



PLANNING COMMITTEE

DATE: Tuesday, 13 April 2021
TIME: 6.00 pm
VENUE: Meeting to be held pursuant to Statutory Instrument 2020/392. Link to live stream will be found at <https://www.tendringdc.gov.uk/livemeetings>

MEMBERSHIP:

| | |
|---------------------------------|----------------------------|
| Councillor White (Chairman) | Councillor Casey |
| Councillor Bray (Vice-Chairman) | Councillor Fowler |
| Councillor Alexander | Councillor V Guglielmi |
| Councillor Allen (substitute) | Councillor Harris |
| Councillor Cawthron | Councillor Placey (absent) |

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: Thursday, 1 April 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 - 18)

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Wednesday, 17 March 2021.

3 Declarations of Interest

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

4 Questions on Notice pursuant to Council Procedure Rule 38

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

5 A.1 - PLANNING APPLICATION 20/00822/FUL - THE LAURELS, PARSONAGE LANE, TENDRING CO16 0DE (Pages 19 - 42)

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

The application was previously deferred to enable clarification on matters regarding drainage to be obtained. The application was again deferred at the last meeting of the Committee as Essex County Council's (ECC) Highways Department (a statutory consultee) had submitted, very late on, a further letter of representation in which it had now amended its original recommendation of approval of the application to one of refusal on highway safety grounds. As a result of this the application had been once more deferred in order to allow all interested parties in this application the opportunity to comment and respond to ECC's change of opinion.

6 A.2 - PLANNING APPLICATION 20/01385/FUL - 2 HIGH STREET, MANNINGTREE (Pages 43 - 76)

The application has been referred to the Planning Committee by the Councillor G Guglielmi due to the loss of the commercial premises in the 'Primary and main Shopping Frontage of Manningtree High Street'.

The host building is a Grade II Listed Building located in the Town Centre of Manningtree and within Manningtree Conservation Area. The former bank has obtained planning permission in 2017 for a retail unit at ground floor facing the High Street, with six flats making up the rest of the building and a separate dwelling-house to the rear.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Planning Committee is to be held at 6.00 pm on Tuesday, 11 May 2021.

Tendring District Council



PLANNING COMMITTEE MEETINGS PUBLIC SPEAKING SCHEME May 2017

This Public Speaking Scheme is made pursuant to Council Procedure Rule 40 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 WEDNESDAY, 17TH MARCH, 2021 AT 6.00 PM
THE MEETING WAS HELD PURSUANT TO STATUTORY INSTRUMENT 2020/392.**

| | |
|-----------------------|--|
| Present: | Councillors White (Chairman), Bray (Vice-Chairman), Alexander, Cawthron, Casey, Fowler, V Guglielmi, Harris and Placey |
| Also Present: | Councillors Morrison (except items 110 and 111) and Scott (except item 111) |
| In Attendance: | Ian Davidson (Chief Executive), Lisa Hastings (Assistant Director (Governance) & Monitoring Officer), Graham Nourse (Assistant Director (Planning)), Trevor Faulkner (Planning Manager), Ian Ford (Committee Services Manager), Joanne Fisher (Planning Solicitor), Matthew Lang (Planning Officer), Keith Durran (Democratic Services Officer) and Debbie Bunce (Legal and Governance Administration Officer) |

104. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none on this occasion.

105. 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 Wednesday 17 February 2021 be approved as a correct record.

106. DECLARATIONS OF INTEREST

Councillor Scott, an also present at the meeting, declared for the public record in relation to **Planning Applications 20/01524/LBC & 20/01523/FUL – Alresford Hall, Ford Lane, Alresford CO7 8AY** that he was a local Ward Member for that application.

107. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were none on this occasion.

108. (A.1) PLANNING APPLICATION - 20-00822-FUL - THE LAURELS, PARSONAGE LANE, TENDRING CO16 0DE

The Chairman of the Committee (Councillor White) reported that, in relation to the above application, Essex County Council's (ECC) Highways Department (a statutory consultee) had submitted, very late on, a further letter of representation in which it had now amended its original recommendation of approval of the application to one of refusal on highway safety grounds.

As a result of this the Chairman informed the meeting that, reluctantly, he had had no other choice but to withdraw this application from the Agenda in order to allow all interested parties in this application the opportunity to comment and respond to ECC's change of opinion.

The Committee noted the foregoing.

109. (A.2) PLANNING APPLICATION - 20-00385-OUT - LAND EAST OF POND HALL FARM, RAMSEY ROAD, RAMSEY CO12 5ET

Members recalled that the Chairman of the Planning Committee (Councillor White) had withdrawn this planning application from the Agenda for the meeting of the Committee held on 17 February 2020 in order to allow a further period of time in which Ramsey & Parkeston Parish Council and Harwich Town Council could submit their respective representations.

It was reported that the application site covered an area of approximately 30 hectares and was located between the A120 highway and the existing Dovercourt urban area of Harwich. The applicant proposed revisions to the extant planning permission (14/01431/OUT) under Section 73 of the Town and Country Planning Act 1990 (as amended) in order to vary Condition 1 with a substituted phasing plan and provide revised wording to Condition 19 in order to permit the development of 80 residential dwellings ahead of the proposed new access and roundabout.

The Committee was informed that the applicant had 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 this Council's Officers and Essex County Council Highways Officers the application had been 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.

It was noted that, at the occupation of the 80th dwelling, all existing planning conditions and Section 106 contributions would revert back to the requirements of the original outline consent (14/01431/OUT).

Members were made aware that the site at land east of Pond Hall Farm had been allocated within the Tendring District Local Plan 2007 under Policy HAR 2 without a residential allocation. The site had 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 was now 'consented' the Tendring District Local Plan (submission Draft) Part 2 referred to the site as 'mixed use consented' and therefore it was not necessary for the site to be considered as an allocation.

The Committee was advised that the extant outline consent was subject to an Environmental Impact Assessment with the application being accompanied by an Environmental Statement. In light of subsequent changes to environmental legislation and the time lapsed the applicant had reviewed and updated the Environmental Statement and had submitted an Environmental Statement Addendum (ESA) in order to review and mitigate any changes.

It was reported that the review to the ESA had been carried out taking into account the delivery of all 297 residential dwellings off Stour Close, and which had been prior to amending the application to restrict the number to 80 residential dwellings. The findings

of that review had demonstrated that there were no severe adverse impacts resulting from the delivery of 297 residential dwellings off Stour Close.

Members were informed that the Council had 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 had been used to assess traffic impacts and movements, which had confirmed that traffic impact would be at an acceptable level, and 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 had submitted 'No Objection' to the revised number of 80 dwellings subject to conditions including the improvement to a vision splay.

