including a route card being given to all drivers, employees and contract staff showing the agreed route. Suppliers who have won the contract to operate shall use sat nav and telephones to ensure two vehicles do not pass along the Oakley Road. This shall work along with scheduled timeframes for arrivals and departures. There is also a 'Mechanism for non-conformance with the Traffic Management Plan' operating a 'three strikes (using the incorrect route) and you're out policy'.

Principle of Development

- 6.15 The principle of the development has been established via the approval of application 20/00194/FUL.
- 6.16 It has been demonstrated that the proposed development is reasonably necessary for the purpose of the agriculture activity to be carried out on what would become its own self-contained holding. As such the proposal accords with the relevant part of Policy EN16.

- 6.17 The National Planning Policy Framework (NPPF) states at paragraph 83 that planning decisions should enable the development of agricultural and other land-based rural businesses.

Highway safety

- 6.18 Paragraph 108 of the NPPF states, when assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:
- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
 - b) safe and suitable access to the site can be achieved for all users; and
 - c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 6.19 Paragraph 109 of the NPPF states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 6.20 Policy QL2 in the adopted Local Plan and Policy CP1 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport. Policy TR1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. Policy CP2 in the emerging Local Plan states proposals which would have any adverse transport impacts will not be granted unless these are resolved, and the development made acceptable by specific mitigation measures.
- 6.21 The application has included a Safety Risk Assessment of the route chosen. This in particular assesses the proposed U-turn at the Ramsey roundabout for west bound traffic on the A120. The Safety Assessment highlights the A120 carries 14,500 vehicles per day with around 1,595 HGVs per day. The development will generate on average 2 HGV movements per day on the A120 when operational, this represents a 0.13% increase. The peak output would be 22 HGV movements per day, a 1.4% increase in HGV movements. This would not have a material impact on the A120 in considering the baseline traffic movements along this road.
- 6.22 The construction traffic shall increase these follows to a maximum of 40 HGV movements a day during a two week window. Using the above calculations this shall result in a short term 5% increase in HGV movements. However, of the potential highway hazards identified on the choose route for all HGV's and construction traffic, it is considered that the overall impact is low risk, with a 'low accident history rate'. The Safety Risk Assessment therefore concludes there are no significant material objections to the routing of HGVs via the Ramsey roundabout, indeed that has been considered the most suitable and safest option.
- 6.23 The Safety Risk Assessment also, concludes that the access junction both off the A120 and onto the host site, has no safety concerns to warrant any additional mitigation measures being provided.

- 6.24 These findings have been assessed by both ECC Highways and Highways England, both Departments have offered no objections to the proposal. Highways England explain that the evidence submitted, supports their view that it would be safer for HGV traffic to U turn at the Ramsey roundabout and turn left into the Harwich Road. This is what is proposed and therefore there are no objections to the proposal.
- 6.25 Given that the route is finalised and in officers view adequately managed via the Transport Management Plan and the 'Mechanism for non-conformance with the Traffic Management Plan', focus should be on the construction phase of the development.
- 6.26 Officers welcome the 'Construction Traffic Schedule' and the details therein. The applicant has been forthcoming with the levels of expected traffic during the construction phase. The peak periods are:
- Weeks 4 – 8 (4 weeks in total)
- Importation of stone – 130 loads using 6 wheel rigid quarry lorries (max 20 per day).
- Weeks 16 – 18 (2 weeks in total).
- Concreting of the floors and aprons – 160 No. 6 wheel concrete lorries (max 40 per day).
- 6.27 Ultimately, for a set of buildings of this size to get built, such trip rates to the facility are inevitable. It should be noted that during the remaining 30 week cycle to get the development completed, the traffic movements are relatively light.
- 6.28 To inform locals that there could be several weeks of additional construction traffic on the roads during these two specific busy time frames, the applicant shall, via site notices displayed, inform local residents of the commencement of the pending activity, giving 7 days notice. Officers commend the idea of the site notices informing residents of the short term spike in construction traffic when necessary.
- 6.29 In conclusion, given the accepted route into and out of the site, there are no grounds to object to the application on highways safety grounds since the impact is not "severe" as stated in paragraph 109 of the NPPF or TR1a of the Local Plan. These findings have been accepted by ECC Highways and Highways England.

Impact on Residential Amenity

- 6.30 Officers accept that during the construction phase especially there shall be some impact on residential amenity through noise, dust and the general disturbance of construction and HGV traffic in the area. However, the principle of the development was approved via the original application. Furthermore, when operational the details of the traffic movements were fully known and assessed when the original decision was made.
- 6.31 Overall therefore, Officers consider that there shall be no undue level of impact on residential amenity from traffic noise, dust and fumes etc. Furthermore, that the two 'spikes' in construction traffic activity, over weeks 4 - 8 and weeks 16 -18, during the 30 week build, is considered inevitable and necessary for a development of this nature.

7. Conclusion

- 7.1 The application has no impact on the, appearance, layout, landscaping or scale of the approved development. Matters relating to access, namely the Transport Management Plan including construction traffic and HGV movements associated with the development. Have been assessed by Officers with regards to amenity impacts and by ECC Highways and Highways England with regards to Highways capacity / safety. Overall, the details provide to discharge Condition 11 have been found to be acceptable.
- 7.2 Any increased impact on residential amenity during the construction phase shall be temporary in nature and advertised locally. Overall, the proposals are considered non-objectional from a highway safety and capacity perspective. Therefore, the discharge of Condition 11 of application 20/00194/FUL, is considered acceptable.

8. Recommendation

- 8.1 The Planning Committee is recommended to discharge Condition 11.

8.2 Conditions and Reasons

None

8.3 Informatives

Positive and Proactive Statement

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

Highways Informative:

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

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

SMO1 - Development Management Team
Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
CO7 7LT

9. Additional Considerations

Public Sector Equality Duty (PSED)

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

Human Rights

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

Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.

10. Background Papers

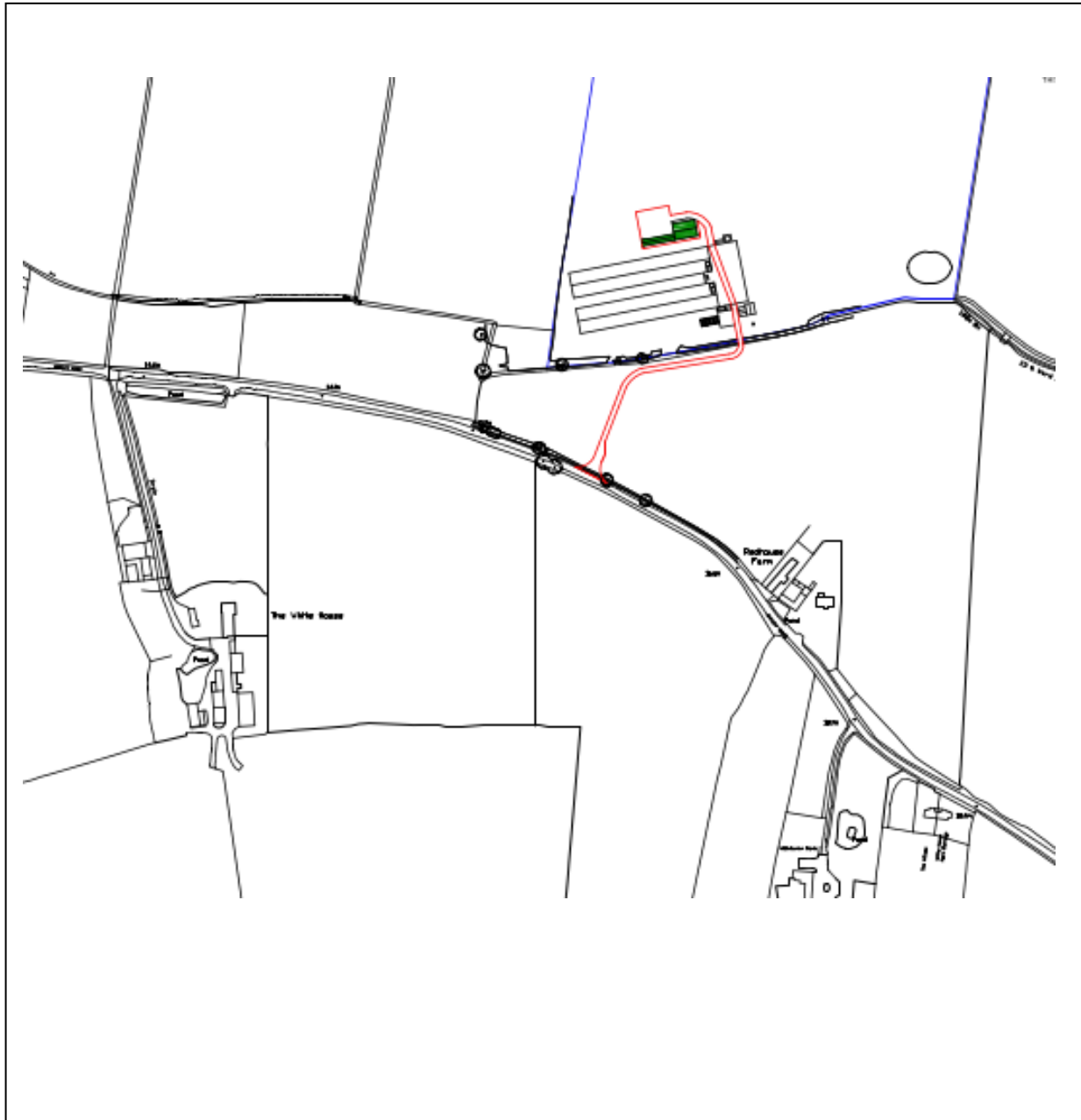
- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

PLANNING COMMITTEE

17th February 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.2 PLANNING APPLICATION – 20/01498/FUL – LAND NORTH WEST OF REDHOUSE FARM OAKLEY ROAD WIX MANNINGTREE CO11 2SF



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Application: 20/01498/FUL

Town / Parish: Wix Parish Council

Applicant: Mr Adam Brown - A H Brown Farms

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

Development: Erection of an agricultural building to house a straw burning biomass boiler to provide a renewable heating system for the approved poultry farm.

1. Executive Summary

- 1.1 This application has been referred to Planning Committee at the request of Councillor Bush due to concerns relating to: the nature of the proposal being a substantial industrial process, rather than a typical agricultural facility; failure to satisfy Policy EN1 in that the design and size of the development would create an adverse visual impact on the surrounding countryside and rural landscape; highway access is unsuitable. If considered acceptable then conditions should be incorporated into the approval to ensure ongoing monitoring of emissions post construction and operation to ensure compliance. Also, to ensure that no associated vehicles carrying straw or other biomass burning materials are transported via Oakley Road, South of All Saints School.
- 1.2 The proposal involves the installation of a biomass boiler and back up LPG boiler within a new building constructed 10 m north of the recently approved two poultry sheds via application 20/00194/FUL. The host building is of a similar design to the poultry sheds having a typical agricultural building appearance; being of a steel frame construction covered by olive green profiled sheeting. Part of the building (18.6m x 13.3m) has a ridge 2m higher than the poultry sheds, two flues are also proposed that extend 2m beyond the ridge. Although the nearest public views are limited, over 200m away with few footpaths in the local area providing views of the buildings.
- 1.3 The site is in a rural locality, between the settlements of Wix and Great Oakley, within the parish of Wix. Although set within open countryside, the site is at a position which is not prominent in the landscape. The applicant has demonstrated the proposal will not unduly impact residential amenity, highway safety, drainage capabilities or local ecology. The proposal is in planning terms considered to be an agricultural use within an agricultural area, supported by the rural diversification Policy of Paragraph 83 of the NPPF in particular.

Recommendation:

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

- a) Subject to the conditions stated in section 8.2

2. Planning Policy

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

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

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

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

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

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice Tendring
Landscape Character Assessment
Essex Farm Buildings (1994)

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. In this latter regard, as of 26th January 2021, 'Section 1' of the emerging Local Plan for Tendring (Tendring District Local Plan 2013-2033 and Beyond Publication Draft) has been adopted and forms part of the 'development plan' for Tendring.
- 2.2 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) has been examined by an Independent Planning Inspector who issued his final report and recommended 'main modifications' on 10th December 2020. The Inspector's report confirms that, subject to making his recommended main modifications (including the removal from the plan of two of the three 'Garden Communities' proposed along the A120 i.e. those to the West of Braintree and on the Colchester/Braintree Border), the plan is legally compliant and sound and can proceed to adoption. Notably, the housing and employment targets in the plan have been confirmed as sound, including the housing requirement of 550 dwellings per annum in Tendring.

- 2.3 The Council has now formally adopt Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26th January 2021, at which point it became part of the development plan and carries full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan.
- 2.4 The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will proceed in early 2021 and two Inspectors have been appointed by the Secretary of State to undertake the examination, with the Council preparing and updating its documents ready for the examination. In time, the Section 2 Local Plan (once examined and adopted in its own right) will join the Section 1 Plan as part of the development plan, superseding in full the 2007 adopted plan.
- 2.5 Where emerging policies are particularly relevant to a planning application and can be given 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.

3. Relevant Planning History

18/30245/PREAPP	Proposed poultry farm comprising no.2 poultry buildings with associated feed bins, hardstandings, access road and a new highway access to Oakley Road.		29.01.2019
20/00194/FUL	Proposed erection of 2 No. agricultural buildings for poultry production together with associated infrastructure and a new highway access to Oakley Road.	Approved	27.10.2020
20/01551/DISCON	Discharge of condition 11 (Traffic Management Plan) of previously approved planning application 20/00194/FUL.	Current	

4. Consultations

ECC Highways Dept
30.12.2020

The information that was submitted in association with the application has been fully considered by the Highway Authority. No site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material. It is noted that access to the development is via the new access road which has been approved under 20/00194/FUL, therefore:

The Highway Authority does not object to the proposals submitted.

Informative:

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

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

SMO1 - Development Management Team
Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
CO7 7LT

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.

TDC Environmental Protection
18.11.2020

No comments to make in relation to the erection of this building. It must however be noted that the installation itself (Straw Burning Biomass Burner) maybe subject to an environmental permit administered by either us if the Environmental Agency.

ECC SuDS Consultee
01.02.2021

Lead Local Flood Authority position

As we have been consulted on a minor application, we are assuming that there is a potential flood risk on site, therefore we are considering the impact of increased run off rates. The cumulative impacts of minor developments can increase flood risk in an area.

Current processes for assessing major applications cannot be applied in the same way to minor applications as reduced orifice sizing to meet the greenfield 1 in 1 rate can increase the risk of blockages and therefore flood risk.

The required storage volume and run off for the site can be calculated using the UK SUDS website.

Having reviewed the application ECC SuDS do not object based upon the following:

The proposed development will only meet the requirements of the National Planning Policy Framework if the measures as detailed in the FRA and the documents submitted with this application are implemented as agreed.

ECC SuDS recommend that a covenant should be included within the deed to the land to ensure SUDS features are maintained in the future

Summary of Flood Risk Responsibilities for your Council

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

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

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

Summary

ECC Ecology have reviewed the Ecology Update Letter (Emms & Barnett, January 2021) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats. They have also reviewed the Preliminary Ecological Appraisal (Emms & Barnett, December 2019) and the Response to Ecology Comments (Emms & Barnett, April 2020) submitted with planning application 20/00194/FUL for this site.

ECC Ecology 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 Conservation of Habitats and Species Regulations 2017 (the Regulations) requires that where a plan or project is likely to result in a significant effect on a Habitats site, the competent authority is required to make an Appropriate Assessment (AA) of the implications of that plan or project on the integrity of the European site in view of its conservation objectives. Any likely significant effects arising from a development need to be considered alone and in combination with other development in the area, adopting the precautionary principle.

ECC Ecology have reviewed the Air Quality Assessment (AS Modelling and Data Ltd., December 2020) which states that "the predicted process contributions to annual mean nitrogen dioxide concentrations and nitrogen and acid deposition rate are below 1% of the relevant Critical Level/Critical Load at all receptors and would therefore normally be deemed insignificant or negligible."

ECC Ecology note Natural England's comments on the scope of the proposals and the proximity to several statutory designated sites; the email from Richard Hack dated 2 October 2020 states: *"At the screening assessment stage for agricultural proposals acting alone the threshold is 4% for both SSSI and N2K sites. For combustion proposals the threshold is 1% for both."* We consider this is an appropriate assessment trigger in light of the Ruling

made by the Court of Justice of the European Union (the CJEU) on the interpretation of the Habitats Directive in the case of Cooperatie Mobilisatie (aka the Dutch Nitrogen Case) Joined Cases C-293/17 and C-294/17. This is necessary prior to decisions on individual authorisations for farms which cause nitrogen deposition.

ECC Ecology are therefore satisfied that this combustion proposal is not likely to result in significant effects on the interest features of the Stour & Orwell Estuaries SSSI, SPA and Ramsar site and Hamford Water SAC, SPA and Ramsar site and no further assessment of air quality impacts is necessary. ECC Ecology recommend that this can be referenced in the LPA bespoke HRA screening report and there is no need for further consultation with Natural England.

The mitigation measures identified in the Preliminary Ecological Appraisal (Emms & Barnett, December 2019) and the Ecology Update Letter (Emms & Barnett, January 2021) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority Species.

ECC Ecology support the planting recommendations made in the Preliminary Ecological Appraisal (Emms & Barnett, December 2019) to support nitrogen sequestration onsite.

ECC Ecology also support the proposed reasonable biodiversity enhancements included in the Preliminary Ecological Appraisal (Emms & Barnett, December 2019), 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

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 Ecology Update Letter (Emms & Barnett, January 2021) Preliminary Ecological Appraisal (Emms & Barnett, December 2019) and the Response to Ecology Comments (Emms & Barnett, April 2020) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

(Priority habitats & species).

2. PRIOR TO BENEFICIAL USE: 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).

Natural England

No response received.

TDC Tree & Landscape Officer
18.12.2020

The Design and Access Statement submitted in support of the planning application make reference in Section 6 ' Landscaping to the impact of the structure on the local landscape character.

It states that the 'The building will appear within the landscape as part of a larger agricultural development'. This is considered to be a reasonable and accurate description of the potential impact of the development proposal on the countryside in the vicinity of the application site.

It is clear from a site visit that fairly extensive soft landscaping has commenced that will soften and screen the appearance of the previously approved development.