The Committee was advised that the applicant had informed the Council that the changes were necessary in order to secure a developer for the residential site and 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 current inability to fund the access and roundabout.

It was reported that the Council's Lawyer had confirmed that it was not necessary to amend the related Section 106 Legal Agreement and that the necessary amendment of the approved phasing plan and agreement of 80 dwellings only could be undertaken through a Unilateral Undertaking which was currently being prepared.

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 a consultation response received from Harwich Town Council which recommended refusal of the application on the grounds that: *"the existing road layout was designed to support the existing development and that it is inappropriate to increase the traffic volume through a residential area onto a fast and busy thoroughfare. Since the original outline consent, the Harwich peninsula has seen a large increase in population without an increase in infrastructure and as local social infrastructure levels are a material planning consideration, this proposal should be viewed as an additional increase in population."*

Parish Councillor Steve Richardson, speaking on behalf of Harwich Town Council, addressed the Committee and advocated that this application should be refused.

Councillor Morrison, a local Ward Councillor, addressed the Committee and advocated that this application should be refused.

Peter Keenan, an agent acting on behalf of the applicant, spoke in favour 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:- |
|--|--|
| The site management plan should ensure that all construction related traffic should be routed onto the site as soon as possible and that no vehicles are parked/placed on the narrow residential roads in that locality. | This could be covered and enforced as part of the Construction Method Statement (CMS) that would be required under proposed planning condition number 15. |
| In relation to the residents' fears that parts of their curtilage will be lost had there been any Compulsory Purchase Orders undertaken? | TDC Planning Officers were not aware of any such intentions. |
| What was the potential impact of this development on the Freeport East initiative and the sought after dualling of the A120? | TDC Planning Officers were not aware of any such impact. The applicant controlled land north of the A120 opposite this development site that could be part of any future discussions on dualling the A120. |
| Would emergency vehicle access remain unimpeded throughout construction? | This would be looked at thoroughly by ECC Highways and would form part of any CMS that would be required under proposed planning condition number 15. |
| What would be the length of time for the construction period? | Estimated up to two years but it could be quicker. |
| Was it always the developer's intention to use Stour Close as the route to service this development? | No – the original intention was to service the construction period from the A120 to the north when the development was due to commence with the construction of the retail superstore. |
| Could we left with the position that the residential element is completed and nothing else leaving an access from Stour Close in perpetuity? | No more than 80 houses can be built before the access from the A120 is required to be constructed. |
| Will the controls on the building phase be strict and tightly enforced? | Yes – the CMS will be strict and any breach will be firmly actioned. |
| Are these 80 houses included within the 5 year land supply housing provision within the adopted Section 1 of the Local Plan? | No – and therefore this development could be seen as a planning gain in that respect. |

Following discussion by the Committee, it was moved by Councillor Bray, seconded by Councillor Alexander 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:-

“New development should be compatible with surrounding uses and minimise any adverse environmental impacts including avoiding a materially damaging impact on the amenities of occupiers of nearby properties by reason of unacceptable levels of pollution including air, amenity, and health and safety through noise, smell, dust, light, vibration, fumes or other forms of pollution or nuisance.

In this case, it is considered that the construction and occupation of 80 residential dwellings via existing narrow residential streets (Stour Close and Clayton Road) will result in undue environmental impacts and accordingly is considered to be contrary to Policy QL11 (Environmental Impacts and Compatibility of Uses) of the adopted Tendring District Local Plan 2007 and Policies SPL3 (Sustainable Design) and D11 (Infrastructure Delivery and Impact Mitigation) of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.”

110. (A.3) PLANNING APPLICATIONS – 20/01524/LBC & 20/01523/FUL - ALRESFORD HALL, FORD LANE, ALRESFORD CO7 8AY

It was reported that these planning applications had been referred to the Planning Committee by Councillor Scott on the grounds that, in his opinion, *“a full archaeological investigation scheme was not undertaken, the requirement of a justification for an increase in wall height, the need for new materials to be assessed by experts in the field of historic building restoration. For example, the type of lime mortar being considered and for samples provided of bricks that are to be used in any works, and mortar samples should be taken of completed works to ensure the lime/sand/mortar mix is acceptable.”*

Members were made aware that the applications sought retrospective planning permission and retrospective listed building consent for a swimming pool in the south walled gardens, repair to part of a wall that had been storm damaged and a flight of steps.

The applications also sought planning permission and listed building consent to repair and raise the east garden wall, reinstate the original and new gates to the existing openings in the garden, and build a small section of wall to infill next to the shed to be able to install a gate.

Officers acknowledged that it was regrettable that some works had been completed which had not allowed the necessary archaeological investigations to take place. However, the applications presented a development that was, in their view, acceptable in terms of design, visual impact and heritage considerations and were therefore recommended for approval subject to the necessary planning conditions.

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 informing it that the applicants, through their agent, had confirmed that the spoil material from the swimming pool was available within the grounds of Alresford Hall on land that was part of the old Nursery. As the spoil was still available Officers proposed that an

archaeological investigation of the material should take place which would confirm or deny if there was anything of interest and would allow the processing and recording of any finds. Should the Committee accept the Officers' recommendation of approval it was proposed to add a further planning condition securing that archaeological investigation.

Councillor Scott, a local Ward Member, addressed the Committee on these applications.

Will Marsden, the applicant, spoke in support of the applications.

Following discussion by the Committee, it was moved by Councillor Bray, seconded by Councillor Harris and unanimously:-

RESOLVED that the Assistant Director (Planning) (or equivalent authorised officer) be authorised to grant planning permission and listed building consent for the development, subject to the following conditions (and reasons):-

Application - 20/01523/FUL

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

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

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

Proposed east garden wall works revision 2.2 received 10th February 2021;
Drawing titled 'gate design for opening between tennis court lawn and pool garden';
Drawing titled 'Gate design for opening between main lawn and tennis court - left hand gate';
Photo titled 'Gate design for the wooden gate to be located in the existing opening in the north east corner of the walled garden';
Drawing titled 'Gate design for opening between main lawn and tennis court - right hand gate'; and
Drawing titled 'The proposed view of the gates for the gap between the shed and the repaired wall'.

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

- 3 Prior to relaying and replacing the bricks on the east wall and prior to laying the bricks to infill the section next to the shed the following shall be submitted to and approved in writing by the Local Planning Authority:

A sample of the red brick proposed; and
Details of the mortar mix, profile and finish.

Reason - To ensure that special regard is paid to the architectural interest and integrity of the walls surrounding the garden.