In terms of the current development proposal it would be desirable to secure additional soft landscaping to similarly soften and screen the proposed new building. This information could be provided prior to the determination of the application or should be secured by a condition attached to any planning permission that may be granted

Environment Agency
14.12.2020

No objection to this application at this stage, we note that a permit application has been submitted and is currently under review.

Essex County Council Heritage
01.02.2021

ECC Heritage are unopposed to this application subject to the following recommended condition:
• Prior to commencing operation of the boiler, the flues and ash auger shall be painted matt black to match that of the ventilation towers of the sheds permitted under 20/00194/FUL.

5.1 There have been 59 local people consulted by letter and 4 site notices erected. Three written comments have been received (two from Wix Parish) including a petition containing 4 signatures. The main issues raised are:

- This is an industrial development in the countryside that should be refused.
- What will happen to the waste generated on site
- There is an LPG boiler proposed has this been considered in the assessment
- How will the LPG gas be stored on site
- There shall be additional traffic movements to the site that have not been assessed as part of the original application
- The site is within an area that is prone to flood and on a water course, there is no flood risk assessment submitted
- There are no surface water Suds features
- Impact on the landscape will be significant
- Site Notices have not been erected
- This is creeping Industrialisation
- The Environmental Assessment should consider the whole development including the Poultry Farms and biomass boilers

5.2 Wix Parish Council objects to the proposal for the following seven reasons.

- Extra movements bringing materials in.
- Concerned they will be burning waste from the poultry barns
- Concerns over pollution from disposal of ash waste
- Concerns over noxious and / or toxic emissions to atmosphere
- Industrial site (on agricultural land)
- Creeping industrialisation
- Concerns over storage of hazardous materials (LPG)

6. **Assessment**

Site Context

6.1 The site is set in the Countryside between Wix, to the west, and Great Oakley, to the east. The site is formed from the southern part of an agricultural field and a means of vehicular access macross another field. The vehicular access would be on the northern side of the road some 170m northwest of Redhouse Farm.

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

Planning History

6.3 The host site obtained Full planning permission (ref: 20/00194/FUL), for the 'Proposed erection of 2 No. agricultural buildings for poultry production together with associated infrastructure and a new highway access to Oakley Road'. The decision to grant planning permission was taken at Planning Committee in October 2020 and was subject to 20 Planning Conditions, including Suds features, highway related conditions, landscaping, ecology mitigation, external lighting and maintenance records.

Proposal

- 6.4 This application proposes the erection of a building to house a straw burning biomass boiler which will provide a renewable heat source for the poultry farm. The building also includes a section for use as a tractor shed and is located 10m north of the two recently approved poultry sheds via application 20/00194/FUL. The two poultry sheds are not currently built or under construction.
- 6.5 The development will utilise straw produced by the applicant's arable farming as a heating fuel for the poultry unit. The biomass boiler will be the Linka HE Boiler 1.5kw (1500) type, only clean straw will be burnt. This shall be located within the proposed new building on site.
- 6.6 The proposed biomass building has two elements. The western section accommodates a straw conveyor belt which feeds straw into the biomass boiler which is located in the eastern section of the building. The northern elevation of the building will be open sided to enable straw bales to be placed on the conveyor belt using an agricultural telehandler.
- 6.7 The proposed biomass building shall be of a steel frame construction, with the walls and roof clad in olive green profile sheeting to match the approved materials associated with the poultry unit redevelopment.
- 6.8 Within the eastern section of the building there shall also be an LPG boiler. It was originally proposed that the poultry units would be heated with LPG boilers which, on the original scheme would have been located within the poultry shed service areas. LPG bulk storage tanks have already been approved as part of the original planning permission for the poultry sheds (20/00194/FUL) and are shown on the approved plans.
- 6.9 The applicant now propose a straw burning biomass boiler as the primary heating system for the poultry sheds. If biomass is used for primary heating, the regulations require that the site also has a backup heating system. The LPG boiler will be used as the backup system, should the biomass fail for any reason.
- 6.10 The applicant has said that due to the biomass boiler development, it is easier 'in terms of plumbing and pipework that both boilers are situated in the same place and hence the LPG boiler is to be located in the new boiler house rather than in the service area of the poultry sheds'.

Principle of Development

- 6.11 The principle of the development has been established via the approval of the poultry farm application 20/00194/FUL.
- 6.12 It has been demonstrated that the proposed development is reasonably necessary for the purpose of the agriculture activity to be carried out on what would become its own self-contained holding. As such, the proposal accords with the relevant part of Policy EN16.
- 6.13 The National Planning Policy Framework (NPPF) states at paragraph 83 that planning decisions should enable the development of agricultural and other land-based rural businesses.

Appearance, Layout and Scale

- 6.14 The proposed building shall appear as a typical utilitarian agricultural building. As highlighted in the proposal section, there are two sections of the proposed biomass building. The eastern section which houses the biomass boiler measures 18.508m x 13.296m with an eaves height of 6m and a ridge height of 7.698m. There are also two flues proposed one for the LPG Boiler and one for the Biomass Boiler extending 2m above the ridge reaching a total height of 9.698m. The western section of the building which houses the straw conveyor extends to 26.992m x 5.096m with an eaves height of 4.1m and a ridge height of 5.1m and no flues are proposed on this section.
- 6.15 The location of the proposed building would be immediately north, approx. 10m from, one of the two poultry sheds approved as part of application, 20/00194/FUL. In comparison, these poultry buildings are some 114m in length, having eaves of some 3m and a ridge of 5.7m. The proposed biomass building has an approximate footprint of 352sqm. Each approved poultry shed has an approximate footprint of 2,280sqm.
- 6.16 Therefore, the eastern section of the biomass building would have a ridge two metres greater in height than the poultry sheds to the south. The two associated flues connected with the biomass boiler would extend a further 2 metres in height beyond the biomass building's ridge.
- 6.17 The proposed biomass building would be of a steel frame construction, with the walls and roof clad in olive green profile sheeting to match the approved materials associated with the poultry unit redevelopment. ECC Heritage have requested the flues and ash auger be painted matt black to match that of the ventilation towers of the sheds permitted under 20/00194/FUL. Officers agree with this request and have recommended a condition to this effect.
- 6.18 When taken in totality the host building and poultry sheds next door, would be in keeping with other agricultural buildings in the area. The associated landscaping subject of the previous application, will be further enhanced, via a new landscaping condition allowing the buildings to blend into the wider landscape. Given the isolation distance from the road (nearest views are some 200 m away), officers are of the view that the relatively small scale of the additional built form proposed, is acceptable. There have been no objections from specialist consultees on Landscape or Heritage matters and only 4 letters of objection to the proposals generated from the 59 neighbourhood letters sent out and the 4 site notices erected in and around the site.
- 6.19 Overall, the appearance of the building is considered to be in character with the locality and the proposal is considered acceptable with regard to Policy QL9 and that part of Policy EN16 generally relating to appearance, scale and layout.

Highway Safety/Parking

- 6.20 Access to the development is via the new access road which has been approved under the poultry farm application, 20/00194/FUL. That application had a series of highways conditions associated with the access construction and implementation. These included, a Construction Management Plan; design of the vehicular access as per the detailed amended plans and no unbound material for the first 30m; a visibility splay; provision of the vehicular turning facility/loading facility; no discharge of surface water onto the highway; and, provision of a Traffic Management Plan from the site to the A120.

- 6.21 Officers consider it therefore vital that the host application shall only be commence following implementation of/or simultaneously with the construction of the poultry production units approved under planning permission ref. 20/00194/FUL. Furthermore, that biomass boiler shall not be brought into first operation prior to the commencement of the poultry production activity. A Grampian style planning condition is worded to that effect in the Decision Notice.
- 6.22 The host application requires the delivery of straw using tractors and trailers, however, this will negate the requirement for gas deliveries to the site for heating fuel. The proposed development of the biomass boiler house adds 7 No. tractor and trailers per annum (14 movements), amounting to a 2% increase in commercial vehicle movements. There has been a condition requested by Cllrs to limit tractor movements passed All Saints School on Oakley Road South. However, given the limited number of tractor trips expected this is considered unreasonable.
- 6.23 ECC Highways has confirmed in a written response dated 30th December 2020 that from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority. No additional conditions were recommended from the original poultry farm application as discussed above.
- 6.24 Subsequently, the proposal is considered, subject to condition, acceptable with regard to Policy TR1A.
EIA Screening Opinion
- 6.25 The requirements of the Environmental Impact Assessment (EIA) are provided within the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The EIA regulations require that any development which is listed in Schedule 1 be subject to an EIA.
- 6.26 The two poultry sheds neighbouring the host site falls within the definition of Section 17 of Schedule 1 ' Installation for the intensive rearing or poultry or pigs' as it exceeds the threshold of 85,000 broilers (the total capacity extended to 100,000 birds).In that instance an EIA was mandatory under Schedule 1 of the 2017 EIA regulations therefore a screening opinion was not required.
- 6.27 The applicant duly submitted an EIA that provides the following scope of assessment
- Landscape and Visual Impact
 - Highways and Transportation
 - Noise, Odour and Dust
 - Ecological Issues
 - Drainage and Flood Risk
- 6.28 The applicant has provided an update to this original research incorporating the proposed development as part of this application. The findings are detailed below.

Subject Area Considered within the EIA for application reference: 20/00194/FUL	Additional Impact as a result of 20/01498/FUL	Conclusions
Landscape and Visual Impact. The original poultry unit	The proposed development of the biomass boiler house adds 384 sq m of floor space which is	The additional landscape and visual impacts are minor.

<p>proposals extended to 4962.5 sq m of new floor space and was assessed as having a minor impact on landscape character and a moderate visual impact.</p>	<p>a 7.7% increase in development. The original EIA identified Viewpoint 1 and Viewpoint 3 where there would be a noticeable change in the view to an observer. The impact as a result of the additional boiler house from viewpoint one would be subject to a minor change. The impact from Viewpoint 3 would be subject to no change as the boiler house will be hidden behind the approved poultry farm and not visible.</p>	
<p>Highways Impact.</p> <p>The original poultry unit proposals were predicted to generate 90 commercial vehicle movements per flock cycle (675 commercial vehicle movement per annum). The impact was assessed in accordance with the NPPF as not severe.</p>	<p>The proposed development of the biomass boiler house adds 7 No. tractor and trailers per annum (14 movements), amounting to a 2% increase in commercial vehicle movements.</p>	<p>The additional highway impacts are negligible.</p>
<p>Noise</p> <p>Noise Assessment within the EIA predicted a BS4142 low noise impact for the poultry unit development. The original noise assessment assessed 34 ventilation fans, each noise rated at 70 dB (A).</p>	<p>The proposed development of the boiler house adds a biomass boiler with a noise emission rating of 80dB within the building. The acoustic shielding of the building walls will provide a minimum attenuation of 25dB with an external noise emission of 55 dB. This is well below the emissions already assessed with the 34 ventilation fans.</p>	<p>The noise impacts of the biomass boiler will be indistinguishable, and are assessed as negligible.</p>
<p>Odour</p> <p>The odour assessment within the EIA predicted the poultry unit to have a maximum odour impact of 1.33 odour units, against an Environment Agency threshold of 3 odour units.</p>	<p>The biomass boiler does not create odours and therefore would not add to the odour emissions from the site.</p>	<p>The odour impacts of the biomass boiler negligible.</p>

<p>Dust</p> <p>The original EIA for the poultry units confirmed that dust assessment screened out due to distance from the nearest receptor.</p>	<p>The biomass boiler application is accompanied by a detailed air quality assessment.</p>	<p>The dust assessment 20/01498/FUL confirms no exceedances of environmental emission levels. The impact is therefore negligible.</p>
<p>Ecological Issues</p> <p>The original EIA included a Phase 1 Ecology Survey which confirmed that the sites habitats are common and widespread and considered to be of low biodiversity value</p>	<p>The proposed biomass boiler house is within the red line of the poultry unit application and therefore the Phase 1 Ecology Survey applies to this application.</p>	<p>The sites habitats are common and widespread and considered to be of low biodiversity value. The additional impact is negligible.</p>
<p>Flooding</p> <p>The original EIA includes a flood risk assessment. The location of the buildings is outside the flood plain, and not at risk of flooding. The approved access road to the site passes through the flood plain.</p>	<p>The location of the proposed biomass boiler house is outside of the flood plain.</p>	<p>The development is not at risk of flooding. The approved access road passes through the flood plain, and has already been deemed acceptable. The impact of the development is therefore negligible.</p>

6.29 Officers have reviewed and accept these finding other than a minor disagreement with the visual impact assessment. Views to the south and west would be diminished to a minor degree as the height of part of the roofline of the building proposed will not be fully screened by the poultry farm. However, overall Officers accept the view that this proposal is 'screened out' of requiring an additional Environmental Impact Assessment under the Environmental Regulations 2017 when viewed in totality. This conclusion is backed by no objections from any consultee including the Landscape Officer, ECC Highways, ECC Ecology and the Conservation Officer.

Landscaping/Biodiversity

6.30 Saved Policy EN1 (Landscape Character) states that the quality of the District's landscape and its distinctive local character will be protected and, where possible, enhanced and any development which would significantly harm landscape character or quality will not be permitted.

6.31 The application site forms part of the previously approved poultry shed development. Therefore, it has already been accepted that the visual appearance of the area will change.

6.32 The proposed development of the biomass boiler house adds 385sqm of floor space which is an overall 7.7% increase in development. The eastern biomass building (18.6m x 13.3m) is 2m taller to the ridge and has an eaves 3m higher than the neighbouring significantly larger in footprint, poultry sheds. The poultry sheds are some 114m x 20m in layout.

- 6.33 The original application included a Landscape and Visual Impact Assessment (LVIA). This refers to a degree of harm caused by the changes to both the character and appearance of the area. The applicant has stated the original assessment identified views from the south and west from the public realm as being the only sensitive receptors. Officers accept that this assessment remains the case with this application due largely to the topography of the land and the mature boundary vegetation acting as visual barrier.
- 6.34 With regards views from the South, due to the fact that the host building is in part shielded by the larger two poultry sheds only the eastern section of the biomass building (18.6m x 13.3m) shall have a ridge extending 2 metres beyond the ridge of the poultry building's roof tops. Consequently, officers do not consider the proposal would have any significant impact on the visual landscape of the area. This conclusion is similar with views from the west. The design of the building aids the visual impact in this regard as does importantly the distances of views from the footpaths involved.
- 6.35 The host building is some 200m from Oakley Road and there are no public footpaths in the nearby area with significant views of the host site. The closest public footpath is some 300 metres to the west, footpath 18 to Bowl Farm; equally footpath 21 to the south east is approximately 450m away. However, there is a mature tree belt between the two sites partially obscuring the views. Outside the entrance to the host site again there is no public footpath, and only isolated residential dwellings with strong mature hedging in most places. One would mostly expect fast moving receptors passing the site such as car and motorbikes and views across would be very limited.
- 6.36 Therefore, given the site is set back from the highway and separated from it by another field with hedging that helps screen the site, together with the previous poultry farm approval that had significant additional landscaping associated with its approval, officers have no objections to this proposal. The Council's Tree & Landscape Officer and Conservation Officer has raised no objections to the host application subject to a further enhanced landscaping condition. Officers have included this within the recommendation.
- 6.37 In conclusion, subject to a suitable Landscaping plan the proposal is acceptable with regard to Policy EN1.
- 6.38 With regard to biodiversity, Policy EN6 states that development proposals will not be granted planning permission unless local biodiversity is protected and enhanced. Appropriate compensating measures to outweigh the harm caused by the development must be provided.
- 6.39 Natural England and ECC Ecology were consulted on the application. ECC Ecology have reviewed the Air Quality Assessment (AS Modelling and Data Ltd, December 2020) which states that "*the predicted process contributions to annual mean nitrogen dioxide concentrations and nitrogen and acid deposition rate are below 1% of the relevant Critical Level/Critical Load at all receptors and would therefore normally be deemed insignificant or negligible.*" This is below the level Natural England would request for a screening assessment which is over 1%. Therefore, ECC Ecology were satisfied that this combustion proposal is not likely to result in significant effects on the interest features of the Stour & Orwell Estuaries SSSI, SPA and Ramsar site and Hamford Water SAC, SPA and Ramsar site and no further assessment of air quality impacts is necessary.

- 6.40 Further to this, the mitigation measures identified with the updated ecological details should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority Species.
- 6.41 As such, subject to conditions, the proposal is considered acceptable with regard to Policy EN6.

Impact on Residential Amenity and Air Quality

- 6.42 The applicant submitted an Air Quality Assessment (AS Modelling and Data Ltd, December 2020), regarding the biomass boiler used on site, using the Linka HE Boiler operational data. The objective was to assess the impact of emissions on nitrogen oxides, particulate matter and carbon dioxide. With regards to nitrogen oxides outside the site boundaries the impact was described as negligible. This same conclusion was drawn for particulate matter, while carbon dioxide was said to have no exceedances of the Environmental Assessment level. These findings have been verified by the Council's Environmental Protection Team. Officers agree with the request from Cllrs to have a monitoring system in place to check the efficiency of the boiler going forward to protect residential amenity. A planning condition to cover this point is included in the recommendation..
- 6.43 It is considered that there is sufficient distance retained to the nearest residential properties to ensure any impact upon residential amenity would be minimal. There is a 430m distance to the nearest property to the south-west and 250m to 'Redhouse Farm' to the south-east. Any noise or odours associated with the development, due to distances involved, would not cause nearby residents unacceptable nuisance.
- 6.44 In relation to noise, the proposed development of the boiler house adds a biomass boiler with a noise emission rating of 80dB within the building. The acoustic shielding of the building walls will provide a minimum attenuation of 25dB with an external noise emission of 55 dB. This is well below the emissions already assessed with the 34 ventilation fans of the poultry farm next door that emits 70dB per fan.
- 6.45 The Council's Environmental Protection team has assessed the application and offered no comments towards the proposal. There shall be some waste material generated on site, the applicant has accepted this, therefore a planning condition is included to manage that eventuality.
- 6.46 A condition regarding any unexpected ground contamination indications encountered during construction and a condition for details of any external lighting scheme are also recommended.
- 6.47 The applicant has also applied for an Environmental Permit. This is because, all poultry units above 40,000 birds require an environmental permit to operate from the Environment Agency. The permit includes the detailed operations of the site, including the heating system. The permit as issued for the poultry unit noted the heating to be LPG. Following the change to biomass, the applicant has applied for a variation to the permit to include the biomass heating.
- 6.48 In summary, the proposal is considered acceptable subject to conditions with regard to Policy QL11.

Drainage

- 6.49 Policy QL3 is concerned with minimising and managing flood risk. Although the site is in Flood Zone 1, the location of the host site is in an area susceptible to surface water flooding, also there is a sewage works downstream some 0.5 miles due west.
- 6.50 Accordingly, a Flood Risk Assessment was submitted to support the application which incorporates both the host building and the two poultry sheds into the calculations and Suds drainage features. Essex County Council SuDS team has confirmed in writing that it does not object to the granting of planning permission subject to the measures detailed in the FRA and the documents submitted with this application are implemented as agreed.
- 6.51 The proposal is considered acceptable with regard to Policy QL3.

Heritage Assets

- 6.52 ECC Heritage has confirmed that they do not in principle oppose the proposed development, subject to the flues and ash auger being painted matt black to match that of the ventilation towers of the sheds permitted under 20/00194/FUL.
- 6.53 The separation distance between the proposed development and the Listed Building known as 'The White House' is approximately 400m. Due to this significant distance and the lack of inter-visibility between the two sites any impact upon its historic setting is minimal.
- 6.54 Subject to conditions as recommended, the proposal is acceptable with regard to Policy EN2

Other Matters

- 6.55 Officers consider it necessary that this proposal shall only be commenced following implementation of/or simultaneously with the construction of the poultry production units approved under planning permission ref. 20/00194/FUL. Furthermore, the biomass boiler shall not be brought into first operation prior to the commencement of the poultry production activity. Therefore, a Grampian Condition worded to that effect is included in the decision notice.

7. Conclusion

- 7.1 As with all planning applications, this application is to be considered on its planning merits. The previous proposal on the site for two poultry sheds was very contentious with over 17,400 objections. The host application Officers have reviewed has only 4 objections from members of the public.
- 7.2 In planning terms, the proposal is for agricultural buildings in the countryside. This is supported by local and national policy. The building would have a similar character to the other agricultural buildings next door and nearby. The building proposed is of limited footprint in comparison, albeit part of the building is taller in height than the extensive poultry sheds. However, subject to an enhanced landscaping proposal there is not considered to be a significant impact on the visual setting of the countryside.
- 7.3 No objections have been received from any consultee, Officers have considered the application carefully and are of the opinion, subject to the conditions set out below the application represents a sustainable development that shall not harm residential

amenity or ecological wellbeing in the locality. Importantly, these conditions include an instruction to carry out the poultry shed works via approval 20/00194/FUL before or simultaneously with commencement of works on the biomass building.

8. Recommendation

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

8.2 Conditions and Reasons

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

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

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

Ip/ah/b03 a Amended proposed elevations and plan
Ip/ahb/b02 Site layout plan

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

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

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and underbody washing facilities
- v. prior to the commencement of any work on the site, a joint inspection of the route to be used by construction vehicles should be carried out by the Applicant and the Highway Authority, including photographic evidence.
- vi. a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works
- vii. noise control
- viii. emission control
- ix. dust control

Reason - To ensure that parking on the highway does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and to ensure that construction does not lead to excess water being discharged from the site.

4. The vehicle turning facility as shown on Site layout plan Ip/ahb/b02 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.

5. 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 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.

6. 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.

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

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

8. No means of external lighting shall be installed unless the prior written consent of the local planning authority is given in writing to any external lighting. Any external lighting shall be part of a lighting design scheme for biodiversity which shall have been submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

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

Reason - To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside

Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with Policy EN6 of the adopted Local Plan.

9. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecology Update Letter (Emms & Barnett, January 2021) Preliminary Ecological Appraisal (Emms & Barnett, December 2019) and the Response to Ecology Comments (Emms & Barnett, April 2020) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

10. Prior to beneficial uses, 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).

11. All drainage and Suds features shall be carried out in accordance with the details contained in the Hydro International Drainage (L0321) report dated 28/01/2021, and maintained for the lifetime of the development.

Reason: To ensure the surface water drainage system is installed as intended to ensure mitigation against flood risk.

12. Prior to commencing operation of the boiler, the flues and ash auger shall be painted matt black to match that of the ventilation towers of the sheds permitted under 20/00194/FUL.

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

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

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

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

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

14. 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.

15. No development shall take place, including any grounds works or demolition, until an appropriate Traffic Management Plan and Route Card, to include inbound and outbound routings at the junctions of the A120/Harwich Road and Harwich Road/Oakley Road, and which shall outline a designated route to and from the development for all construction vehicles, has been submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority. The Traffic Management Plan and Route Card shall subsequently be implemented as approved, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To control the location and direction of construction vehicle movements to and from the site in the interests of highway safety.

16. All new external work and finishes shall match the materials used on the two poultry sheds approved via application 20/00194/FUL.

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

17. No building or use hereby permitted shall be occupied or use commenced until a waste management plan setting out how waste will be stored and collected has been prepared, submitted to and approved in writing by the Local Planning Authority. The measures shall thereafter be implemented in accordance with the approved waste management plan for the lifetime of the development.

Reason: To ensure appropriate waste management facilities are provided to accommodate all waste generated by the development.

18. Only clean straw, unused for any purpose, shall be used in connection with the biomass boiler.

Reason: In the interests of air quality and the Clean Air Act 1993

19. The building shall be constructed so as to provide sound insulation against internally generated noise of not less than 25 dB, with windows shut and other means of ventilation provided. The sound insulation works shall be completed before the use of the building begins and retained thereafter.

Reason: To control the noise emitted from the site in the interests of residential amenity

20. No development shall take place until a monitoring and maintenance scheme to demonstrate the effectiveness and accuracy of the predicted air quality of the biomass boiler has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented, and records kept of a 5 year timeframe.

If any of these reports identifies any discrepancy with the Air Quality Assessment (AS Modelling and Data Ltd, December 2020) then a protocol, including timescale, for the necessary remediation shall be submitted to the local planning authority within a further 40 days and approved in writing within 40 days of receipt. Thereafter, any necessary remediation and verification shall be carried out in accordance with the approved protocol.

Reason: In the interests of public health and safety

21. The development hereby permitted shall only be commenced following implementation of/or simultaneously with the construction of the poultry production units approved under planning permission ref. 20/00194/FUL. Furthermore, the biomass boiler shall not be brought into first operation prior to the commencement of the poultry production activity.

Reason: The biomass boiler is considered to be intrinsically linked to the approved poultry production facility and has been assessed and supported on this basis. Furthermore, in the interests of visual amenity, the character of the area and highway safety.

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

remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the Local Planning Authority within 20 days of the report being completed and approved in writing by the Local Planning Authority.

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

8.1 Informatives

Positive and Proactive Statement

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

Highways

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 - Development Management Team
Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
CO7 7LT

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

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;

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

Human Rights

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

Finance Implications

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

10. Background Papers

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

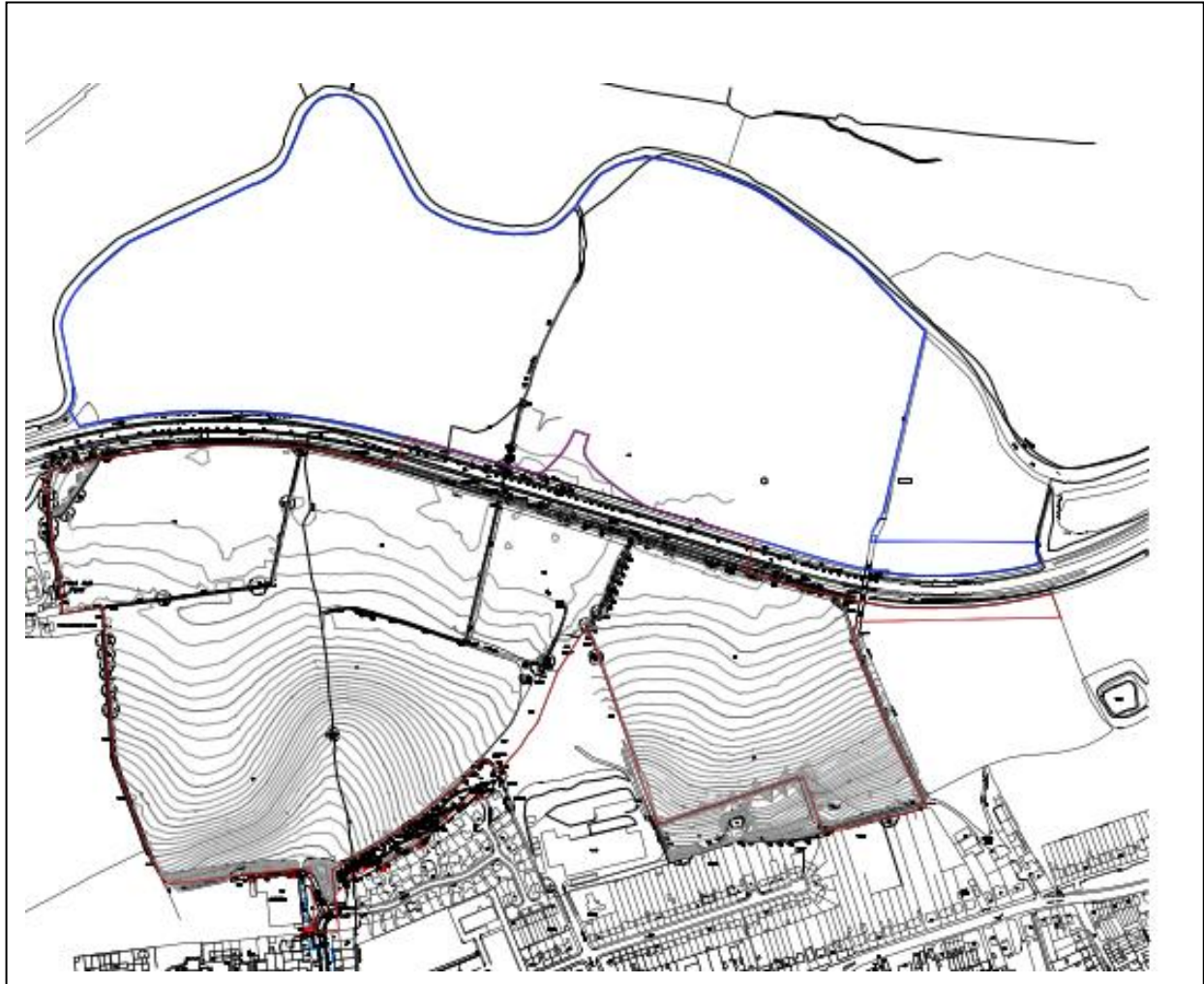
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PLANNING COMMITTEE

17th February 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.3 PLANNING APPLICATION – 20/00385/OUT – LAND EAST OF POND HALL FARM RAMSEY ROAD RAMSEY HARWICH CO12 5ET



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Application: 20/00385/OUT

Town / Parish: Harwich Town Council

Applicant: Harding Estates (East Anglia) Ltd

Address: Land East of Pond Hall Farm Ramsey Road Ramsey Harwich CO12 5ET

Development: Variation of conditions 1 and 19 of approved application 14/01431/OUT to allow up to 80 residential unit occupations prior to completion of associated highway works and improvements including a new roundabout off the A120 as prescribed by condition 19.

1. **Executive Summary**

- 1.1 The application site covers an area of approximately 30 hectares and is located between the A120 highway and the existing Dovercourt urban area of Harwich.
- 1.2 The applicant proposes revisions to the extant planning permission (14/01431/OUT) under Section 73 of the Town and Country Planning Act 1990 (as amended) to vary Conditions 1 and with a substituted phasing plan and revised wording to Condition 19. In order to permit the development of 80 residential dwellings ahead of the proposed new access and roundabout.
- 1.3 The applicant originally sought to amend conditions 1 and 19 in order to bring forward all 297 residential dwellings ahead of the proposed new access and roundabout. Following discussions with Officers and Essex County Council Highways the application was amended to allow a reduced amount of 80 residential units ahead of the access road and roundabout by revision of the approved phasing plan, in order to incorporate a sub-phase of phase 3 to come ahead of phases 1 and 2 for the access and roundabout.
- 1.4 It should be noted that at the occupation of the 80th dwelling all existing planning conditions and Section 106 contributions revert back to the requirements of the original Outline consent (14/01431/OUT).
- 1.5 The site at land east of Pond Hall Farm was allocated within the Tendring District Local Plan 2007 under policy HAR 2 without a residential allocation. The site was also included in various iterations of the Tendring District Local Plan (2013-2033) during the draft and consultation stages with an allocation of 297 residential dwellings and a requirement for the residential units to be delivered via Stour Close. Taking into account the site is now consented the Tendring District Local Plan (submission Draft) part (2) refers to the site as 'mixed use consented' and therefore it is not necessary for the site to be considered as an allocation.
- 1.6 The extant Outline consent was subject to Environmental Impact Assessment with the application being accompanied by an Environmental Statement. In light of subsequent changes to environmental legislation and time lapse the applicant has reviewed and updated the Environmental Statement and has submitted an Environmental Statement Addendum (ESA) in order to review and mitigate any changes.
- 1.7 The review to the ESA was carried out taking into account the delivery of all 297 residential dwellings off Stour Close, which was prior to amending the application to restrict the number to 80 residential dwellings. The findings of the review have demonstrated that there are no severe adverse impacts resulting from the delivery of 297 residential dwellings off Stour Close.
- 1.8 The Council have received objections from the public primarily concerning traffic and vehicle movements to and from the site. Due to the current pandemic and unusually low levels of traffic on the network historic data has been used to assess traffic impacts and movements, which has

confirmed that traffic impact would be at an acceptable level, again this was at the higher level of 297 dwellings. Whilst ECC Highways had concerns regarding the delivery of 297 dwellings off Stour Close they have 'No Objection' to the revised number of 80 dwellings subject to conditions including the improvement to a vision splay.

- 1.9 The applicant has informed the Council that the changes are necessary to secure a developer for the residential site in order to fund the delivery of the access and roundabout due to the lack of uptake of the retail, business and leisure uses and the inability to fund the access and roundabout.
- 1.10 The Councils Lawyer has confirmed that it is not necessary to amend the S106 and the necessary amendment of the approved phasing plan and agreement of 80 dwellings only can be undertaken through a Unilateral Undertaking which is currently being prepared.

Recommendation:

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

- a) **Within 6 months of the date of the Committee's resolution to approve, the completion of a Unilateral Undertaking.**
 - **S73 application subject to the existing S106**
- 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 Policy:

The National Planning Policy Framework
National Planning Policy Guidance

Local Policy:

Tendring District Local Plan 2007

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

HG3A	Mixed Communities
HG4	Affordable Housing in New Developments
HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
COM2	Community Safety
COM6	Provision of Recreational Open Space for New Residential Development
COM21	Light Pollution
COM23	General Pollution
COM24	Health Care Provision
COM26	Contributions to Education Provision
COM29	Utilities
COM30	Electricity Supply
COM31A	Sewerage and Sewage Disposal
EN1	Landscape Character
EN2	Local Green Gaps
EN6	Biodiversity
EN6A	Protected Species
EN6B	Habitat Creation
EN11A	Protection of International Sites: European Sites and RAMSAR Sites
EN12	Design and Access Statements
EN13	Sustainable Drainage Systems
EN17	Conservation Areas
EN29	Archaeology
TR1A	Development Affecting Highways
TR1	Transport Assessment
TR2	Travel Plans
TR3A	Provision for Walking
TR5	Provision for Cycling
TR6	Provision for Public Transport Use
TR7	Vehicle Parking at New Development

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

SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP2	Community Facilities
HP3	Green Infrastructure
HP4	Safeguarded Local Greenspace
HP5	Open Space, Sports & Recreation Facilities
LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
LP5	Affordable and Council Housing
PPL1	Development and Flood Risk
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL7	Archaeology
PPL8	Conservation Areas
PPL9	Listed Buildings
CP1	Sustainable Transport and Accessibility
CP3	Improving the Telecommunications Network

Local Planning Guidance

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

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. In this latter regard, as of 26th January 2021, 'Section 1' of the emerging Local Plan for Tendring (Tendring District Local Plan 2013-2033 and Beyond Publication Draft) has been adopted and forms part of the 'development plan' for Tendring.
- 2.2 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) has been examined by an Independent Planning Inspector who issued his final report and recommended 'main modifications' on 10th December 2020. The Inspector's report confirms that, subject to making his recommended main modifications (including the removal from the plan of two of the three 'Garden Communities' proposed along the A120 i.e. those to the West of Braintree and on the Colchester/Braintree Border), the plan is legally compliant and sound and can proceed to adoption. Notably, the housing and employment targets in the plan have been confirmed as sound, including the housing requirement of 550 dwellings per annum in Tendring.
- 2.3 The Council has now formally adopt Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26th January 2021, at which point it became part of the development plan and carries full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan.
- 2.4 The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will proceed in early 2021 and two Inspectors have been appointed by the Secretary of State to undertake the examination, with the Council preparing and updating its documents ready for the examination. In time, the Section 2 Local Plan (once examined and adopted in its own right) will join the Section 1 Plan as part of the development plan, superseding in full the 2007 adopted plan.
- 2.5 Where emerging policies are particularly relevant to a planning application and can be given 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 relation to housing supply:

- 2.6 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.

With the adoption of the modified Section 1 of the emerging Local Plan, the Councils 'objectively assessed housing need' of 550 dwellings per annum has been found 'sound' and there is no

housing shortfall. The Council is able to report a significant surplus of housing land supply over the 5 year requirement, in the order of 6.5 years.

3. Relevant Planning History

14/01431/OUT	<p>Hybrid application for proposed comprehensive development & the creation of employment floorspace (including start up units) consisting of:</p> <p>Outline approval for development of site to create employment units, cafe / restaurant units, public house, drive thru restaurants, cinema, hotel, up to 297 dwellings, landscaping, open space & associated means of access, internal estate roads & car parking.</p> <p>Full approval for the creation of retail shop units, foodstore, petrol filling station, associated highway works & improvements including a new roundabout off the A120 & link road, earthworks, service infrastructure & other associated works & improvements.</p>	Approved	08.06.2016
19/00239/DISCON	Discharge of condition 17 (Roundabout Solution) to approved Planning Application 14/01431/OUT.	Approved	14.05.2019
19/00576/DISCON	Discharge of condition 2 (Strategic Phasing Plan) of application 14/01431/OUT.	Approved	17.10.2019
19/00754/DISCON	Discharge of conditions for Phase 1 only: 7 (Ecological Enhancement), 10 (Archaeology), 11 (Local Recruitment) and 15 (Construction Management) of approved application 14/01431/OUT.	Approved	17.10.2019
19/00851/DETAIL	Reserved matters application for the development of site to create employment units, cafe / restaurant units, public house, drive thru restaurants, cinema, hotel, up to 297 dwellings, landscaping, open space & associated means of access, internal estate roads and car parking.	Current	

19/01632/LUEX

Construction of part of the permitted link road in accordance with permission 14/01431/OUT in order to begin development on the part of the permission granted in full in accordance with condition 21 and Section 56 of the Town and Country Planning Act 1990, as amended.