- 4 Within 3 months of the date of this decision or prior to the reuse of the spoil material excavated from the swimming pool if this is sooner, an archaeological investigation of the spoil material shall be completed. Following completion of the archaeological investigation, the applicant will submit to the local planning authority a post-investigation assessment (within six months of the completion date, unless otherwise agreed in advance with the planning authority), which will result in the completion of post-investigation analysis, preparation of a site archive and report ready for deposition at the local museum, and submission of a publication report. A professional archaeologist or team of archaeologists should undertake the archaeological work. A brief outlining the level of archaeological investigation will be issued by Essex County Council Place Services on request.

Reason - The Essex Historic Environment Record shows that the development is located within an area with potential for below ground archaeological deposits.

Application – 20/01524/LBC

- 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:

Proposed east garden wall works revision 2.2 received 10th February 2021;
Drawing titled 'gate design for opening between tennis court lawn and pool garden';
Drawing titled 'Gate design for opening between main lawn and tennis court - left hand gate';
Photo titled 'Gate design for the wooden gate to be located in the existing opening in the north east corner of the walled garden';
Drawing titled 'Gate design for opening between main lawn and tennis court - right hand gate'; and
Drawing titled 'The proposed view of the gates for the gap between the shed and the repaired wall'.

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

- 3 Prior to relaying and replacing the bricks on the east wall and prior to laying the bricks to infill the section next to the shed the following shall be submitted to and approved in writing by the Local Planning Authority:

A sample of the red brick proposed; and
Details of the mortar mix, profile and finish.

Reason - To ensure that special regard is paid to the architectural interest and integrity of the walls surrounding the garden.

- 4 Within 3 months of the date of this decision or prior to the reuse of the spoil material excavated from the swimming pool if this is sooner, an archaeological investigation of the spoil material shall be completed. Following completion of the archaeological investigation, the applicant will submit to the local planning authority a post-investigation assessment (within six months of the completion date, unless otherwise agreed in advance with the planning authority), which will result in the completion of post-investigation analysis, preparation of a site archive and report ready for deposition at the local museum, and submission of a publication report. A professional archaeologist or team of archaeologists should undertake the archaeological work. A brief outlining the level of archaeological investigation will be issued by Essex County Council Place Services on request.

Reason - The Essex Historic Environment Record shows that the development is located within an area with potential for below ground archaeological deposits.

111. (A.4) PLANNING APPLICATION - 20-01384-FUL - LAND SOUTH OF PRIMROSE HALL, PRIMROSE LANE, RAMSEY CO12 5NB

It was reported that this application had been referred to the Planning Committee at the discretion of the Assistant Director (Planning) due to the scale and size of the proposal.

The Committee was informed that this application proposed the placement of a ground-mounted solar farm including associated infrastructure, namely inverters, transformer, a DNO substation and grid connection. The farm would have an export capacity of 17.6 Mega Watts (MW).

Members were aware that there was a recognised need and support for renewable energy technology through both National and Local planning policies and that this development would contribute towards the targets set for the UK's greenhouse gas emission reduction and increasing the country's energy supply from renewable sources.

The Committee was advised that the assessment of a renewable energy proposal required the impacts to be considered in the context of the strong, in principle, policy support given the Government's conclusion that there was a pressing need to deliver renewable energy generation. In this case, there was felt to be no adverse impact on heritage assets, ecology, residential amenity, highway safety or flood risk. There was also an opportunity to improve biodiversity.

The landscape impact was considered by Officers to be relatively local, contained mainly to the adjacent A120, Bowl Road and the Public Right of Way that crossed the site. This impact however was considered to be of moderate harm. The landscape mitigation would soften the impact but would not eliminate it. However, the localised impact on the area was not considered by Officers to be sufficient to recommend refusal especially given the lack of harm in other respects and the benefits to biodiversity and the long term benefits to the landscape when the site was decommissioned by the planting mitigation retained. Therefore, although Officers had found moderate harm to the countryside, the localised extent of harm did not outweigh the national benefits derived from providing renewable energy.

Officers felt therefore that the proposal could be considered to be in accordance with saved policies EN1 and EN4 and emerging policy PPL 3 and represented an

appropriate form of development in the countryside. Therefore, the principle of the development in this location was considered acceptable.

In addition, the application was supported by saved policy EN13A and emerging policy PPL10 which advocated for new proposals for renewable energy developments in the District. The energy generated by the proposed development would contribute to supporting growth in the region, and the carbon emissions saved as a result of generating electricity from a renewable source, would help to tackle climate change and minimise resource use.

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

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

An update sheet had been circulated to the Committee prior to the meeting with details of an additional letter of objection.

Anthony Groombridge, a member of the public, spoke against the application.

Parish Councillor Robert Stephens, speaking on behalf of Wix Parish Council, addressed the Committee on this application and advocated that it should be refused.

Tom Pike, an agent acting on behalf of the applicant, spoke in support of the application.

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

| Matters raised by a Committee Member:- | Officer's response thereto:- |
|--|---|
| Will the Public Rights of Way across the site remain? | Yes – they will remain open and in place at all times though the visual aspect from those footpaths will change. |
| How many tonnes of carbon will be removed as a result of this application? | 143,000 tonnes over the lifetime of the solar farm according to the applicant's calculations. |
| Does TDC have a Strategic Plan for Renewable Energy generation within the District? | No – sites are developer-led in accordance with the NPPF and are assessed by TDC Officers on their individual merits. |
| Is this site designated as a safeguarded green space? | No. |
| Is there anyway of checking the carbon capture savings? Is there a formula for this? There could be a benefit to nature if the land is no longer used as farmland? | No – but these figures were provided by a specialist company. Yes – there could be biodiversity gain from the planting of trees, hedgerows and wild flowers on this site. |

Following discussion by the Committee, it was moved by Councillor Alexander, seconded by Councillor Harris 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 three years from the date of this decision. Written notification of the date of commencement of the development hereby permitted shall be given to the Local Planning Authority no later than 14 days after the event.

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 being drawing nos. titled:

- REN669-CEPH-SL001 B – Solar Farm Layout
- CE-PHSF-SD001 0 – Solar Panel Section
- CE-PHSF-ED001 1 – Solar Panel Elevation
- 5033-1 A – Tubular Fixed Pole Elevation
- Inverter Top and Side Elevations
- Inverter Section Elevations
- Inverter Floor Plans
- Inverter Elevations
- Tubular Fixed Pole Specification Sheet

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

3. Development, aside from enabling works, shall not begin until a Decommissioning Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall include the timing for decommissioning of all, or part of the solar farm if it ceases to be operational, along with the measures, and a timetable for their completion, to secure the removal of panels, plant, fencing, equipment and landscaping initially required to mitigate the landscape and visual impacts of the development. Decommissioning shall be carried out in accordance with the approved Decommissioning Method Statement.