04.12.2019

20/00385/OUT

Variation of conditions 1 and 19 of approved application 14/01431/OUT to allow up to 80 residential unit occupations prior to completion of associated highway works and improvements including a new roundabout off the A120 as prescribed by condition 19.

Current

4. **Consultations**

ECC Highways Dept
25.01.2021

All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980.

The Developer will be served with an appropriate Notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.

The Highway Authority has considered all the information submitted with the previous planning application from last year. It is noted that that this revised proposal is to allow up to 80 residential unit occupations only, it is satisfied that the applicant has demonstrated (in accordance with the NPPF) the impact of the revised proposal on the highway network would be unlikely to be severe, therefore:

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

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

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and underbody washing facilities
- v. if required, temporary waiting restrictions

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 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, to include photographic evidence. The route should then be inspected again, after completion of the development, and any damage to the highway resulting from traffic movements generated by the application site should be repaired to an acceptable standard and at no cost to the Highway Authority. The Highway Authority may also wish to secure a commuted sum for special maintenance to cover the damage caused to the existing roads used as access by vehicles servicing the application site.

Reason: To ensure all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the vicinity of 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 and in the interests of highway safety and Policy DM1.

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

a) A link road with a revised priority junction for part of Stour Close to provide access to the proposal site as shown in principle on planning application, block plan drawing number: C4-13027-011-a. The new priority junction shall include a minimum visibility splay of 2.4m x 70 metres in both directions.

b) A new access for the Harwich indoor Bowls Club as shown in principle on planning application, block plan drawing number: C4-13027-011-a.

c) For the residential development an affective 3 metre shared footway/cycleway shall be provided from the development to Stour Close as shown in principle on planning application, block plan drawing number: C4-13027-011-a.

d) Residential Travel Information Packs and Residential Travel Plan with Travel Plan Co-ordinator (details shall be agreed with the Local Planning Authority prior to commencement of the development).

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.

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

Notes:

The above requirements should be imposed by way of negative planning conditions or planning obligation agreements as appropriate.

In making this recommendation the Highway Authority has treated all planning application drawings relating to the internal layout of the proposal site as illustrative only.

Prior to any works taking place in the highway the developer should enter into an S278 agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.

All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible)

All highway related details should be agreed with the Highway Authority.

The proposed junction layout with Stour Close and footway proposals will require an initial Stage 1 Road Safety Audit.

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

Informative:

1: 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.

2: On the completion of the 80 units no further development shall take place, including any ground works or demolition, until the new roundabout off the A120 as prescribed by condition 19 has been completed.

3: 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 - Development Management Team
Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
CO7 7LT

TDC Environmental
Protection
07.09.2020

With reference to the above application, Environmental Protection would like to make the following comments -

Should the outline application be approved; the EP Team are requesting the following information be submitted at the next phase of application:

Contaminated Land - Prior to the commencement of the development proposals, investigations shall be carried out to establish whether the site is contaminated in any way. Such investigations shall be carried out in accordance with a scheme which shall first be agreed in writing with the Local Planning Authority. If the investigations reveal contamination of the site, a further scheme shall be agreed in writing by the Local Planning Authority, setting out measures to ensure that the entire area of the site, in relation to soil conditions resulting from such contamination, will not be harmful or detrimental to human health, animal health, normal plant health or growth, to buildings, building surfaces or amenities. Such agreed measures shall be implemented and completed to the satisfaction of the Local Planning Authority prior to the commencement of any development of the site.

Construction Method Statement - In order to minimise potential nuisance to nearby existing residents caused by construction works, Pollution and Environmental Control ask that the following is conditioned; Prior to the commencement of any construction works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Environmental Protection Team -

' Noise Control

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

' Emission Control

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

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

The reason for the above comments is to ensure the protection of amenity to residents.

TDC Environmental
Protection
25.09.2020

Environmental Protection have looked at the Noise Report for the above application and based on the recommendations in this report EP would have no further comments to make in relation to noise, notably from road use.

Representations

- 4.1 The Ramsey & Parkeston Parish Council made no comments on the 'original' consultation relating to the full 297 dwellings being delivered in advance of the approved new highway improvements to the A120.
- 4.2 With respect to the re-consultation on a restriction to 80 dwellings, the Parish Council has raised concerns with respect to the access/exit point of the development at the junction of Clayton Road/Main Road with increased traffic hazards and request consideration of the installation of a roundabout at that point to be installed using S278 Highways funding. The relevant proportion of S106 funding is requested, to be guaranteed to be used as part funding for the new proposed Ramsey Village Hall, planning permission granted, giving enhanced leisure facilities to local and visiting residents.
- 4.3 In addition, the Parish Council would wish to re-iterate their previous comments made on 25th November 2014 as below:
- 4.4 Comment submitted date: Tue 25 Nov 2014

The view of the Ramsey & Parkeston Parish Council is to support the application with:

Assurance is gained that works as described for Full approval (9.91 hectares) for the creation of retail shop units, foodstore, petrol filling station, associated highway works & improvements including a new roundabout off the A120 & link road, earthworks, service infrastructure & other associated works & improvements to be undertaken prior to any works as described in Outline approval (19.46 hectares) for development of site to create employment units, cafe/restaurant units, public house, drive thru restaurants, cinema, hotel, up to 297 dwellings, landscaping, open space & associated means of access, internal estate roads & car parking are undertaken following Full approval gained.

Assurance to be gained that vehicular access/egress to the site will be restricted via Clayton Road & Stour Close to emergency vehicles only.

- 4.5 5 objections were received from the public to the 'original' consultation and 9 objections from the public following the second round of consultation. These objections and concerns can be summarised as follows:

- Will create too much traffic;
- Road not wide enough;
- Noise from development and traffic;
- Inconvenience to existing residence from extra traffic;
- Construction traffic will use Clayton Road/ Stour Close, which isn't wide enough;
- Shouldn't build houses before the road is built;
- Excessive vehicle movements all houses could end up being accessed via Stour Close;
- Extra pressure on already stretched services;
- Delays due to construction traffic at Clayton Road/ Stour Close may cause delays to Harwich Ambulance Station; and
- Essential road improvements necessary before the development of houses.

5. **Assessment**

Site Context

- 5.1 The application site covers an area of approximately 30 hectares and is located between the A120 trunk road and the existing Dovercourt urban area of Harwich. It is currently in agricultural use with field boundaries demarcated by hedgerows and trees. Most of the area is located in Flood Zone 1 although the northern area is located in Flood Risk Zone 2 and 3. There are no environmental designations within the boundary of the site.

Proposal/ Planning History

- 5.2 The application proposes revisions to the extant planning permission (14/01431/OUT) under Section 73 of the Town and Country Planning Act 1990 (as amended) to vary conditions 1, with a substituted phasing plan and revised wording to condition 19, in order to permit the development of 80 residential units ahead of the proposed new access and roundabout.
- 5.3 The consented scheme (14/01431/OUT) is for the development of employment floorspace including employment units, café / restaurant, public house, cinema and hotel together with 297 residential dwellings, retail units, petrol filling station, landscaping, open space and access to roads. The main access to the site as consented is via a new link road connecting the A120 to Stour Close.
- 5.4 This planning application proposes that a residential sub-phase of phase 3 of plan (0106 G) for the development of no more than 80 residential units with the construction and access via Stour Close ahead of the remainder of the development.

Principle of Development / Planning History

- 5.5 Application (14/01431/OUT) was approved in principle on 31st March 2015 subject to signing a legal agreement within 6 months of the decision date. The application was subsequently referred to the Secretary of State (SoS) although it was not 'called in' but referred back to the Council by the SoS for determination. Approval was granted following the signing of a S106 legal agreement.
- 5.6 The application site was allocated for business and industrial development in the 2007 adopted Local Plan. Due to the high development costs which included the need for a roundabout on the A120 the Council's then emerging Local Plan allocated the site for mixed-use development including a number of employment uses and housing development which was considered to be a more viable mix of use to ensure delivery.

- 5.7 The site at Land East of Pond Hall Farm was allocated within the Tendring District Local Plan (2007) under Policy HAR2. In the (2013) Local Plan (Draft) Policy HAR2 was replaced with Policy HAD4 which provided the principal point of access for the residential element of the development via Stour Close. This policy, was subsequently removed, in the 2017 update of the Local Plan as the site had already been consented in 2016.
- 5.8 Emerging Policy HAD4: 'Development East of Pond Hall Farm' (removed 2017) had allocated the site for a mix of residential development, community facilities, commercial development and public open space. It stated that the Council would "... *work with the landowner to prepare a development brief for the site prior to the submission of a planning application and ensure that alongside relevant policy requires in Chapters 2 to 5 of this Local Plan, development proposals also meet the following specific requirements:*
- a) The principle point of vehicular access for commercial uses will be via a new roundabout on the A120;*
 - b) The principle point of vehicular access for housing development will be via Stour Close;*
 - c) A minimum of 5 hectares of land will be restricted to employment related development in Classes B1, B2 or B8, or port-related uses;*
 - d) No more than 9 hectares of the site will be allowed to accommodate alternative employment uses, which could include retail and pub/restaurant/hotel use;*
 - e) No more than 8 hectares of the site will be used for residential development; and*
 - f) The development will contribute toward the delivery of the new Harwich linear Park through the provision of land north of A120, the creation of pedestrian and cycle links between the development and that land and the provision of vehicular access and a parking area via the new roundabout."*
- 5.9 In the most up-to-date version of the Tendring District Local Plan, a submission draft dated 2017, Policy HAD4 was removed, to reflect the previously mentioned outline planning permission being granted on the site. Instead, the site is recognised on the Local Plan Policies Map as a "mixed use site with consent".
- 5.10 The Hybrid application was for detailed approval for a food store, five non-retail units, a petrol filling station and associated earth works, infrastructure and road improvements. Outline approval for a cinema restaurant/ café, Employment units (warehouse and start-up units) and up to 297 new homes.

Environmental Impact Assessment

- 5.11 Application (14/01431/OUT) was subject to Environmental Impact Assessment; the application was supported by an Environmental Statement (ES). Since the production of the 2014 ES new regulations have come into place (The Town and Country Planning (Environmental Impact Assessment) Regulations 2017).
- 5.12 Part 1 (3) of the 2017 EIA regulations states;
The relevant planning authority, the Secretary of State, or an Inspector must not grant planning permission or subsequent consent for EIA development unless an EIA has been carried out in respect of that development.
- 5.13 The 2017 Regulations also require the submission of an Environmental Statement to support the application. The applicant has prepared an Environmental Statement Addendum (ESA) to support the application and has highlighted any subsequent changes in the legislation and areas which may need updates to the 2014 ES, which supports the consented Outline application. The ESA goes above and beyond the proposed 80 units and takes into account all 297 dwellings.

- 5.14 The aim of the ESA is to identify the likely significant environmental effects associated with the proposal and to provide sufficient information for the local planning authority and statutory consultees in full knowledge of the likely significant effects to determine the application.
- 5.15 An ESA must contain the information specified in Regulation 18 (3) of the EIA Regulations as well as meeting the requirements of Regulation 18 (4) Schedule 4 of the EIA Regulations and list additional information, which if relevant to the specific characteristics of the development or type of development and to the environmental features likely to be significantly affected, should also be included.
- 5.16 Whilst no formal Screening Opinion under Regulation 37 of the EIA Regulations or a formal Scoping Opinion under Regulation 15 was requested by the Council, informal scoping discussions have been undertaken with Essex County Council, the relevant Highways Authority also with the Local Planning Authority and Environmental Health Authority.
- 5.17 The further EIA work was limited to those effects likely to have changed by the proposal to amend the access arrangements to the site; these cover:
- Traffic and Transport.
 - Noise and
 - Air Quality
- 5.18 These assessments consider the effects during the construction and operational phases of the development.

Traffic and Transport

- 5.19 The transport chapter and technical note provides an updated assessment based on recent traffic survey information and considers the residential development independently of the larger consented scheme.
- 5.20 The number of peak trips for the permitted 297 has been calculated as follows although it must be noted that this application is for 80 dwellings which represents 27% of the overall figures below. This does not include construction traffic.

AM Peak Time 7.30-8.30	297 Dwellings	80 Dwellings (27%)
Movements entering	30	8
Movements leaving	98	26
PM Peak Times 16.45-17.45		
Movements entering	97	26
Movements leaving	52	14
Saturday Peak Times 13.00-14.00		
Movements entering	69	19
Movements leaving	19	19

- 5.21 The provision of a bus service to the permitted residential development remains the same, with at least one bus visiting per hour based on 07.00-19.00 timetable already permitted to the site and travelling via Stour Close.
- 5.22 It is considered that at worst the traffic impacts would be moderate in connection with the residential development. However, this has considered all 297 residential dwellings which was found to be acceptable from a traffic and transportation prospective.

Noise

- 5.23 The effects of the road traffic noise on residents, as a result of the proposed amendment to the access arrangements, has been assessed by the applicant's consultants. The study area

focused on Claydon Road. The survey included background noise levels representative of the front gardens in Claydon Road.

- 5.24 When compared to existing noise levels the future noise environment, as a result of the amended access arrangements will have a low impact on acoustic character of the area but will not result in a change in quality of life.

Air Quality

- 5.25 The 2014 Air Quality Assessment has been reviewed in order to take account of the changes to the legislation since the assessment and additionally to take account of any changes in air quality in the local area. During construction works a range of best practice mitigation measures will be implemented to reduce dust emissions, through the Construction Management Plan. The overall effect is not considered to be significant.
- 5.26 The effects of the emissions from HGV movements generated during the construction stage and the operational effects of traffic emissions from the new house occupants will not be significant even taking into account the revised and more stringent significant guidance, and most recent available monitoring data.
- 5.27 Overall, the conclusion of the Air Quality Assessment prepared in 2014 remains valid and air quality for existing and future residents will be acceptable.

Climate Change

- 5.28 Air quality is predicted to improve by the reduction of vehicle emissions although climate change long-term effect (2050-2080) is not a consideration for the ESA.

Highway Considerations

- 5.29 Paragraph 108 of the NPPF (2019) relates to transport and requires Councils, when making decisions, to ensure that:
- Appropriate opportunities to promote sustainable transport modes can be made - or have been - taken up, given the type of development and its location;
 - safe a suitable access to the site can be achieved for all users; and
 - any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree
- 5.30 Policy QL2 in the adopted Local Plan, Policy CP1 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport. The application site performs relatively well in this regard.
- 5.31 Policy TRA1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. Policy CP2 in the emerging Local Plan states that proposals which would have any adverse transport impacts will not be granted planning permission unless these are able to be resolved and the development made acceptable by specific mitigation measures which are guaranteed to be implemented.

Transport Assessment

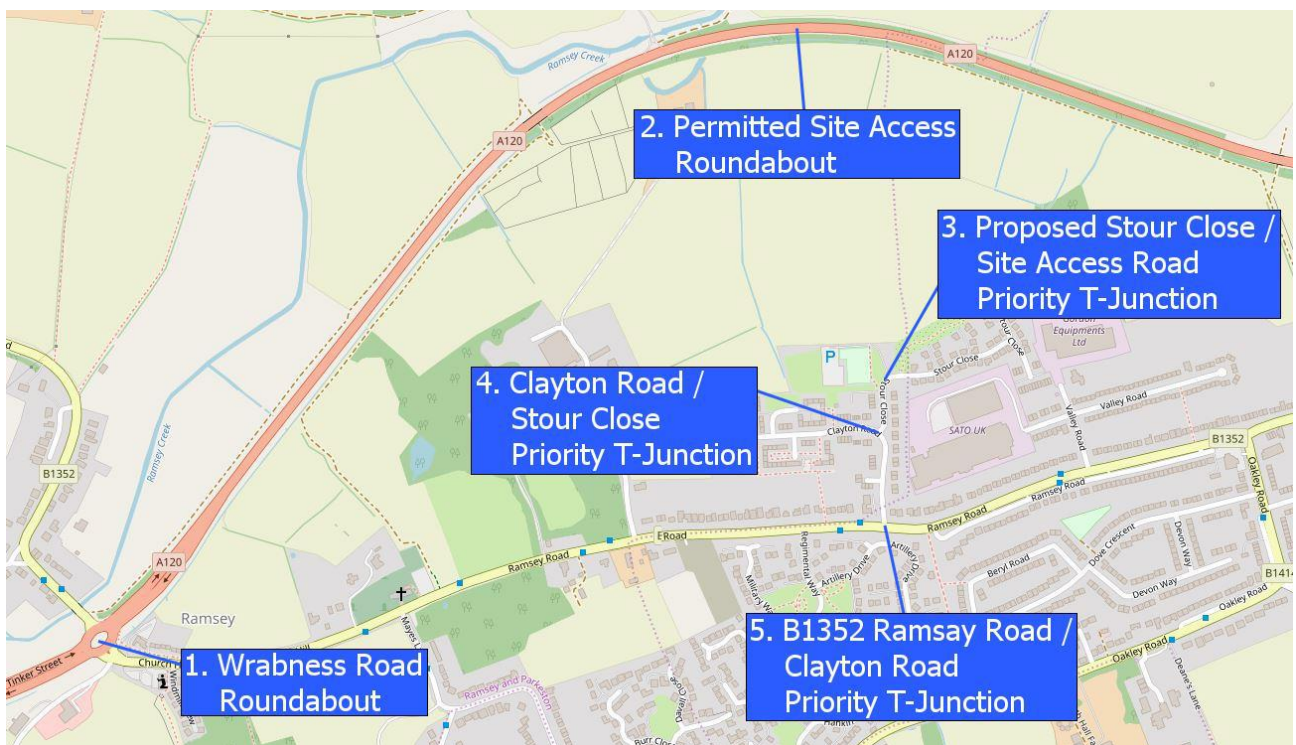
5.32 The permitted development includes the construction of a four-arm roundabout on the A120 to provide access to the site from the north, as well as a connection to Stour Close to the south. A bus gate was proposed between the development and Stour Close that would prevent private vehicle traffic from accessing the site on Stour Close.

5.33 The applicant's original intention was for the retail uses permitted (phase 1) to fund the infrastructure, including the roundabout to the A120. This would mean that all proposed traffic to the development including the residential phases. The original technical evidence was based on this position.

5.34 However, the current proposal is to deliver the residential phase ahead of the retail uses on the site. As such this application seeks to vary conditions 1 and 19 to enable 80 dwellings to be occupied via Stour Close prior to the construction of the roundabout.

5.35 The transport note considers the traffic impact of the residential development on the following junctions,

- 1) The A120 / B1352 Wrabness Road / B1352 Church Hill Roundabout (the 'Wrabness Road Roundabout').
- 2) The permitted A120 / Site Access Roundabout (the 'Permitted Site Access Roundabout')
- 3) The proposed Stour Close / Site Access Road Priority T-Junction.
- 4) The Clayton Road / Stour Close Priority T-Junction.
- 5) The B1352 Ramsay Road / Clayton Road Priority T-Junction.



5.36 In the 2014 Transport Assessment (TA), the assessment considered the larger permitted development in the assessment years of 2019 (Application year + five years – Local Highway Authority test) and 2025 (Application year + 10 years – Highways England test).

5.37 The updated note considers the residential development in the assessment years of 2025 (Application year + five years) and 2030 (Application year + 10 years).

- 5.38 Growth factors have been applied to the December 2019 surveys to represent the future year to account for projected economic growth and local development forecasts.
- 5.39 (The growth factors have been derived based on the TEMPro (Version 7.2) database for car drivers in the periods of 2019 – 2025 and 2019 – 2030 for the geographical area of 'Tendring 004', with area type 'All' and road type 'All').
- 5.40 The PICADY computer modelling software module has been used to model the operation of the Stour Close / Site Access Road, Stour Close / Clayton Road and B1352 Ramsay Road / Clayton Road junctions as PICADY is an industry standard software module for modelling the operation of priority T-junctions.
- 5.41 The PICADY9 computer program has been used to assess the operation of the Stour Close / Clayton Road junction and the B1352 Ramsay Road / Clayton Road Junction based on their existing geometries, as well as the Site Access Road / Stour Close junction based on the geometries proposed as part of the 2014 application.
- 5.41 PICADY relates the geometry of the junction combined with traffic flow information to predict capacity. The software provides a number of results in its output, the most meaningful of which is the Ratio of Flow to Capacity (RFC), where an RFC of 1.00 reflects a demand equal to the theoretical capacity of the junction approach.
- 5.42 The operation of the B1352 Ramsay Road / Clayton Road and Stour Close / Clayton Road junctions have been assessed in weekday AM, weekday PM and Saturday midday peaks in the 2019 Surveyed Flows, 2025 Base Flows, 2025 Base + Proposed Development scenarios using the existing junction geometries, measured from Ordnance Survey mapping.
- 5.43 The operation of the Stour Close / Proposed Access Road junction has been assessed in the weekday AM, weekday PM and Saturday midday peaks in the 2025 Base + Proposed Development scenarios using geometries measured from the highways proposals within the 2014 TA.
- 5.44 The 2030 Base and 2030 Base + Proposed Development scenarios have not been tested as none of the above three junctions are / will be under the jurisdiction of Highways England.
- 5.45 All of the models have been run in 'One Hour' mode. The 'One Hour' mode estimates the traffic profile for an hour long period using a bell shaped curve with a 15-minute 'Warm Up' period before and a 15-minute 'Cool Down' period after, the central period. This simulates the effect of a peak within the peak hour.
- 5.46 The software indicates that all three of the assessed junctions will operate within capacity in the future with the proposed development in place of all 297 dwellings.

Impact on Residential Amenity

- 5.47 It is considered that the increase in traffic in relation to 80 new dwellings will create an acceptable increase in traffic, the applicant has successfully demonstrated that there is sufficient capacity on the existing road network to accommodate the extra traffic. ECC Highways have no objection subject to conditions.
- 5.48 A Construction Management Plan is required in order to ensure that all construction traffic is accommodated for parking within the site and that deliveries can be controlled by

management. Also that both air and noise pollution are managed throughout the duration of the development.

5.49 In relation to impact associated with the build out period, the applicant has advised that they expect the 80 dwellings to be completed within a two year period.

5.50 The updated ESA has demonstrated that there are no significant adverse increases associated to environmental impacts from the changes to the residential access route via Stour Close for 80 dwellings.

6. Legal Implications

6.1 This application seeks to vary the outline permission. The legal agreement at that stage will not need to be amended, although a Unilateral Undertaking will be required in order to transfer the obligations to the new planning permission.

7. Conclusion

7.1 The application site comprises of mixed use development which includes 297 residential dwellings. Over the past twelve months there has been a significant change in the market place for retail and business use development due to the pandemic. In order to ensure this important site comes forward it is essential for the access road and roundabout to be funded.

7.2 The applicant seeks an amendment to the consented scheme (14/01431/OUT) in order to bring forward the residential development to fund the infrastructure. The initial application was for all 297 dwellings but following discussions with officers and ECC Highways the applicant has amended the application to 80 dwellings. ECC Highways have no objection subject to conditions.

7.3 The applicant seeks to amend two of the planning conditions in order to change the phasing. Originally, Phase 1 and 2 dealt with the delivery of infrastructure and Phase 3 residential. An inclusion of a sub-phase will allow the delivery of 80 residential dwellings without any further changes to any of the other requirements set out in (14/01431/OUT) and the agreed S106 legal agreement.

7.4 Whilst it must be noted that there will be an increase in traffic on Stour Close the impact is considered to be acceptable with access points working within capacity.

7.5 It is still a requirement of the consent for the bus gate to be installed at the time the new access road and roundabout come into use.

7.6 It is considered that the proposal meets the requirements of both national and local policy and subject to conditions and the signing of a unilateral undertaking 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 Unilateral Undertaking.

8.2 Conditions and Reasons

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

- 13977/0200 Rev A Location Plan
- 0106 Rev G Sub Phase Plan
- CWA_13_168_517 Rev P2 Proposed Cut/Fill Isopachytes (Sheet 1 of 2)
- CWA_13_168_518 Rev P3 Proposed Cut/Fill Isopachytes (Sheet 2 of 2)
- CWA_13_168_515 Rev P3 Proposed Earthworks Contours (Sheet 1 of 2)
- CWA_13_168_516 Rev P3 Proposed Earthworks Contours (Sheet 2 of 2)
- 13977/0301 Rev B Parameters Plan - Detailed for Determination
- 13977/0300 Rev B Planning Application Boundaries
- 13977/0310 Rev C Masterplan - Detailed for Determination
- 13977/0311 Rev B Foodstore Elevations - Detailed for Determination
- 13977/0312 Rev B Retail Elevations - Detailed for Determination
- 13977/0313 Rev A PFS (Petrol Filling Station) Elevations - Detailed for Determination
- C4-13027-011 Proposed Site Access - Highway General Arrangements
- 13977/0305 Rev B Foodstore - Ground Floor Plan
- 13977/0306 Rev B Retail Plan
- 13977/0307 Rev A PFS (Petrol Filling Station) Plan
- 13977/0341 Rev C Proposed Typical Retail Bay Section & Elevation for Determination
- CWA_13_168_511 Rev P2 Proposed Drainage Strategy (Sheet 1 of 2)
- CWA_13_168_512 Rev P3 Proposed Drainage Strategy (Sheet 2 of 2)
- CWA_13_168_513 Rev P2 Proposed Surface Finish Contours (Sheet 1 of 2)
- CWA_13_168_514 Rev P3 Proposed Surface Finish Contours (Sheet 2 of 2)

Reason - For the avoidance of doubt and in the interests of proper planning. To ensure the phases of development are delivered in a complementary manner that ensures the appropriate mix of uses for this key site and to restrict the height of buildings to an acceptable level in the interest of visual impact, given the sensitive topography of this urban fringe site. To ensure the phases of development are delivered in a complementary manner that ensures an appropriate mix and spatial distribution of uses across this key development site, to the maximum benefit of the community.

2. No development shall commence until a Strategic Phasing Plan has been submitted to and approved in writing by the Local Planning Authority. The Strategic Phasing Plan shall include details of the following:

- the number of phases;
- the physical extent of each proposed phase of development and the development proposed within it;
- an indicative timescale for implementation of each phase;
- technical design details and timing of any temporary site access (if applicable) for the construction phases of the development
- highways infrastructure including the roundabout junction from the A120 (T) and internal access ways; estate roads; parking (including cycle parking and two wheeler powered vehicle parking) and servicing areas and communal areas;
- strategic landscaping;
- earthworks and changes in existing ground levels including details of the volumes of any materials that are to be exported from or imported to the site
- pedestrian linkages and connections;
- utilities infrastructure including foul and surface water drainage; and
- the order in which the phases are to be developed/delivered

The development shall be carried out in accordance with the details of the Strategic Phasing Plan as approved.

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

3. Notwithstanding the details submitted with the application, no development shall commence in any phase identified within the approved Strategic Phasing Plan (excluding operations consisting of site clearance; demolition works; archaeological investigations; investigations for the purposes of assessing ground conditions; remedial work in respect of any contamination or other adverse ground conditions; diversion and laying of services; and groundworks) until precise details and samples of the external materials to be used in the construction of the development in that phase and the surfacing materials for any car park and all other public circulation areas in that phase have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason - In order for the Local Planning Authority to retain control over the materials to be used for the proposed development in the interests of visual amenity and to protect and enhance the character and appearance of the area.

4. Notwithstanding the details submitted with the application, no development shall commence in any phase identified within the approved Strategic Phasing Plan (excluding operations consisting of site clearance; demolition works; archaeological investigations; investigations for the purposes of assessing ground conditions; remedial work in respect of any contamination or other adverse ground conditions; diversion and laying of services; and groundworks) 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 phase, which shall include a timetable for implementation and completion; 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 (during the construction phase and thereafter) which shall comply with the recommendations set out in the British Standards Institute publication 'BS 5837: 2012 Trees in relation to design, demolition and construction'.

Reason - To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

5. The approved landscaping details for each phase (referred to in Condition 4) shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development in the phase to which it relates or in such phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of five years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

6. Notwithstanding the details submitted with the application, no development shall commence in any phase of the development identified within the approved Strategic Phasing Plan (excluding

operations consisting of site clearance; demolition works; archaeological investigations; investigations for the purposes of assessing ground conditions; remedial work in respect of any contamination or other adverse ground conditions; diversion and laying of services; and groundworks) until a Landscape Management Plan, including long term design objectives, management responsibilities and maintenance schedules for all landscaping; landscaped areas; Sustainable Urban Drainage features; public open space; amenity space and play areas and equipment has been submitted to and approved in writing by the Local Planning Authority. The Landscape Management Plan shall be carried out as approved in accordance with the details and the timescales in the Plan.

Reason - To ensure the proper planning, management and maintenance of the approved landscaping; landscaped areas; Sustainable Urban Drainage features; public open space; amenity space and play areas and equipment in the interests of amenity; sustainability and the character and appearance of the area. The site is large and currently exposed open countryside. It will form a new edge to the urban area and it is essential that the development includes adequate provision for structural tree planting and for the soft landscaping to mature and create an appropriate landscaped context for the built development, as permitted.

7. Phase 1 of the development hereby approved shall be carried out in accordance with the Biodiversity and Ecological Enhancement and Mitigation Scheme and Management Plan approved under 19/00754/DISCON.

No development shall commence in any other phase identified within the approved Strategic Phasing Plan until a Biodiversity and Ecological Enhancement and Mitigation Scheme and Management Plan for that Phase (incorporating the recommendations and proposals from the submitted Environmental Statement, September 2014) 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 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 and to ensure best practice measures are used on the site and during both the construction and occupation phases of the development to minimise the impact on birds and wildlife and promote biodiversity.

8. Notwithstanding the details submitted with the application, no development shall commence in any phase identified within the approved Strategic Phasing Plan (excluding operations consisting of site clearance; demolition works; archaeological investigations; investigations for the purposes of assessing ground conditions; remedial work in respect of any contamination or other adverse ground conditions; diversion and laying of services; and groundworks) until precise details of the external appearance and design of any click and collect canopies; trolley shelters; cycle shelters and other ancillary items of street furniture in that phase have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason - In order for the Local Planning Authority to retain control over the design of the proposal in the interests of visual amenity and to protect and enhance the character and appearance of the area.

9. No development shall commence in any phase identified within the approved Strategic Phasing Plan (excluding operations consisting of site clearance; demolition works; archaeological investigations; investigations for the purposes of assessing ground conditions; remedial work in respect of any contamination or other adverse ground conditions; diversion and laying of services; and groundworks) until a detailed scheme for the provision and implementation of water, energy and resource efficiency measures for that phase, during the construction and occupational phases of the development is submitted to and agreed in writing by the Local Planning Authority. The scheme shall follow the principles outlined in the submitted Sustainability Statement dated 06/08/14 and 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.

10. Other than Phase 1, which was agreed in writing on 17 October 2019 under discharge of conditions application ref. 19/00754/DISCON, no development or preliminary ground-works shall commence until a programme of archaeological trial trenching and building recording (including that of the World War II Pill Box occupying the site) has been secured and undertaken in accordance with a Written Scheme of Investigation to be submitted to and approved in writing 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/perseveration in situ through re-design of the development, shall be submitted to the Local Planning Authority. No development or preliminary groundwork shall commence on any part of the site identified as containing archaeological deposits, until the satisfactory completion of archaeological fieldwork, as detailed in the approved mitigation strategy. Within six months following the completion of the archaeological fieldwork, a post-excavation assessment shall be submitted to 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 - To ensure the archaeological value of the site is properly assessed and recorded.

11. Other than Phase 1, which was agreed in writing on 17th October 2019 under discharge of conditions application ref. 19/00754/DISCON, no development shall commence in any phase of the development identified within the approved Strategic Phasing Plan until details of a local recruitment strategy for that phase have been submitted to and approved in writing by the Local Planning Authority. The local recruitment strategy shall include details of how the applicants/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 - In order to recruit and procure services locally to help and improve employment and training opportunities for local residents.

12. No phase of development shall commence identified within the approved Strategic Phasing Plan (excluding operations consisting of site clearance; demolition works; archaeological investigations; investigations for the purposes of assessing ground conditions; remedial work in respect of any contamination or other adverse ground conditions; diversion and laying of

services; and groundworks) until a foul water strategy for that phase has been submitted to and approved in writing by the Local Planning Authority. No buildings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved.

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

13. The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment (Environmental Statement 2014) and no phase of development identified within the approved Strategic Phasing Plan shall commence (excluding operations consisting of site clearance; demolition works; archaeological investigations; investigations for the purposes of assessing ground conditions; remedial work in respect of any contamination or other adverse ground conditions; diversion and laying of services; and groundworks) until a surface water drainage scheme for that phase has been submitted to and approved in writing by the Local Planning Authority. The scheme shall:

i) Incorporate the SuDS "Management Train" and ensure all features are designed in accordance with CIRIA (C697) The SuDS Manual, so ecological, water quality and aesthetic benefits can be achieved in addition to the flood risk management benefits. In addition, the maintenance requirements for the SuDS element of the proposed surface water drainage system should be formulated as per the recommendations within the CIRIA SuDS Manual (C697).

ii) Fully investigate the feasibility of infiltration SuDS as a preference and provide evidence to establish if the principles of any infiltration based surface water drainage strategy are achievable on site, based on the ground conditions, such as infiltration or soakaway tests which adhere to BRE365 guidance.

iii) Provide drainage plans and drawings showing the proposed locations and dimensions of all aspects of the proposed surface water management scheme. The submitted plans should demonstrate that the proposed drainage layout will perform as intended based on the topography of the site and the location of the proposed surface water management features. In addition, full design details, including cross sections of any proposed infiltration or attenuation features will be required.

iv) Attenuation storage shall be provided to cater for the 1 in 100 year critical storm plus 30% allowance for climate change and there should be consideration given to long-term storage solutions.

v) Provide calculations to demonstrate that the proposed surface water management scheme has been adequately sized to accommodate the critical duration 1 in 100 year rainfall event including allowances for climate change without causing nuisance or damage. The management strategy should consider both storage and conveyance of surface water.

vi) Provide calculations of the piped network performance in the 1 in 30 year or 1 in 100 year rainfall events, including climate change.

vii) Provide sufficient information to demonstrate that people and property will be kept safe from flooding, with consideration given to exceedance flows and overland flow routing from on and off site sources, in accordance with CIRIA C635.

viii) Ensure that any surface water discharged to the receiving ordinary watercourse/ditch shall be no greater than existing present day Greenfield runoff rates for a range of equivalent return period events up to and including the 1 in 100 year rainfall event with allowances for climate change.

ix) Provide details of the future adoption and maintenance of the proposed surface water scheme for the lifetime of the proposed development.

x) Confirm that the receiving watercourse is in a condition to accept and pass on flows from the discharge proposed.

A scheme for the provision of compensatory storage shall also be submitted to and approved in writing by the Local Planning Authority.

Development shall be carried out in accordance with the surface water strategy and compensatory storage schemes so approved.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason - To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided and to prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site for the lifetime of the development.

14. Notwithstanding the details submitted with the application, the following details (including a date for installation or a timetable for implementation where applicable) shall be submitted for each separate phase of development identified within the approved Strategic Phasing Plan and shall be approved in writing by the Local Planning Authority:

- a. CCTV;
- b. All external lighting, including details of measures to minimise light pollution to adjoining residential properties;
- c. All external plant and machinery;
- d. All boundary treatments (both in the residential; commercial and industrial areas) including the siting, height, design and materials of all boundary walls and fences which face onto public spaces/highways or private drives including engineering and facing material details of all retaining walls;
- e. outside storage of goods, materials or containers shall be stored, stacked or deposited on the site outside the buildings hereby permitted;
- f. A recycling collection point in the retail area and refuse and recycling collection points in the residential and commercial areas; and
- g. A Service Management Plan (specifying delivery times and the means of securing and managing the car parking areas)

The approved details shall be constructed/implemented and adhered to therein after, unless otherwise agreed in writing with the Local Planning Authority.

Reason - In order to prevent crime and create safer, sustainable communities and in order to ensure the location of CCTV protects the privacy of neighbouring residential properties.