Reason - In the interests of the amenity of the area.

4. No development, aside from enabling works, shall take place until a scheme for landscaping, including a timetable for implementation, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of additional and supplemental planting, including an on-going management plan to ensure maintenance of any approved landscaping. The landscaping scheme shall be implemented in accordance with the approved details within the first planting season following the completion of the development hereby permitted, and shall be maintained during the first 5-years of the development, with the replacement of any trees or plants which die, are removed or become seriously damaged or diseased, in the first available planting season with others of similar size and species.

Reason - To ensure the provision of amenity afforded by appropriate landscape design.

5. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in chapter 6 of the Ecological Impact Assessment (Gray Ecology, Sept 2020, updated Nov 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).

6. A wintering and breeding farmland bird mitigation and monitoring strategy must be submitted to and approved in writing by the Local Planning Authority prior to the completion of the development, and the strategy must provide details of the measures that will be implemented if the surveys identify a decline in bird population numbers.

The Farmland Bird Mitigation Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed measures
- b) Detailed Methodology for measures to be delivered
- c) Location of the proposed measures by appropriate maps and/or plans
- d) Mechanism for implementation & Monitoring of delivery

The Farmland Bird Mitigation Strategy shall be implemented in the first nesting season following completion of the development and in accordance with the approved details, or any amendment as may be approved in writing pursuant to this condition, and all features shall be delivered for a minimum period of 10 years.

Reason - To allow the LPA to discharge its duties under the NERC Act 2006 (Priority habitats & species).

7. A Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within Chapter 7 of the Ecological Impact Assessment (Gray Ecology, Sept. 2020, up-dated Nov. 2020), shall be submitted to and approved in writing by the local planning authority prior to the completion of the development. The enhancement measures shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

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

8. There shall be no installation of external lighting during the operational phase of the development except in full accordance with a scheme that has been approved in writing by the Local Planning Authority.

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

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

The content of the LEMP shall include the following:

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

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

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

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

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753. There should be a minimum of a 1m gap between the highest annual ground water level and the base of any infiltrating feature. All point infiltration features should maintain a 5m distance from any structure foundations.
- Ensuring that discharge rates and volumes are not increased as a result of the application for all storm events up to and including the 1 in 100-year rate plus 40% allowance for climate change.
- Detailed information regarding the mitigation of the risk channels being created by the solar arrays.

- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

Reasons:

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

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

Reason - The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoil during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development. Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

12. Prior to completion of the development 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.

13. 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.

14. The development hereby permitted shall not be commenced until such time as a soil management plan has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

Reason - Soil compaction and the creation of channels can cause increased run-off rates and volumes from the site. Therefore a soil management plan should show how this will be mitigated against. Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

15. No construction or decommissioning works shall take place except between the following hours: 0800 to 1800 Monday to Friday, and 0800 to 1300 Saturday. No construction or decommissioning works shall take place at any time on Sunday or a Bank Holiday.

Reason - In the interests of local amenity.

16. The planning permission hereby granted is for a period from the date of this decision until the date occurring 30 years after the date the development is first operational commences, when the use shall cease and the solar panels and all ancillary equipment and landscaping initially required to mitigate the landscape and visual impacts of the development shall be removed from the site in accordance with the Decommissioning Method Statement approved pursuant to Condition 3.

Reason - To ensure that the landscape impact of the development exists only for the lifetime of the development.

17. All ancillary equipment, including substations and inverter/transformer stations, shall be painted a non-obtrusive colour in accordance with details to be agreed in writing with the Local Planning Authority before implementation of the ancillary equipment. The development shall be carried out in accordance with the approved details.

Reason - In the interests of the amenity of the area.

18. 12 months prior to the expiry of the planning permission, a site restoration scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a programme of works to remove the solar panels and related equipment, and shall be fully implemented within 12 months of the expiry of this permission.

Reason - In the interests of the amenity of the area.

19. If the solar farm ceases to export electricity to the grid for a continuous period of 12 months then a scheme shall be submitted to the Local Planning Authority for its written approval within 3 months from the end of the 12 month period for the removal of the solar farm and associated equipment and the restoration of (that part of) the site to agricultural use. The approved scheme of restoration shall then be fully implemented within 6 months of that written approval being given.

Reason - In order to ensure that the solar park fulfils its required purpose or is removed from the land in the interests of rural visual amenity.

20. No development or preliminary groundworks of any kind shall take place until a programme of archaeological investigation has been secured in accordance with a written scheme of investigation which has been submitted by the applicant, and approved in writing by the local planning authority.

No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological investigation identified in the WSI defined in above.

The applicant will submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Reason - Evidence from the HER in the surrounding area shows there is, however, potential for survival of previously unrecorded archaeological remains dating to the prehistoric and Roman periods and Medieval to post-medieval agricultural features. This condition is therefore being applied in line with the National Planning Policy Framework to ensure the appropriate protection of the potential heritage assets impacted by the development.

21. Within 18 months of the date of this planning permission the developer shall have submitted and received written approval from the local planning authority (in consultation with Highways England) of the following design details relating to the required improvements to the A120 site access and the scheme shown in outline on SLS drawing number SLS 376.1/20/002 rev2. Scheme details shall include drawings and Documents showing as applicable:

- i. How the improvement interfaces with the existing highway alignment and carriageway markings.

- ii. Full construction details relating to the highway improvement. This should include any modifications to existing structures or proposed structures with supporting analysis.
- iii. Full Signing/lighting.
- iv. Confirmation of compliance with Departmental standards (DMRB) and policies (or approved relaxations/departures from standards).
- v. Evidence that the scheme is fully deliverable within land in the control of either the applicant or the Highway Authority.
- vi. An independent Stage 2 Road Safety Audit (taking account of and stage 1 Road Safety Audit recommendations carried out in accordance with Departmental Standards (DMRB) and Advice Notes.

The above scheme approved by the Local Planning Authority shall be implemented and completed to the satisfaction of the Local Planning Authority in consultation with the Highways Authorities and NO construction of the main development shall take place unless and until the junction improvements shown in outline on SLS drawing number SLS 376.1/20/002 rev2 have been delivered and are fully open to traffic.

Reason – In the interests of highway safety.

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

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

23. No works whatsoever shall commence until such time as a Construction and Traffic Management Plan is approved in writing by the Local Planning Authority. The approved plan shall be adhered to at all times during all ground works, construction and decommissioning traffic throughout the pre-construction, construction and decommissioning phases.

Reason - To ensure that the adjoining highway is not obstructed by construction activity, in the interests of highway safety.