15. Other than Phase 1, which was agreed in writing on 17th October 2019 under discharge of conditions application ref. 19/00754/DISCON, no phase of development identified within the approved Strategic Phasing Plan shall commence until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority for that particular phase. The statement shall include:

- 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. the erection and maintenance of security hoardings

- v. wheel washing facilities
- vi. HGV Routing plan
- vii. measures to control the emission of dust and dirt during construction
- viii. noise monitoring
- ix. construction site lighting
- x. a scheme for storing; recycling and disposing of waste resulting from demolition and construction works
- xi. construction work hours

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

Reason - To control the construction phase in order to ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and to protect the amenities of the occupiers of nearby residential properties and the efficient operation of nearby commercial properties.

16. The highways and access arrangements for the site shall be carried out in general conformity with the Proposed Site Access/Highway General Arrangements drawing C4-13027-011 dated August 2014. No phase of development identified within the approved Strategic Phasing Plan shall be occupied before these arrangements, as are relevant to the phase being developed, have been delivered and are fully open to traffic.

Reason - To ensure that the A120 trunk road, will continue to fulfil its purpose as part of the Strategic Road Network in accordance with the Highways Act 1980, Circular 02/2013 'Planning and the Strategic Road Network'.

17. Other than works approved discharge of conditions application ref. 19/00239/DISCON, no phase of development identified within the approved Strategic Phasing Plan shall commence until drawings and documents containing the following design details relating to the proposed A120 Pond Hall Farm roundabout solution shall have been submitted to and approved in writing by the Local Planning Authority:

i) how the roundabout solution interfaces with the existing highway alignment and carriageway markings including land destinations;

ii) full construction details relating to the roundabout solution including any modification to existing structures or proposed structures, with supporting analysis;

iii) full signing and lighting details where applicable;

iv) confirmation of full compliance with Departmental Standards (DMRB) and Policies (or approved relaxations/departures from standards);

v) evidence that the scheme is deliverable within land in the control of either the Highway Authority or the Applicant notwithstanding that this may require a reasonable departure from normal standards; and

vi) an independent stage 2 Road Safety Audit (taking account of any stage 1 Road Safety Audit recommendations) carried out in accordance with Departmental Standards (DMRB) and Advice Notes.

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

Reason - To ensure that the A120 trunk road, will continue to fulfil its purpose as part of the Strategic Road Network in accordance with the Highways Act 1980, Circular 02/2013 'Planning and the Strategic Road Network'.

18. No phase of development identified within the approved Strategic Phasing Plan shall commence (excluding operations consisting of site clearance; demolition works; archaeological investigations; investigations for the purposes of assessing ground conditions; remedial work in respect of any contamination or other adverse ground conditions; diversion and laying of services; and groundworks) until details of the following have been submitted to and approved in writing by the Local Planning Authority:
- a) a bus service or services serving the development
 - b) on site bus stop locations and specification
 - c) new off site and/or improved existing off site bus stops, on site bus turn around and/or layover facilities (temporary and/or permanent)

No development shall be occupied until these requirements, as approved, have been delivered.

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.

19. No phase of the development identified within the approved Strategic Phasing Plan shall be occupied until the following have been provided or completed, relevant to the phase being developed, in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority:
- A. A 4-arm roundabout (with a minimum 3 metre wide shared footway/cycleway between all four arms) on the A120 to provide access to the overall proposal site other than up to 80 residential units in the approved residential phase which can be accessed from Stour Close in accordance with drawing 04-13027-011 Proposed Site Access - Highway General Arrangements Rev A. Once 80 residential units have been constructed and occupied, access to the residential phase will use the approved roundabout on the A120;
 - B. A 4-arm roundabout (with a minimum 3 metre wide shared footway/cycleway between all four arms) on the proposed link road to provide access to part of the non-residential element of the proposal;
 - C. A dual carriageway (with a minimum 3 metre wide shared footway/cycleway on both sides) between the two roundabouts mentioned above;
 - D. A left in/ left out priority off the dual carriageway mentioned above to provide access to the hotel. Junction shall include a minimum 2.4x70 metre visibility splay to the right for exiting vehicles;
 - E. A link road between the roundabout mentioned under item B) above and Stour Close. Link road shall have a minimum 6.75 metre wide carriageway and two minimum 3 metre wide shared footway/cycleways;
 - F. A priority junction off the link road mentioned above to provide access to the residential dwellings. Junctions shall include a minimum 70 x 2.4 x 70 metre visibility splay;

- G. Two priority junctions off the link road mentioned above to provide access to the residential dwellings. Junctions shall include a minimum 70 x 2.4 x 70 metre visibility splay;
- H. A bus gate;
- I. Reconfiguration of Stour Close to provide a priority junction off the link road mentioned above. Junction shall include a minimum 70 x 2.4 x 70 metre visibility splay;
- J. For the non-residential phases of the development, a travel plan to include but shall not be limited to provision of a Travel Plan Co-ordinator;

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 transport, cycling and walking.

- 20. No occupation of any part of the phases of the development identified within the approved Strategic Phasing Plan development shall occur, until such time as the service yard and car parking areas related to that phase indicated on the approved plans, including any spaces for the mobility impaired have been hard surfaced, sealed and marked out in parking bays. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development.

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

- 21. The development hereby permitted within the full application area of the approved planning application boundaries Plan (reference 13977/0300 Rev B) 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.

- 22. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 (or any order revoking or re-enacting those Orders with or without modification), the foodstore and retail units (shown on drawing 13977/306 Rev B) hereby permitted shall be used for Class A1 (Retail) purposes only.

Reason - In order for the Local Planning Authority to retain control over the uses on the site because the retail impact of the development on the town centres of Dovercourt and Harwich has been made on the basis of the information submitted for the scale and nature of the development hereby permitted.

- 23. Notwithstanding the provisions of Article 3, Schedule 2, Part 8 or Part 42 Class A, B or C of the Town and Country Planning (General Permitted Development) Order 1995, as amended, (or in any order revoking or re-enacting that order with or without modification) there shall be no extension to the hereby permitted foodstore and retail units (shown on drawing 13977/306 Rev B) and the A1 retail floor space in the hereby permitted development shall not exceed the following:

- (i) The foodstore shall be limited to 6,422 square metres gross internal area and 4,078 square metres net sales floorspace of which no more than 1,223 square metres shall be used for the sale of comparison goods; and

(ii) The retail units shall be limited to 6,352 square metres gross internal area and 5,399 square metres net sales floorspace of comparison goods floorspace, of which no unit shall be less than 1,000 square metres.

There shall be no subdivision of the gross internal floor areas or net sales floor areas or the creation of any mezzanine floors in addition to those permitted as part of this application.

Reason - In order for the Local Planning Authority to retain control over the uses on the site because the retail impact of the development on the town centres of Dovercourt and Harwich has been made on the basis of the information submitted for the scale and nature of the development hereby permitted.

24. No A1 retail floor space hereby approved shall be occupied by any retailer that, at the date of the grant of this planning permission, or within a period of 6 (six) months immediately prior to the occupation of a phase of development that includes retail, occupies retail floor space within Dovercourt or Harwich town centre.

Reason - To minimise harmful direct competition with Dovercourt and Harwich town centre in the interest promoting their continued vitality and viability and to ensure the retail offer is different to, and does not detract from, that of Dovercourt and Harwich town centre, in the interest of promoting their continued vitality and viability.

25. For at least the first 6 (six) months following first occupation, a minimum of two of the Class A1 non food units hereby permitted shall use at least 50% of the net sales area for the sale and display of clothing and footwear and ancillary items in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details so approved.

Reason - To promote a diverse retail offer in the Harwich area and minimise unnecessary direct competition with Dovercourt and Harwich town centre in the interest promoting its continued vitality and viability.

26. No development hereby permitted shall commence within the outline application area of the approved planning application boundaries Plan (reference 13977/0300 Rev B) until plans and particulars of "the reserved matters" relating to appearance, landscaping, layout and scale have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

27. Application for approval of the reserved matters (listed above) within the outline application area of the approved planning application boundaries Plan (reference 13977/0300 Rev B) shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

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

28. The development hereby permitted within the outline application area of the approved planning application boundaries Plan (reference 13977/0300 Rev B) shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

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

29. The maximum number of dwellings to be contained in the residential phase of the development shall be 297 and dwellings shall be erected only within the residential area indicated on the parameters plan 13977/0301 Rev. B.

Reason - To ensure that the functional needs of the development are met within the application site.

30. The A3, A4 and A5 Use Class floor space in the hereby permitted development shall not exceed the following:

- (i) 2,138 square metres gross internal area Class A3 restaurants and Café;
- (ii) 651 square metres gross internal area Class A4 public House ; and
- (iii) 651 square metres gross internal area Class A5 drive thru restaurants.

Reason - In order for the Local Planning Authority to retain control over the town centre uses on the site because the impact of the development on the town centres of Dovercourt and Harwich has been made on the basis of the information submitted for the scale and nature of the development hereby permitted.

31. Notwithstanding the provisions of the Town and Country Planning (Use Class) Order 1987, as amended by the Town and Country Planning (Use Class) (Amendment) (England) Order 2005 (or any order revoking or re-enacting those Orders with or without modification), the permitted C1 floorspace shall be used as a hotel and for no other purpose in Class C1 and the gross internal area shall not exceed 2,463 square metres.

Reason - The hotel use has been assessed to be acceptable because it has been shown that the impact on car parking, Dovercourt and Harwich town centres and the interests of sustainability will be within acceptable bounds. Other uses within Class C1 would need to be assessed on their own merits in relation to these criteria to ensure that Dovercourt and Harwich town centres and the interests of sustainability are not harmed.

32. Notwithstanding the provisions of the Town and Country Planning (Use Class) Order 1987, as amended by the Town and Country Planning (Use Class) (Amendment) (England) Order 2005 (or any order revoking or re-enacting those Orders with or without modification), the permitted D2 floorspace shall be used as a cinema and for no other purpose in Class D2 and the gross internal area shall not exceed 2,509 square metres.

Reason - The cinema use has been assessed to be acceptable because it has been shown that the impact on car parking, Dovercourt and Harwich town centres and the interests of sustainability will be within acceptable bounds. Other uses within Class D2 would need to be assessed on their own merits in relation to these criteria to ensure that Dovercourt and Harwich town centres and the interests of sustainability are not harmed.

33. At least 10% of the gross residential site area shown on the approved parameters plan 13977/0301 Rev. B shall be laid out for use as play space and other amenity open space in accordance with a scheme submitted to and approved, in writing, by the Local Planning Authority before any development within the residential site area commences and such spaces shall subsequently be provided as specified in the scheme so approved and made available for use within 12 months of the occupation of any dwelling within that phase of development and thereafter retained for public use.

Reason - To ensure a satisfactory development in terms of public play space and open space in the interests of local amenity.

34. The amount and type of business floor space within the development hereby permitted shall be a maximum of 26,678 square metres floor space in Class B1 , B2 and B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended) and shall be erected only within the employment areas as specified in the approved Strategic Phasing Plan.

Reason - To ensure that the functional needs of the development are met within the application site.

35. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended or the Town and Country Planning (use Classes) Order 1987 as amended (or any Orders revoking and re-enacting those Orders with or without modification) no more than 2,607 square metres gross internal area of the floor space hereby approved shall be used as an office (whether in whole or in part) except as ancillary to the principal use of that building hereby approved.

Reason - In order to ensure that the development is sustainable for its lifetime in accordance with the National Planning Policy Framework and because Class B1 office uses are defined as 'town centre uses' by the National Planning Policy Framework (March 2012) and the accompanying National Planning Policy Guidance: Ensuring the Vitality Viability of Town Centres (March 2014).

9. **Informatives**

Positive and Proactive Statement

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

Informatives

Informative: This decision is also subject to a planning obligation under section 106 of the Town and Country Planning Act 1990 the purpose of which is to exercise controls to secure the proper planning of the area and to ensure that the development is sustainable for the lifetime. The planning obligation runs with the land and not with any person or company having an interest therein.

Informative: The applicant's attention is drawn to the advisory comments of Essex County Council Highway Authority in its letter of 22nd January 2015.

Informative: The applicant's attention is drawn to the advisory comments of Essex County Council Archaeological Officer dated 20th December 2014.

Informative: The applicant's attention is drawn to the advisory comments of Essex County Council Lead Flood Authority in its letter of 4th November 2014.

Informative: The applicant's attention is drawn to the advisory comments of the Highways Agency (now Highways England) in its letter of 25th November 2014.

Informative: The applicant's attention is drawn to the advisory comments of the Environment Agency in its letter of 30th December 2014.

10. **Additional Considerations**

Public Sector Equality Duty (PSED)

- 10.1 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:
- 10.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 10.3 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
- 10.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 10.5 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.
- 10.6 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.
- 10.7 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

- 10.8 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.
- 10.9 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).
- 10.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 10.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 10.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by

Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

11. Background Papers

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

PLANNING COMMITTEE

17th JANUARY 2021

REPORT OF MONITORING OFFICER

A.4 THE PLANNING COMMITTEE'S PUBLIC SPEAKING SCHEME

PURPOSE OF THE REPORT:

For the Planning Committee to consider recommending amendments to Full Council to re-arrange the order of speakers in the Public Speaking Scheme to ensure that the Ward Councillor spoke last on a planning application prior to the Planning Committee's determination.

1. EXECUTIVE SUMMARY

At its meeting in December 2020, the Portfolio Holder for Corporate Finance and Governance Constitution Review Working Party (CRWP) discussed the order of speakers within the Public Speaking Scheme for the Planning Committee and whether it should be changed, for example, in order to allow the relevant Ward Member(s) to speak last (rather than the applicant/agent as at the present time).

Council Procedure Rule (CPR) 40 (which relates to the public speaking schemes operated by the Planning Committee and the Planning Policy & Local Plan Committee) currently states (following an amendment in July 2020):-

"The schemes shall be in such a form as the Full Council determines having considered a recommendation from the relevant Committee."

Any amendment to Public Speaking Scheme proposed by the CRWP must be submitted to the Planning Committee for its endorsement. The Scheme, as then approved by the Planning Committee, would then have to be submitted to Full Council for its formal adoption.

Members of the CRWP consulted with their respective political groups to canvass opinions on the principle of whether the order of speakers should be rearranged, so that the Ward Councillor speaks last rather than the Applicant/Developer. The outcome of such consultation, was that the majority of members felt the Scheme should be amended to allow the Ward Councillor to speak last during the public speaking part of the Planning Committee meeting.

RECOMMENDATION:

That the Planning Committee:

- (a) considers amending its Public Speaking Scheme and re-arrange the order of speakers to ensure that the Ward Councillor spoke last on a**

planning application at a Planning Committee; and

(b) RECOMMENDS TO COUNCIL that the Planning Committee's Public Speaking Scheme is amended so that the Ward Councillor speaks last in the order of speakers.

2. BACKGROUND

The Constitution is reviewed annually by the Monitoring Officer and if changes are required, the Constitution Review Portfolio Holder Working Party (CRWP) is established. In March 2020, the outcome of the review conducted in early 2020 was contained within a published Report to Cabinet, although the meeting was cancelled due to COVID-19.

Part of the 2020 review related to the Planning Committee's Public Speaking Scheme and it was recommended that, going forward, the content of these Schemes will be determined by the Full Council rather than by the Monitoring Officer (in consultation with the Head of Planning and the relevant Committee Chairman).

The Leader of the Council's decision, on behalf of the Cabinet, taken on 24 April 2020 was that Cabinet recommended to Council the proposed changes to Rule 40 of Council Procedure Rules as set out in the Report (Appendix N). In addition, the Monitoring Officer be requested to undertake a review of the Public Speaking Scheme for the Planning Committee in accordance with Council Procedure Rule 40, as amended.

At its meeting on 21st July 2020, Full Council resolved that the Monitoring Officer be requested to undertake a review of the Public Speaking Scheme for the Planning Committee, in accordance with Council Procedure Rule 40, as now amended.

3. REPRESENTATIONS

Constitution Review Working Party Notes of meeting on 22nd January 2021:

Further to its discussions at its meeting held on 18 December 2020 (Note 2 referred), the Working Party discussed the feedback from Members' respective political groups on the principle of whether the order of speakers should be rearranged so that the Ward Councillor spoke last on a planning application at a Planning Committee meeting rather than the Applicant/Developer, who was currently listed last under that Committee's public speaking scheme.

*The Working Party **AGREED** that –*

(a) the Planning Committee be requested to consider amending its Public Speaking Scheme and re-arrange the order of speakers to ensure that the Ward Councillor spoke last on a planning application at a Planning Committee meeting rather than the Applicant/Developer, who was currently listed last under that Committee's public speaking scheme; and

(b) examples of the practice used at other local authorities be provided to the Planning Committee in order to assist it in its deliberations.

4. POLICY & GUIDANCE

There are no statutory requirements regarding the content of Planning Committee Public Speaking Schemes, and the Council can adopt its own local protocols so long as it is fair and observes natural justice.

In 2015, the Council adopted the Members' Planning Code/Protocol which was subsequently reviewed in 2018. The Council's Protocol is based on the Model Council Members' Planning Code or Protocol produced by the national body "*Lawyers in Local Government (LLG)*". The Model Code was produced in accordance with the changes to the ethical framework in 2012 and guidance issued by the then DCLG.

In December 2019, the Local Government Association issued its Probity in Planning Guidance – Advice for Councillors and Officers making planning decisions, which is included as Appendix A.

The LGA Guidance refers to Public Speaking at Planning Committees in Section 10 on page 18 and states:

"Whether to allow public speaking at a Planning Committee or not is up to each local authority. Most local planning authorities do allow it and some authorities film and broadcast committee meetings..."

Where public speaking is allowed, clear protocols should be established about who is allowed to speak, including provisions for applicants, supporters, ward councillors, parish councillors and third party objectors".

The Standards Committee at its meeting on 3rd February 2021, noted the outcome of a review undertaken following the 2019 publication and agreed no changes were required to the Council's adopted Members' Planning Protocol as a result of the LGA's Guidance. The Council's Planning Protocol is integrated within the Constitution at Part 6 and contains a small section on public speaking at meetings, which is as follows:

8. Public Speaking at Meetings

- **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking or through the Chairman, as this may give the appearance of bias.
- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

The Council's procedures in respect of public speaking are set out in the current adopted Scheme, which is attached as Appendix B. The purpose of this Report is consider the order of speakers, which is as follows:

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

- 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;
- 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;
- 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;
- 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;

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;

- 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
- 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.

5. EXAMPLES OF PRACTICE ELSEWHERE

Planning Committee Public Speaking Schemes were located for 6 other local authorities in Essex and Suffolk and the outcome of the research undertaken revealed:

- no order for speakers/or the order was unclear 5
- councillors expressly stated as speaking last 1
- no mention of ward councillors 1

- numbers of speakers limited 5
- numbers of speakers unlimited 1

The research concluded in most cases local authorities do refer to the same category of speakers as Tendring, but the order is not specified, and in one instance the order specified councillors (who were not part of the committee) to speak last.

6. **PROPOSAL**

Following a referral from the Constitution Review Working Group the Planning Committee consider amending its Public Speaking Scheme and re-arrange the order of speakers to ensure that the Ward Councillor spoke last on a planning application at a Planning Committee meeting rather than the Applicant/Developer, who was currently listed last under that Committee's public speaking scheme.

7. **ADDITIONAL CONSIDERATIONS**

Public Sector Equality Duty (PSED)

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.

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.

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.

Human Rights

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.

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).

It is not considered that the recommendation to reorder the Public Speaking Scheme interferes with the applicants' or their agents' rights, protections and freedoms so long as the Public Speaking Scheme is applied equally and fairly, in that it offers opportunities for representations to be made by those impacted upon by the decision, either in the positive or negative.

8. BACKGROUND PAPERS

Planning Committee Public Speaking Schemes for Babergh District Council, Basildon Borough Council, Colchester Borough Council, East Suffolk Council, Ipswich Borough Council and Rochford District Council.

9. APPENDICES

APPENDIX A: Local Government Association Probity in Planning Guidance – Advice for Councillors and Officers making planning decisions

APPENDIX B – Tendring District Council's Public Speaking Scheme.

Probity in planning

Advice for councillors
and officers making
planning decisions

This advice was first published in 1992. This version has been prepared by CITIESMODE Planning. It updates and expands the April 2013 document prepared by Trevor Roberts Associates for the Planning Advisory Service.

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1. Introduction

Background

Probity in planning is about ensuring that decisions on plan making and planning applications are undertaken, on behalf of communities, in a fair, impartial and transparent way. This guide has been written for officers and councillors involved in making planning decisions in their local authority. It is informed by contributions from councillors and officers and includes:

- a brief overview of the planning system and the role of decision makers
- councillor and officer conduct
- registration and disclosure of interests
- predisposition, predetermination or bias
- lobbying of and by councillors
- discussions before a decision is taken
- officer reports
- public speaking at planning committees
- decisions which differ from an officer's recommendation
- committee site visits
- reviewing past planning decisions and the outcomes
- complaints and record keeping.

Councillors and officers should be familiar with, and adhere to, their own local authority codes of conduct and guidance. This advice is not intended to be prescriptive. Local circumstances may necessitate local variations of policy and practice. Every council should regularly review the way in which it conducts its planning business.

The Local Government Association (LGA) endorses the good practice of many councils who ensure their councillors receive training on planning when first appointed to the planning committee or local plan steering group. It is recommended that councillors receive regular ongoing training on probity in decision making and the local code of conduct as well as on planning matters. The Planning Advisory Service (PAS) can provide training to councillors.¹

“To new committee members... Get as much training as you can, and not just the standard ‘in house’ two hour session with your own planning officers – but also from other bodies like PAS, Urban Design London² and the Royal Town Planning Institute (RTPI), and look at how colleagues in other authorities do things.”

Councillor Sue Vincent, Camden

This guide does not constitute legal advice. Councillors and officers will need to obtain their own legal advice on any matters of a legal nature concerning matters of probity. Where there are any doubts or queries, advice should always be sought from the council's monitoring officer.

¹ contact_pas@local.gov.uk

² www.urbandesignlondon.com/library/sourcebooks/councillors-companion-design-planning-2018

2. The planning system and the role of decision makers

The National Planning Policy Framework 2019 (NPPF)³ states that the purpose of the ‘planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.’ Planning has a positive and proactive role to play at the heart of local government and local communities. It can:

- help councils stimulate growth and translate goals into action
- balance social, economic and environmental needs to achieve sustainable development
- deliver important public benefits such as new housing, infrastructure and local employment opportunities.

“Everything starts with planning! The way our neighbourhoods develop to meet the challenges of a growing population is determined by the placemaking that is done through the planning policy process, which in turn informs the development management process. It is important for the planning committee members to give careful consideration to the impact that all applications will have on an area, as they will (hopefully) be in place for many

³ www.gov.uk/government/publications/national-planning-policy-framework--2

years to come.”

Councillor Adele Morris, Southwark

Planning law requires that applications for planning permission be determined in accordance with the development plan (the ‘local plan’ document(s) and if relevant spatial development strategy), unless ‘material considerations’ indicate otherwise. National planning practice guidance⁴ (NPPG) explains that a material planning consideration is one which is relevant to making a planning decision to grant or refuse an application for planning permission. It states that the ‘scope of what can constitute a material consideration is very wide and so the courts often do not indicate what cannot be a material consideration.’⁵ However, in general they have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of private rights to light could not be material considerations.’

Local planning authorities are tasked with both preparing the development plan that applications will be assessed against and making planning decisions. In England the NPPF must be taken into account in preparing the development plan and is a material consideration in planning decisions. Planning policies and decisions must also reflect other relevant international obligations and statutory requirements. Local planning decisions are made in this wider national and international context.

⁴ www.gov.uk/government/collections/planning-practice-guidance

⁵ However, for a recent judicial interrogation of material consideration, see the recent case of *R (Wright) v Resilient Energy Severndale Ltd and Forest of Dean District Council* [2019] UKSC 53

The determination of a planning application is a formal administrative process involving:

- the application of national and local planning policies
- reference to legislation, case law and rules of procedure
- rights of appeal and an expectation that local planning authority will act transparently, reasonably and fairly.

Planning decisions are based on balancing competing interests and making an informed judgement against a local and national policy framework in the wider public interest. Planning affects people's lives and land and property interests, particularly the financial value of landholdings, and the quality of their settings. Opposing views are often strongly held by those involved. Whilst councillors must take account of these views, they should not favour any person, company, group or locality, or appear to be doing so. Decisions need to be taken in the wider public interest on what can be controversial proposals.

Because planning decisions can be controversial, it is particularly important that the process is open and transparent. The risk of controversy and conflict is heightened by a system which invites public opinion before taking decisions. The legal and procedural nature of the planning system means there is a risk of complaints to the Ombudsman for maladministration or a breach of the authority's code. There may also be a legal challenge, in the form of a judicial review in which a judge reviews the lawfulness of a decision or action made by a public body.

Councillors and officers have different but complementary roles within this system, and effective communication and a positive working relationship between officers and councillors is essential to delivering a good planning service.

Officers prepare the development plan (the local plan document or documents) which must conform to the policies set out in the NPPF and be adopted by a meeting of the full council. Applications for planning permission submitted to the local planning authority are assessed by planning officers who will, based on the development plan and any material planning considerations, make recommendations to planning committees who then resolve to grant or refuse the application. Councillors can be involved in decisions on planning enforcement action or compulsory purchase orders.

Most councils also delegate powers to senior officers to determine a large proportion of planning applications – the advice in this document and the council's code of conduct as it relates to planning decisions will apply to these officers too. The applications that go to committee, or are determined by an officer, will be set out in the local authority's scheme of delegation. Effective delegation can help ensure that decisions on planning applications that raise no significant planning issues are made quickly, and that resources are appropriately concentrated on the applications of greatest significance to the local area. These will typically be larger or more complex applications and potentially controversial – and are defined locally through authority schemes of delegation.

Therefore, whilst councillors are ultimately responsible for decision making in local planning authorities, officers who have delegated authority to make decisions need to be aware of the issues covered in this document – and the advice and principles discussed apply to them too.

3. Councillor and officer conduct

The seven principles of public life apply to anyone who works as a public office-holder. This includes people who are elected or appointed to public office, both nationally and locally, and as such applies to councillors and officers. The overarching principles were first set out by Lord Nolan in 1995 in the Government's First Report on Standards in Public Life. They were reasserted and refined in subsequent reports of the Committee on Standards in Public Life, most recently the Local Government Ethical Standards Report published in 2019.⁶ These principles are:

- **Selflessness:** holders of public office should act solely in terms of the public interest.
- **Integrity:** holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
- **Objectivity:** holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
- **Accountability:** holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
- **Openness:** holders of public office should act and take decisions in an open and transparent manner. Information should not

be withheld from the public unless there are clear and lawful reasons for so doing.

- **Honesty:** holders of public office should be truthful.
- **Leadership:** holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Section 27 of the Localism Act 2011 (as amended)⁷ requires local planning authorities to promote and maintain high standards of conduct and adopt a local code of conduct, which should reflect these principles. It must cover:

- the registration of pecuniary interests (explained in Section 4)
- the role of an 'independent person' to investigate alleged breaches
- sanctions, to be imposed on any councillors who breach the code.

Parish and town councils are covered by the requirements to have a code of conduct and to register interests. They can choose to 'opt in' to the code of conduct adopted by their principal authority (the local district or unitary council).

The Local Government Ethical Standards Report published in 2019 suggests that many codes of conduct fail to adequately address important areas of behaviour, such as social media use and bullying and harassment.

⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/777315/6.4896_CO_CSPL_Command_Paper_on_Local_Government_Standards_v4_WEB.PDF

⁷ www.gov.uk/government/collections/planning-practice-guidance

It includes a number of recommendations for codes of conduct – some of which will require changes to primary or secondary legislation. It also includes a series of best practice recommendations, which they recommend are addressed in codes.

Many local planning authorities have also adopted their own codes relating specifically to planning, which should be read alongside the substantive code of conduct for the council. In addition to these codes, a council's standing orders also set down rules which govern the conduct of council business.

Officers who are chartered town planners are subject to the Royal Town Planning Institute (RTPI) Code of Professional Conduct,⁸ breaches of which may be subject to disciplinary action by the Institute. The RTPI provides advice for planning professionals on matters of probity aimed at supporting planners in exercising their independent professional judgement, and promoting public confidence in the planning system.

Officers and serving councillors must not act as agents for people pursuing planning matters within their authority, even if they are not involved in the decision making on them.

In addition, officers must always act impartially and in a politically neutral manner. The Local Government and Housing Act 1989 (as amended)⁹ enables restrictions to be set on the outside activities of senior officers, such as membership of political parties and serving on another council. Councils should carefully consider which of their officers are subject to such restrictions and review this regularly.

Care needs to be taken in the use of social media, such as Twitter, Facebook or Instagram, by officers and councillors, where it relates to decision making functions (see Section 5 on predetermination and bias). The Local Government Ethical Standards Report 2019 also addresses issues related to social media use.

8 www.rtpi.org.uk/media/1736907/rtpi_code_of_professional_conduct_-_feb_2016.pdf

9 www.legislation.gov.uk/ukpga/1989/42/contents

4. Registration and disclosure of interests

Pecuniary interests

Decision makers must make known any pecuniary interests – that is any business or wider financial interests – and other personal interests their code requires them to disclose.

Councillors must provide the monitoring officer with written details of relevant interests within 28 days of their election or appointment to office. Any changes to those interests must also be registered with the monitoring officer within 28 days of the councillor becoming aware of them.

Each council's code of conduct should establish what interests need to be disclosed. The council's monitoring officer should maintain a register of these disclosable interests, which should be made available to the public. Councillors should also disclose any interest orally at a committee meeting if it relates to an item under discussion.

Chapter 7 of the Localism Act 2011 (as amended)¹⁰ places explicit requirements on councillors to register and disclose their pecuniary interests. The definitions of disclosable pecuniary interests are set out in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.¹¹ It is a criminal offence to:

- Fail to register a disclosable pecuniary interest within 28 days of election or co-option
- Give false or misleading information on registration
- Participate in discussion or vote in a meeting on a matter in which a councillor or co-opted member has a disclosable pecuniary interest.

¹⁰ www.legislation.gov.uk/all?title=Localism%20Act

¹¹ www.legislation.gov.uk/uksi/2012/1464/made

Personal Interests

The Localism Act also includes the need to register and disclose personal interests with other councillors, officers, and the public.

A councillor with a disclosable pecuniary interest relating to an item under discussion must withdraw from the committee (or other decision forum) and not participate in discussions and debate, nor vote. This applies to all planning decisions and not just on individual planning applications. For example, a development plan document might cover sites or property where a councillor has an interest in the land. Officers involved in making recommendations and decisions should adopt the same approach, and seek advice from the authority's monitoring officer.

If a councillor has a non-pecuniary personal interest, including being a member of an outside body, they should disclose that interest, but then may still speak and vote on that particular item. However, the Local Government Ethical Standards Report (2019) highlights the potential for conflicts and potential need to withdraw from committee in relation to non-pecuniary interests as well.

Dispensation and handling relevant interests

In certain circumstances, a dispensation can be sought from the appropriate body or officer to take part in that particular item of business. A dispensation may be granted for any reason, but the Act specifies a number of scenarios where this might apply.

This includes the number of councillors having an interest being so great that the meeting cannot proceed, with the political balance of the meeting being substantially affected.

It is always best to identify a potential interest in a planning decision early on and raise this with the monitoring officer as soon as possible. Advice should always be sought from the council's monitoring officer. Ultimately, responsibility for fulfilling the requirements rests with each councillor.

Appendix 1 on page 25 includes a flowchart of how councillors' interests should be handled. For comprehensive guidance on interests, see Openness and transparency on personal interests: guidance for councillors, Department for Communities and Local Government, March 2013.¹²

The provisions of the Localism Act 2011 (as amended) seek to separate interests arising from the personal and private interests of the councillor from those arising from the councillor's wider public life. Councillors should think about how a reasonable member of the public, with full knowledge of all the relevant facts, would view the matter when considering whether the councillor's involvement would be appropriate or not.

¹² www.gov.uk/government/publications/openness-and-transparency-on-personal-interests-guidance-for-councillors

5. Predisposition, predetermination or bias

Predetermination

Members of a planning committee, local plan steering group or full council (when the local plan is being considered) need to avoid any appearance of bias or having 'predetermined' views when making a decision on a planning application or policy.

Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is indicative of a 'closed mind' approach and may leave the grant of planning permission vulnerable to challenge by Judicial Review.

Predisposition

Predisposition is where a councillor may have a pre-existing opinion or attitude about the matter under discussion, but remains open to listening to all the arguments and changing their mind in light of the information presented at the meeting. Section 25 of the Localism Act 2011 (as amended) clarifies that a councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicates what view they might take in relation to any particular matter.

A councillor in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the councillor was biased. For example, a councillor who says or 'tweets' from their Twitter account: 'Wind farms are blots on the landscape and I will oppose each and every wind farm application that comes before the committee' will be perceived very differently from a councillor who states: 'Many people

find wind farms ugly and noisy and I will need a lot of persuading that any more wind farms should be allowed in our area'.

Impartiality and avoiding bias

Planning issues must be assessed fairly and on their planning merits, even when there is a predisposition in favour of one side of the argument or the other. Avoiding predetermination and the impression of it is essential. The decision making process must be seen to be fair and impartial from the perspective of an external observer.

If a decision maker has predetermined their position, they should withdraw from being a member of the decision making body for that matter. This applies to any member of the planning committee who wants to speak for or against a proposal as a campaigner (for example on a proposal within their ward).

Local planning authorities will usually have a cabinet or executive member responsible for development and planning (sometimes known as the portfolio holder). PAS advise that the leader and portfolio holder of a local authority, who play an important role driving planning policies and proposals, should normally exclude themselves from decision making committees. This is to avoid the perception of a conflict of interests and predisposition.

In smaller councils it may be necessary for a portfolio holder to be on a planning committee. PAS suggest that in these situations they will need to be extremely careful and will need to withdraw when the committee is considering the council's own schemes or other applications that they have been seen to support previously.

6. Development proposals

Planning applications or proposals for changes to a local plan submitted by serving and former councillors, officers and their close associates and relatives can easily give rise to suspicions of impropriety. Such proposals must be handled in a way that gives no grounds for accusations of favouritism. Any local guidance should address the following points in relation to proposals submitted by councillors and planning officers:

- if they submit their own proposal to their authority they should play no part in its consideration
- a system should be devised to identify and manage such proposals and ensure probity in decision making
- the council's monitoring officer should be informed of such proposals.

A councillor would undoubtedly have a disclosable pecuniary interest in their own application and should not participate in its consideration. They have the same rights as any applicant in seeking to explain their proposal to an officer, but the councillor, as an applicant, should also not seek to improperly influence the decision.

Proposals for a council's own development should be treated with the same transparency and impartiality as those of private developers.

7. Lobbying of and by councillors

Reporting on local concerns

Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their ward member or to a member of the planning committee.

As the Nolan Committee's 1997 report¹³ states: 'It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the councillors themselves'.

Lobbying, however, can lead to the impartiality and integrity of a councillor being called into question, and so care and common sense must be exercised by all parties involved.

Expressing opinions

As noted earlier in this guidance note, the common law permits predisposition. However it remains good practice that, when being lobbied, councillors (members of the planning committee in particular) should try to take care expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have considered all the application materials and arguments for and against the development proposal.

In such situations, a councillor could restrict themselves to giving advice about the process and what can and can't be taken into account. Councillors can raise issues which have been raised by their constituents with officers. If councillors do express an opinion to objectors or supporters, it is good practice that they make it clear that they will only be in a position to take a final decision after they have heard all the relevant arguments, and have taken into account all relevant material and planning considerations at committee.

Conduct at committee

If any councillor, whether or not a committee member, speaks on behalf of a lobby group at the decision making committee, they would be well advised to withdraw from the meeting once any public or ward member speaking opportunities have been completed. This is to counter any suggestion that members of the committee may have been influenced by their continuing presence. This should be set out in the authority's code of conduct for planning matters.

It is very difficult to convey every nuance of these situations and get the balance right between the duty to be an active local representative, and the need to take account of all arguments in an open-minded way. It cannot be stressed too strongly, however, that the striking of this balance is, ultimately, the responsibility of the individual councillor. Again, where there are concerns, advice should immediately be sought from the local authority's Monitoring Officer.