24. No development shall take place, including any enabling works, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. wheel and underbody washing facilities
 - v. swept path analysis for construction vehicles for key junction(s)

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

25. No development shall take place until a Construction Traffic Routing Plan has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The approved plan shall be adhered to at all times during all ground works, construction and decommissioning traffic throughout the pre-construction, construction and decommissioning phases.

Reason - To ensure that the adjoining highway is not obstructed by construction activity, in the interests of highway safety.

26. Prior to the commencement of any work on the site a joint inspection of the local road (Bowl Road) 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.

Reason - To preserve the integrity and fabric of the highway, in the interests of highway safety.

27. The public's rights and ease of passage over public footpath no. 18_183 (Wix) shall be maintained free and unobstructed at all times, unless otherwise agreed in writing with the Local Planning Authority.

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

28. Following the completion of construction works the site compound areas shall be restored in full accordance with an approved Site Compound Restoration Scheme. This scheme shall be submitted 4 months prior to the completion of construction works and approved in writing by the Local Planning Authority.

Reason – To ensure the compound areas are sympathetically restored in the interests of visual and residential amenity.

The meeting was declared closed at 9.20 pm

Chairman

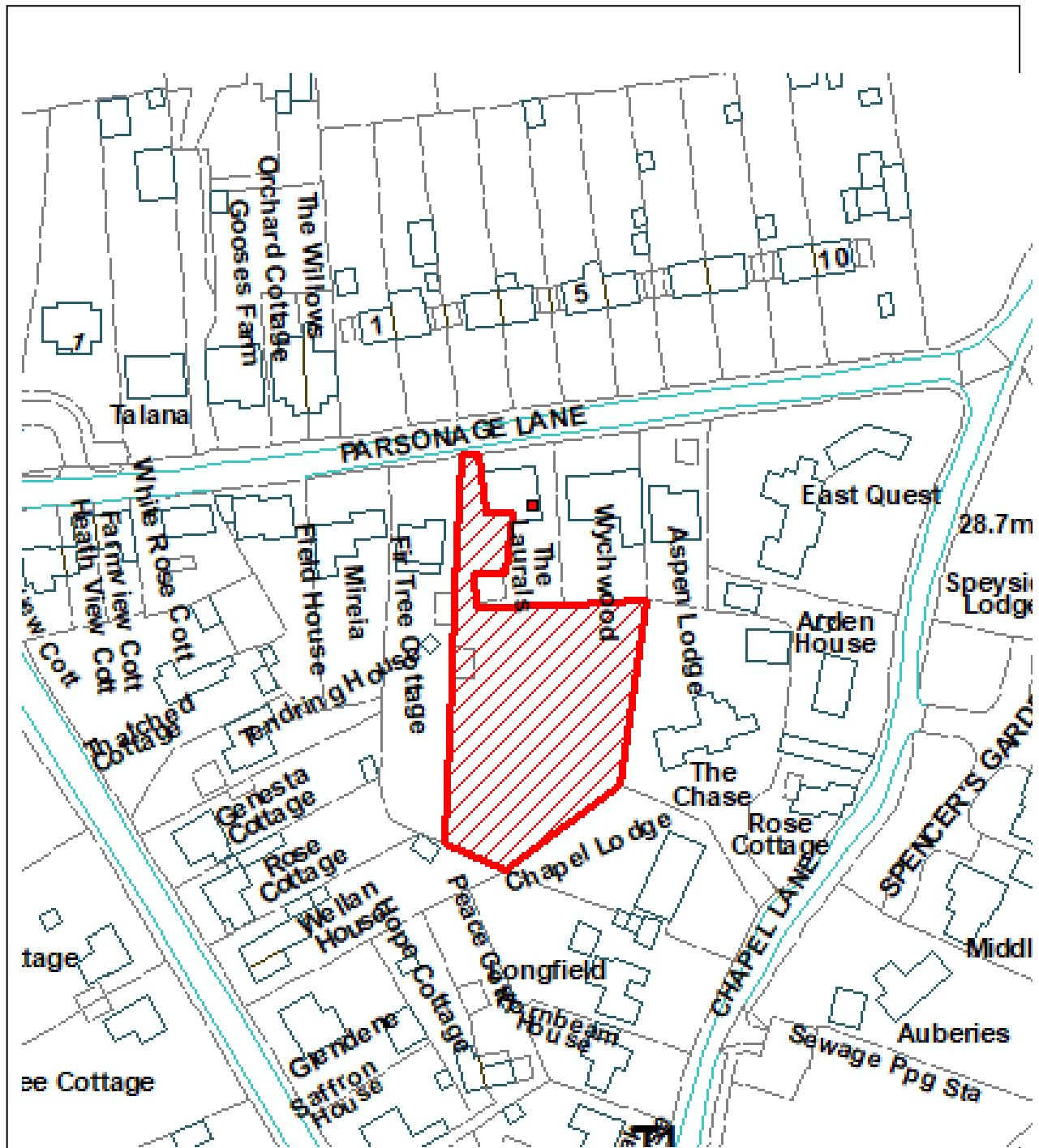
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PLANNING COMMITTEE

13th April 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.1 PLANNING APPLICATION – 20/00822/FUL – THE LAURELS PARSONAGE LANE TENDRING CLACTON ON SEA



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Application: 20/00822/FUL

Town / Parish: Tendring Parish Council

Applicant: Pemberton, Copping and Holben - Maison Investments Ltd

Address: The Laurels Parsonage Lane Tendring Clacton On Sea CO16 0DE

Development: Erection of 3 no. bungalows.

1. **Executive Summary**

- 1.1 The application was previously referred to the Planning Committee at the request of Councillor Harris on behalf of Tendring Parish Council by virtue of the site being 'backfill' development, the site is outside the settlement boundary; the site is an unsustainable development with insufficient infrastructure; overdevelopment, the development would lead to unacceptable disturbance to neighbours; unacceptable access and highways issues; and there is no proven need for this type of property in an area that has already seen significant development.
- 1.2 The application has now been referred back to the Planning Committee as clarification on matters regarding drainage has now been obtained. Other additional consultation responses, and contributions are included below in italics for ease of reference.

1.3 **Ecology**

The consultation response from Essex County Council Ecology was received too late to include in either the main report or the Committee Update sheet for the 17th November 2020 meeting. The response is summarised here:-

***ECC Ecology** have reviewed the submitted Preliminary Ecological Appraisal and Great Crested Newt Survey (Robson Ecology, June 2020) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats and mitigation measures to minimise impacts. ECC Ecology are satisfied that there is sufficient ecological information available for determination.*

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

Neighbour comments have also identified that there is an additional pond, adjacent to the site boundary, which has not been assessed for Great Crested Newts, and supports an unidentified species of newt. However, the Preliminary Ecological Appraisal and Great Crested Newt Survey (Robson Ecology, June 2020) identifies that the pond on-site supports a substantial number of smooth newts, and it is therefore considered likely that any adjacent ponds with newts, are also likely to contain smooth newts. Additionally, the Preliminary Ecological Appraisal and Great Crested Newt Survey (Robson Ecology, June 2020) poses that the majority of the site is closely mown amenity grassland, and is considered unlikely to support Great Crested Newts. However, there are records of Grass Snakes within 200m of the site, and neighbour objections state that Grass Snakes have been identified in adjacent gardens, and the site is considered suitable for Hedgehogs and foxes. With the exception of foxes, these species are protected under the Wildlife and Countryside Act 1981 (as amended) from killing and all reptiles and Hedgehog are also listed as Priority species under s41 Natural Environment and Rural Communities (NERC) Act 2006.

Impacts will be minimised such that the proposal is acceptable subject to the conditions below based on BS42020:2013. Submission for approval and implementation of the details below should be a condition of any planning consent.

The conditions required by ECC Ecology are stated in Section 8.2.

1.4 Drainage

Matters pertaining to (i) the nature of the sewer/drainage assets ownership and (ii) the capacity of said assets to accommodate the burden of three additional dwellings on such.

*The Pre-Development team at **Anglian Water** have provided the following responses:-*

Assets Affected:-

There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site.

- Wastewater Treatment

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

Used Water Network:-

The sewerage system at present has available capacity for these flows via a gravity conveyance to manhole 0901 to the South of the development. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection.

Surface Water Disposal:-

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

In response to the wastewater map, supplied to the Local Planning Authority on 30th November 2020 Anglian Water comment that:-

'The plan is a legitimate Anglian Water map which indicates a public combined sewer crossing the site running in a south easterly direction. The public sewer is shown as a combined sewer draining both foul and surface water. The Public sewer discharges flows to the Anglian Water, Water Re-cycling Centre (WRC) (TENGST). The flows are treated at the WRC and the final effluent discharged to the environment.'

1.5 Highways

Following receipt on 16th March 2021 of an ECC Highways plan which indicates the extent of public highway land, ECC Highways now consider that a safe means of access to the site cannot be demonstrated by virtue of the 2.4m x 90m visibility splay to the site access not being achievable within the limits of the public highway and/or land in the control of the applicant.

Accordingly, contrary to the recommendation contained within the previous Officer Committee Report, it is now recommended that the application be **refused** planning permission for the following reason:

The proposal fails to demonstrate that a safe means of access to the site can be achieved, by virtue of a 2.4m x 90m visibility splay to the site access not being deliverable within the limits of the public highway and/or land in the control of the applicant. For this reason the application is considered to be contrary to Paragraph 108 of the NPPF which seeks to ensure that safe and suitable access to a development site can be achieved for all users and contrary to saved Policy QL10 of the adopted Tendring District Local Plan 2007 and emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

ECC Highways have further advised that the visibility requirements could be reviewed upon receipt of a speed survey. Accordingly, the applicant has been advised to undertake a 7-day speed survey and based on the results of that speed survey and using the Highway Boundary information provided by Highway Records produce new drawings to confirm what visibility splays can be achieved.

At the time of updating this report, a Speed Survey Report has not been submitted or reviewed by County Highways and, as such, the recommendation remains as one for refusal on highway safety grounds. If this information is forthcoming in advance of the Meeting this will form part of the Committee Update Sheet. However, County Highways have stated that whilst the applicant could commission the additional work there is no guarantee that the required standards can be met or that the proposal will be met or that the proposal will be acceptable to the Highway Authority.

Separately, in regards to the access width; a width of 5.5m would be required for roads which have a high speed limit or where traffic is heavy; if the road was lightly trafficked and visibility was good then 4.8m is an acceptable width.

Drawing 1810.20.01E, received 6th November 2020 shows that a width of 4.8m can be achieved for the first 6m into the site at the access. The eastern-entrance boundary wall could be conditioned to be retain at a height no greater than 0.6m.

1.6 Additional objections

The applicant has constantly made a false statement in the application and not been completely honest: 'Existing wall & hedge to be reduced to 600mm high to gain 2.4m x 90m visibility' (see Medusa Design Ltd drawing no 1810/19/01 Rev E). This statement glosses over and ignores the actual hazard that would be created at the roadway junction of the proposed development. The stated 90m line of sight is NOT possible, the maximum distance is actually 19m (measured on site) as the front wall (1.8m high) and fence (currently 1.2m high) at Wychwood to the east of the site obscures the view of the highway from the junction at the development.

Conclusion: the maximum splay length heading east from the proposed junction is inadequate (19 metres) for the speed of the traffic using the roadway and would need to be at least 40 metres.

I am stating the obvious but if the existing driveway at the side of The Laurels becomes a roadway the restricted visibility will result in a road traffic accident and someone may be injured or worse. If this planning application is approved to a large degree Tendring Planning Office will be culpable for any of the subsequent accidents.

It is imperative that your office conducts a full and thorough investigation into the issues I have detailed in this communication.

I would recommend that this Planning Application is refused on the grounds of poor roadway egress and the creation of area where traffic accidents will occur.

In paragraph 6.22 of the report it is reported that The Chase is an existing form of backland development in a rear/side garden, constructed in the 1970's. The property referred to by this statement is Rose Cottage; it may well be the case that Chapel Lodge was subsequently constructed 'forward' of The Chase – but the end result remains that The Chase is an example of a dwellinghouse which is clearly at odds with the established ribbon of development, yet its siting causes no harm for this reason.

A further contribution has been made by the occupiers of the neighbouring property to the west:-

“Boundary of the Laurels and Fir Tree Lodge

When this application was first considered by the planning committee, we believe there was some uncertainty over the ownership of the boundary between the Laurels and Fir Tree Lodge. We wish to confirm that the conveyance documents for Fir Tree Lodge clearly state that it is the responsibility of the owners of Fir Tree Lodge to maintain the existing larch and lap fence on the Eastern boundary of Fir Tree Lodge. Therefore, should permission be granted, we request that no works be undertaken on this boundary without our prior permission.

Access and Privacy

Access to and egress from the proposed development site still does not appear to have been adequately surveyed and we therefore support the letter from David Mercer of Wychwood, received by TDC on 1 December 2020.