¹³ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/336864/3rdInquiryReport.pdf

Local codes

A local code on planning should also address the following more specific issues about lobbying:

- planning decisions cannot be made on a party political basis in response to lobbying - the use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration
- planning committee or local plan steering group members should in general avoid organising support for or against a planning application, and avoid lobbying other councillors
- councillors should not put pressure on officers for a particular recommendation or decision, and should not do anything which compromises, or is likely to compromise, the officers' impartiality or professional integrity.

Call-in procedures, whereby councillors can require a proposal that would normally be determined under the delegated authority to be called in for determination by the planning committee, should require the reasons for call-in to be recorded in writing and to refer solely to matters of material planning concern. As previously outlined, councillors must always be mindful of their responsibilities and duties under their local codes of conduct. These responsibilities and duties apply equally to matters of lobbying as they do to the other issues of probity explored elsewhere in this guidance.

Gifts and hospitality

Councillors and officers should be cautious about accepting gifts and hospitality in general and especially where offered by lobbyists. It is not enough to register such gifts. Any councillor or officer receiving offers over an agreed value should let the council's monitoring officer know, in writing, and seek advice as to whether they should be accepted or declined. Councillors and officers involved in planning decisions should not accept over-frequent or over-generous hospitality, especially where from the same organisation. They should always ensure that acceptance of such hospitality does not constitute a conflict of interest. Guidance on these issues should be included in the local code of conduct, and the Local Government Ethical Standards Report suggests adherence to consideration be given to the purpose of the hospitality, proportionality and the avoidance of any conflict of interest.

8. Discussions before a decision is taken

Early engagement and pre-application discussions

Early councillor engagement is encouraged to ensure that proposals for sustainable development will lead to settlements that communities need. This guidance is intended to reinforce councillors' community engagement role whilst maintaining good standards of probity to minimise the risk of legal challenges. It is also important to encourage good decision-making that is transparent and upholds public confidence in the planning system. Ultimately, the public are a critical part of the planning process and the role of councillors provides democratic legitimacy for decisions.

Pre-application discussions between a potential applicant and a council can benefit both parties and are encouraged. However, it would be easy for such discussions to become, or be seen by objectors to become, part of a lobbying process on the part of the applicant.

Avoiding predetermination

Some councils have been concerned about probity issues raised by involving councillors in pre-application discussions, worried that councillors would be accused of predetermination when the subsequent application came in for consideration. The Localism Act 2011 (as amended) acknowledges that councillors have an important role to play in pre-application discussions, bringing their local knowledge and expertise along with an understanding of community views.

There is a difference between being predisposed to the planning policies set out in the NPPF or adopted development plan principles such as delivering housing, sustainable transport or good design and expressing views on this – and being predetermined in relation to a specific case.

Some local planning authorities have, or encourage, public planning forums to explore major pre-application proposals, with the developer outlining their ideas and inviting speakers to represent differing interests and consultees. As well as being transparent, these forums allow councillors and consultees to seek information and identify important issues for the proposal to address, although such discussions still need to avoid pre-determination.

Councillor involvement can help identify issues early on, help councillors lead on community issues, and help to make sure that issues don't come to light for the first time at committee. PAS recommends a 'no shocks' at committee approach.

Meetings and discussions before a decision

The Localism Act, particularly Section 25, which establishes prior indications of view of a matter not to amount to predetermination, has given councillors much more freedom to engage in pre-application discussions. Nevertheless, in order to avoid the perception that councillors might have fettered their discretion, such discussions should take place within clear, published guidelines.

Discussions before a decision is taken should ensure:

- Clarity at the outset that the discussions will not bind a council to making a particular decision and that any views expressed are provisional. By the very nature of such meetings not all relevant information may be at hand, nor will formal consultations with interested parties have taken place.
- Consistent advice is given by officers based upon the development plan and material planning considerations.
- That councillors avoid giving separate advice on the development plan or other material planning considerations, as they may not be aware of all the issues at an early stage. Councillors should not become drawn into any negotiations, which should be done by officers (keeping interested councillors up to date) to ensure that the authority's position is co-ordinated.
- A commitment is made that care will be taken to ensure that advice is impartial, otherwise the subsequent report or recommendation to committee could appear to be advocacy.

Officers should arrange any meetings, attend these with councillors and make a written record of the meeting placing this note on the case file. A note should also be taken of any phone conversations, and relevant emails recorded for the file. Notes should record issues raised and advice given. If there is a legitimate reason for confidentiality regarding a proposal, a note of the non-confidential issues raised or advice given can still normally be placed on the file to reassure others not party to the discussion.

Councillors also talk regularly to constituents to gauge their views on matters of local concern – which can include planning applications. The Nolan Committee acknowledged that keeping a register of these conversations would be impractical and unnecessary; however, local planning authorities should think about when discussions should be registered and notes written.

Other approaches to early engagement

Local planning authorities have other mechanisms to involve councillors in pre-application discussions including:

- committee information reports by officers
- discussions to enable councillors to raise issues, identify items of interest and seek further information
- developer presentations to committees which have the advantage of transparency if held in public as a committee would normally be (with notes taken).
- ward councillor briefing by officers on pre-application discussions.

Similar arrangements can also be used when local planning authorities are looking at new policy documents and particularly when making new site allocations in emerging development plans and wish to engage with different parties, including councillors, at an early stage in the process.

9. Officer reports

Officer reports are a critical part of the decision-making process. They can also be difficult to write, as officers have to grapple with complex and technical information such as viability and daylight and sunlight analysis along with matters such as any equalities impacts of the proposed development. Conclusions can be finely balanced, having exercised planning judgement as to the merits of a scheme.

Sometimes, the local planning authority will engage external consultants to interrogate the applicant's material on specialist areas of expertise, and advise the officer accordingly. The presentation of this information in the report is particularly important – along with the availability of any background papers. Whilst the Courts are generally reluctant to interfere in the exercise of planning judgement, officer reports can nonetheless be fertile ground for judicial review challenges. This is particularly so where there is a risk that the officer may have inadvertently misled the committee, therefore tainting the resulting decision.

Careful reviews of draft reports, which may involve consultation with the council's legal team, is always recommended. Similarly, appropriate interventions by the legal officer at the committee meeting itself might be needed in order to correct any misconceptions on specific issues.

As a result of decisions made by the courts and Ombudsman, officer reports on planning applications must have regard to the following:

- Reports should be accurate and should include the substance of any objections and other responses received to the consultation.
- Relevant information should include a clear assessment against the relevant development plan policies, relevant parts of the NPPF, any local finance considerations, and any other material planning considerations.
- Reports should have a written recommendation for a decision to be made.
- Reports should contain, where relevant, technical appraisals which clearly justify the recommendation.
- If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure must be clearly stated. This is not only good practice, but failure to do so may constitute maladministration or give rise to a Judicial Review on the grounds that the decision was not taken in accordance with the provisions of the development plan and the council's statutory duty under Section 38A of the Planning and Compensation Act 2004 and Section 70 of the Town and Country Planning Act 1990.
- Any oral updates or changes to the report should be recorded.

10. Public speaking at planning committees

Whether to allow public speaking at a planning committee or not is up to each local authority. Most local planning authorities do allow it and some authorities film and broadcast committee meetings. As a result, public confidence is generally enhanced and direct lobbying may be reduced. The disadvantage is that it can make the meetings longer and sometimes harder to manage.

Where public speaking is allowed, clear protocols should be established about who is allowed to speak, including provisions for applicants, supporters, ward councillors, parish councils and third party objectors.

In the interests of equity, the time allowed for presentations for and against the development should be the same, and those speaking should be asked to direct their presentation to reinforcing or amplifying representations already made to the local planning authority in writing.

New documents should not be circulated to the committee as councillors may not be able to give proper consideration to the new information, and officers may not be able to check for accuracy or provide considered advice on any material considerations arising. Late information might lead to a deferral. This should be made clear to those who intend to speak.

Messages should never be passed to individual committee members, either from other councillors or from the public. This could be seen as seeking to influence that member improperly and will create a perception of bias that will be difficult to overcome.

11. Decisions which differ from a recommendation

The law requires that decisions should be taken in accordance with the development plan, unless material considerations (which specifically include the NPPF) indicate otherwise (Section 38A of the Planning and Compensation Act 2004 and Section 70 of the Town and Country Planning Act 1990).

This applies to all planning decisions. Any reasons for refusal must be justified against the development plan and other material considerations.

The courts have expressed the view that the committee's reasons should be clear and convincing. The personal circumstances of an applicant or any other non material considerations which might cause local controversy, will rarely satisfy the relevant tests.

Planning committees can, and do, make decisions which are different from the officer recommendation. Sometimes this will relate to conditions attached to the permission or planning obligations secured through a legal agreement pursuant to Section 106 (S106) of the Town and Country Planning Act 1990 (as amended).¹⁴ A S106 legal agreement, or undertaking, includes obligations entered into by the developer, landowner and other relevant parties to mitigate the impacts of a development proposal.

Sometimes the committee's decision will change the outcome from an approval to a refusal, or vice versa. This will usually reflect a difference in the assessment of how a policy has been complied with, or different weight ascribed to material considerations.

¹⁴ www.legislation.gov.uk/ukpga/1990/8/contents

Planning committees are advised to take the following steps before making a decision which differs from the officer recommendation:

- If a councillor is concerned about an officer's recommendation they should discuss their areas of difference and the reasons for that with officers in advance of the committee meeting. Care should be taken however to ensure that this does not lead to predetermination of a decision.
- Recording the detailed reasons as part of the mover's motion.
- Adjourning for a few minutes for those reasons to be discussed and then agreed by the committee.
- Where there is concern about the validity of reasons, considering deferring to another meeting to have the reasons tested and discussed.

If the planning committee makes a decision contrary to the officers' recommendation (whether for approval or refusal or changes to conditions or S106 planning obligations), a detailed minute of the committee's reasons should be made and a copy placed on the application file. Councillors should be prepared to explain in full their planning reasons for not agreeing with the officer's recommendation, which should be set in the context of the development plan or the NPPF. The officer should also be given an opportunity to explain the implications of the contrary decision, including an assessment of a likely appeal outcome based on policies set out in the development plan and the NPPF, and chances of a successful award of costs against the local authority, should one be made.

The decision is ultimately the committee's; however, it is imperative that the decision is made with regard to relevant planning considerations.

All applications that are clearly contrary to the development plan must be advertised as such, and are known as 'departures' from the development plan. If it is intended to approve such an application, the material considerations leading to this conclusion must be clearly identified, and how these considerations justify overriding the development plan must be clearly demonstrated.

The application may then have to be referred to the relevant secretary of state, and/or the Mayor, depending upon the type and scale of the development proposed (Section 77 of the Town and Country Planning Act 1990).¹⁵ If the officers' report recommends approval of such a departure, the justification for this should be included, in full, in that report.

The common law on giving a statement of reasons for decisions has developed significantly in the last few years. It is important that the report that supports planning decisions clearly shows how that decision has been reached – whether for the grant or refusal of permission.

Whilst a committee giving reasons for refusing an application might be common, it may also be sensible to give reasons for resolving to grant permission, and having those accurately captured in minutes of the meeting. This may be particularly so where there is an overturn of an officer recommendation and/or where the application is particularly controversial due to planning policy protections and/or weight of objections. Where the development is EIA development, there is, in any event, a separate statutory requirement to give reasons for the grant of permission.

It should always be remembered that the public have a stake in the planning process and are entitled to understand how decisions are reached.

¹⁵ www.legislation.gov.uk/ukpga/1990/8/section/77

12. Committee site visits

National standards and local codes also apply to site visits. Local planning authorities should have a clear and consistent approach on when and why to hold a site visit and how to conduct it. This should avoid accusations that visits are arbitrary, unfair or a covert lobbying device. The following points may be helpful:

- visits should only be used where the benefit is clear and substantial. Officers will have visited the site and assessed the scheme against policies and material considerations already
- the purpose, format and conduct should be clear at the outset and adhered to throughout the visit
- where a site visit can be 'triggered' by a request from the ward councillor, the 'substantial benefit' test should still apply
- a record should be kept of the reasons why a site visit is called.

A site visit is only likely to be necessary if:

- the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers
- the comments of the applicant and objectors cannot be expressed adequately in writing
- the proposal is particularly contentious.

Site visits are for observing the site and gaining a better understanding of the issues. Visits made by committee members, with officer assistance, are normally the most fair and equitable approach. They should not be used as a lobbying opportunity by objectors or supporters. This should be made clear to any members of the public who are there.

Once a councillor becomes aware of a proposal they may be tempted to visit the site alone. In such a situation, a councillor is only entitled to view the site from public vantage points and they have no individual rights to enter private property. Whilst a councillor might be invited to enter the site by the owner, it is not good practice to do so on their own, as this can lead to the perception that the councillor is no longer impartial.

13. Reviewing past planning decisions and the outcomes

It is good practice for councillors to visit a sample of implemented planning permissions to assess the quality of the decisions and the development, ideally on an annual or more frequent basis. This should improve the quality and consistency of decision making, strengthen public confidence in the planning system, and can help with reviews of planning policy.

Reviews should include visits to a range of developments such as major and minor schemes, upheld appeals, listed building works and enforcement cases. Briefing notes should be prepared on each case. The planning committee should formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.

Scrutiny or standards committees may be able to assist in this process but the essential purpose of these reviews is to assist planning committee members to refine their understanding of the impact of their decisions. Planning committee members should be fully engaged in such reviews.

14. Complaints and record keeping

All local planning authorities should have a complaints procedure which may apply to all of its activities. Local planning authorities should also consider how planning related complaints will be handled, in relation to the code of conduct adopted by the authority.

So that complaints may be fully investigated and as general good practice, record keeping should be complete and accurate. Every planning application file should contain an accurate account of events throughout its life. It should be possible for someone not involved in that application to understand what the decision was, and why and how it had been reached. This applies to decisions taken by committee and under delegated powers, and to applications, enforcement and development plan matters.

List of references

The Localism Act 2011

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National Planning Policy Framework Department for Communities and Local Government, March 2019

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Committee on Standards in Public Life (1995) First Report: Standards of Conduct in Local Government in England, Scotland and Wales, Volume 1 Report

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/336864/3rdInquiryReport.pdf

Royal Town Planning Institute Code of Professional Conduct

www.rtpi.org.uk/media/1736907/rtpi_code_of_professional_conduct_-_feb_2016.pdf

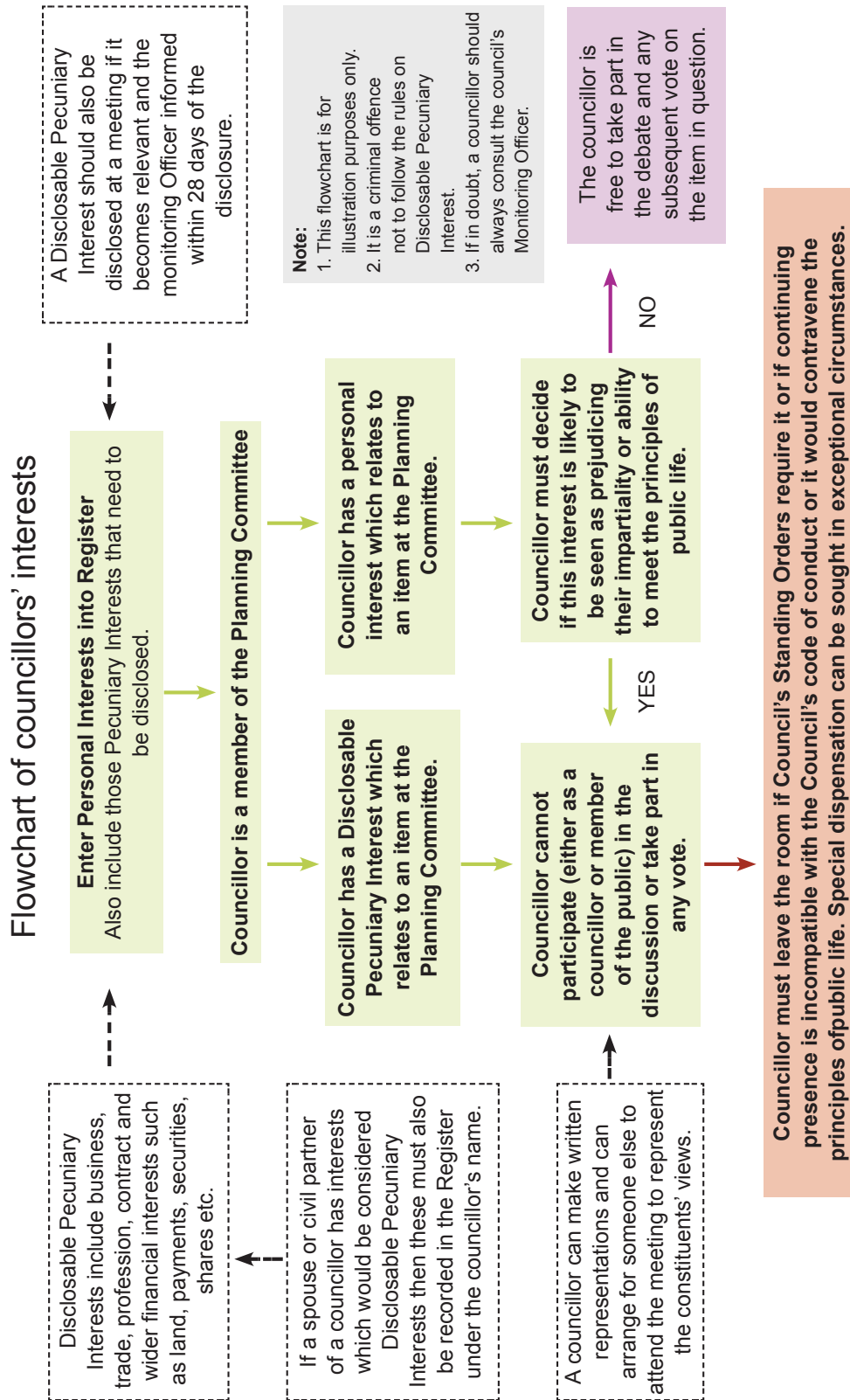
RTPI Guidance on Probity for Professional Planners

www.rtpi.org.uk/probity

Openness and transparency on personal interests: guidance for councillors, Department for Communities and Local Government, March 2013

www.gov.uk/government/publications/openness-and-transparency-on-personal-interests-guidance-for-councillors

Appendix 1 Flowchart of councillors' interests





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We consider requests on an individual basis.



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;

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 686007) during normal working hours on any weekday after the reports and agenda have been published; or

Email: democraticservices@tendringdc.gov.uk

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 CSO.

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

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

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