The entrance to the property causes us concern as we have witnessed vans turning into the property from the direction of Chapel Lane and due to it being a tight turning, have been close to hitting our boundary fence on several occasions. We have additionally noted that the distance between the boundary of Fir Tree Lodge and the garage of the Laurels is 4.4m, which appears narrow for the number of vehicles likely to accessing the development.

We also believe that the impact of the development in relation to the number of properties planned has not been fully considered, nor the full impact on the privacy of Fir Tree Lodge. We kindly request that the committee members visit the site in person to assess these points prior to any decision being made.”

Update as of 10th March 2021

*A further contribution by **Tendring Parish Council** has been received. The Chair of the Parish Council comments that the report being submitted to committee makes the same critical error in relation to TDC's own Local Plan that the Planning Team made when presenting their case for approval first time round - and which during that meeting, they admitted was an error. The Chair comments that Tendring Green is NOT part of the settlement boundary for Tendring under the new adopted local plan, nor was it part of any recent draft local plan prior to its adoption. The Chair goes on to comment that he does not know why the Planning team are continuing to perpetuate this factual error having previously accepted it as false but it concerns me that this disregard for accuracy is an indicator of other areas of glossing over what they regard as "problems" in getting this application through. The Chair comments that to try and force through an application when knowing - and having perviously [stet] admitted - that the facts presented are incorrect leaves TDC open to subsequent action over knowingly and willingly failing to adhere to the standards expected of them.*

The Chair draws attention to, as an example, the visibility splay has been demonstrated to be nowhere near the 90m claimed in the application (it is 19m maximum to the right) as a result of

the neighbour's front wall. Asking why are TDC ignoring and glossing over this important safety matter? When put with the unanswered questions about the requirements for the width of access, this leaves the highways and access issues as a real question mark over the safety of this development.

The Chair finishes by stating that, when put together, he does not understand TDC Planning's decision to recommend an application known to be outside the development boundary and where real concerns exist about Highways and the safety of other road users.

In response to the contribution; the Late Observations for the 17th November 2020 meeting, in paragraph 6.0 confirmed the current position on the site's location in regards to the Settlement Boundary. This paragraph is repeated here:-

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

Further confirmation has since been received from the Council's Assistant Director of Strategic Planning and Place and the response is included here:-

"In the 2007 adopted Local Plan, Tendring Green is defined as a settlement in its own right in the Policy QL1 settlement hierarchy with its own settlement development boundary. Through the emerging Local Plan, the Council reviewed the situation and determined that while Tendring village should continue to be defined in the Policy SPL1 settlement hierarchy with its own settlement development boundary, Tendring Green is to be removed from the policy and the settlement development boundary is to be removed.

Whilst the Council has adopted Section 1 of the emerging Local Plan (which amongst other things sets the housing target and confirms the Garden Community development), Section 2 (which contains the new settlement hierarchy and revised settlement boundaries) remains the subject of examination with the hearings completed last week and the Inspector's conclusions still pending. Until such time that we are able to adopt Section 2 of the Local Plan, the 2007 adopted plan remains in force – albeit the weight you give to policies in the adopted and emerging plan varies on a case-by-case basis depending on pertinent issues and the guidance contained within the National Planning Policy Framework. I.e. the weight you give to emerging policies will depend on the stage of the planning process reached (which is now fairly advanced), consistency with national policy and the nature of any unresolved objections. There are objections to the removal of Tendring Green and its settlement boundary which are being considered by the Local Plan Inspector, even though the debate at the recent hearing sessions considered the settlement hierarchy and settlement boundaries in more general terms.

The reason for removing Tendring Green and other settlements including Aingers Green and Point Clear was discussed at the Local Plan examination hearings and here are links:

- a) To the technical piece of work that informed the Council's decision: [EB3.1.1 Establishing a Settlement Hierarchy 2016.pdf \(tendringdc.gov.uk\)](#)*
- b) The Council's hearing statement in which it defends the position taken: [TDC Hearing Statement - Matter 2 - Spatial Strategy.pdf \(tendringdc.gov.uk\)](#) (see paragraphs 2.2.14 to 2.2.16 in particular.*

Essentially, Tendring Green, compared to other settlements in the district is no longer considered to be a sustainable location to accommodate significant levels of development due to both its limited accessibility to shops, jobs, services and facilities and its existing size. That said, the Local Plan Inspector might conclude otherwise and until such point we get confirmation from the Inspector, we have to be sensible about how much weight can be applied.”

Summary

- 1.7 The application relates to what is essentially the rear garden area of The Laurels, Parsonage Lane, Tendring. The site is roughly 'L' in shape and approximately 0.2 hectares in size. The Laurels is one of a variety of dwelling types in the locale which comprises detached and terraced two-storey, chalet and single-storey bungalows. The Laurels is unique in terms of its rear garden which is of a significant size in comparison to any other dwelling in the settlement.
- 1.8 The site is centrally located within the Tendring Green Settlement Development Boundary as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017. The principle of residential development in this location is therefore acceptable subject to detailed design and impact considerations.
- 1.9 The application seeks full planning permission for the erection of 3 detached three-bedroom detached single-storey bungalows, served by way of a single access providing access to a parking/turning area. The dwellings are provided with surface parking and secure cycle-storage.
- 1.10 The proposal would not result in the loss of an area of public open space or safeguarded green space. The proposed bungalows are of a scale, design and appearance which is comparable with other bungalows in the vicinity. The retention of the brick-built garage provides a significant degree of screening from the public domain. The proposal would result in the loss of ten trees in total – the site does not benefit from any protection in the form of preservation orders, as such any trees can be removed without any consent required from the Local Planning Authority. Two of these are damaged/dangerous having limited life expectancy, five are small fruit trees and the remaining three are not mature or established specimens – all mature, established trees are to remain and offer a significant verdant backdrop to the site. The proposed dwellings are single storey and located sufficient distances from neighbouring dwellings so as not to result in a material loss of residential amenities. The new dwellings and retained dwelling are served by private garden areas and parking that accords with standards.
- 1.11 The proposed development is in a location supported by Local Plan policies and will not result in any material harm to the character of the area and/or residential amenities.
- 1.12 *However, notwithstanding the earlier recommendation, following further consideration of additional evidence, County Highways are now recommending that the application be refused on highway safety grounds by virtue of the scheme being unable to demonstrate appropriate highway visibility splays onto Parsonage Lane. .*

Recommendation: Refusal

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

The reason(s) stated in section 8.1

2. Planning Policy

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

National Policy:

NPPF National Planning Policy Framework February 2019

NPPG National Planning Practice Guidance

Local Policy:

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG1 Housing Provision

HG9 Private Amenity Space

HG13 Backland Residential Development

LP1 Housing Supply

COM6 Provision of Recreational Open Space for New Residential Development

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN29 Archaeology

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- LP8 Backland Residential Development
- HP5 Open Space, Sports & Recreation Facilities
- PPL4 Biodiversity and Geodiversity
- PPL7 Archaeology

Local Planning Guidance

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

- 2.2 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. 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.
- 2.3 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.
- 2.4 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.
- 2.5 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.
- 2.6 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.

2.7 In relation to housing supply:

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

2.9 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

| | | |
|--------------|------------------------------|---------|
| 20/00822/FUL | Erection of 3 no. bungalows. | Current |
|--------------|------------------------------|---------|

4. Consultations

TDC UU Open Spaces
10.08.2020

There is currently a deficit of 1.33 hectares of equipped play/formal open space in the village of Tendring.

Any additional development in Tendring will increase demand on already stretched facilities and increase the current deficit further.

Due to the significant lack of provision in the area if it is felt that a contribution is justified and relevant to the planning application the contribution received would be used to upgrade and improve the play equipment and the only play area in Tendring. The play area is located on Heath Road, Tendring

ECC Highways Dept
11.08.2020

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

**ECC Highways Dept
UPDATE
16.03.2021**

Following receipt on 16th March 2021 of an ECC Highways plan which indicates the extent of public highway land, ECC Highways now consider that a safe means of access to the site cannot be demonstrated by virtue of the 2.4m x 90m visibility splay to the site access not being achievable within the limits of the public highway and/or land in the control of the applicant.

Accordingly, contrary to the recommendation contained within the previous Officer Committee Report, it is now recommended that the application be **refused** planning permission for the following reason:

The proposal fails to demonstrate that a safe means of access to the site can be achieved, by virtue of a 2.4m x

90m visibility splay to the site access not being deliverable within the limits of the public highway and/or land in the control of the applicant. For this reason the application is considered to be contrary to Paragraph 108 of the NPPF which seeks to ensure that safe and suitable access to a development site can be achieved for all users and contrary to saved Policy QL10 of the adopted Tendring District Local Plan 2007 and emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

ECC Highways have further advised that the visibility requirements could be reviewed upon receipt of a speed survey. Accordingly, the applicant has been advised to undertake a 7-day speed survey and based on the results of that speed survey and using the Highway Boundary information provided by Highway Records produce new drawings to confirm what visibility splays can be achieved.

TDC Building Control and Access Officer
10.07.2020

No adverse comments at this time.

Essex Wildlife Trust

No comments received

TDC Tree & Landscape Officer
28.07.2020

The application site currently forms part of the residential curtilage of the host property and contains a range of shrubs and trees. There are some large trees on the boundary of the land. The location of the garden is such that none of the trees on the land feature prominently in the public realm and consequently have low amenity value. For this reason none merit formal legal protection by means of a Tendring District Council Tree Preservation Order.

TDC Environmental Protection
23.07.2020

I have reviewed the application and Phase 1 land contamination risk assessment and the Environmental Protection Team are satisfied with the findings of the Phase 1 land contamination risk assessment.

TDC Waste Management
20.07.2020

Access road to be constructed to suitable standard to allow full access to properties and withstand weight of 26 tonne refuse and recycling vehicles.

Essex County Council Archaeology
28.07.2020

The above planning application has been identified as having the potential to harm non-designated heritage assets with archaeological interest. It is recommended that a Programme of Archaeological evaluation is undertaken.

5. Representations

- 5.1 Twenty contributions were received in response to the display of the site notice and the written public consultation (**additional comments are summarised above in Section 1 and any**

further representations will be provided as part of the Committee Update Sheet). The objections are tabulated here; those in bold indicate an objection from the Parish Council in this regard:-

| Nature of objection | No. of Comments received | Where in the report this is addressed |
|---|--------------------------|---|
| The site is outside the settlement boundary | 14 | Paragraphs 6.11 to 6.12 |
| Backland form of development | 14 | Paragraphs 6.19 to 6.23 |
| Harm the amenity of neighbours (noise) | 13 | Paragraphs 6.29 to 6.33 |
| Ecology/Protected Species | 15 | Paragraphs 6.26 to 6.28 |
| Vehicle access | 16 | Paragraphs 6.24 to 6.26 |
| Not a sustainable location | 15 | Paragraph 6.11 to 6.12 |
| Out of keeping/cramped development | 6 | Paragraphs 6.15 to 6.18 |
| Decrease property values | 1 | This is not a material consideration in the determination of this planning application |
| Loss of a garden | 1 | Paragraphs 6.29 to 6.33 |
| No mains sewage on Parsonage Lane; only a communal sewer Are the gardens big enough for sub-surface irrigation systems It has not been demonstrated that surface water runoff from the site can be adequately dealt with without increasing localised flooding several local properties relying on septic tanks with soakaway beds | 6 | The application form states that there is a main sewer on Parsonage Lane. As this application is not defined as a 'major development' the requirement to incorporate a sustainable drainage system is not a material consideration in the determination of this planning application. As this application is not defined as a 'major development' the requirement to incorporate a sustainable drainage system is not a material consideration in the determination of this planning application. |
| Sufficient housing exists | 5 | This is not a material consideration in the determination of this planning application |
| Loss of privacy | 1 | Paragraphs 6.29 to 6.33 |
| Speed limit | 6 | Paragraph 6.26 |
| Removal of the garage | 1 | Paragraph 6.10 |
| Smell - As there is no mains sewer in Parsonage Lane, it is likely there will be three additional septic tanks that will need emptying. Parking will increase pollution levels in the immediate surroundings. Light - Light intrusion into the back of | 1 | The application form states that there is a main sewer on Parsonage Lane. The number of vehicular movements in association with the property was not objected to by Environmental Protection. Plot 3's flank elevation faces the rear of Fir Tree Lodge at a distance of 39m; this elevation contains one window which serves a bedroom. The light overspill |

| | | |
|---|---|--|
| Fir Tree Lodge will significantly increase. | | resulting from this dwelling is not considered to have a materially damaging impact on the amenity of this adjoining property. The plans make no reference to security lights. |
| Loss of outlook | 5 | There is no "right to a view" which planning controls should seek to safeguard for the continuing benefit of an existing landowner, except where the view from a particular location is also a valued public asset. This was underlined by the judgement in <i>Wood-Robinson v Secretary of State for the Environment (1998)</i> . |
| Security | 1 | It is the applicant's personal choice to have part of their un-enclosed; this is not a material consideration in the determination of this planning application. |
| Construction Noise | 4 | Noise generated during construction is not a material consideration in the determination of this planning application. |

6. **Assessment**

Site Context

- 6.1 The application site is located south of Parsonage Lane, Tendring Green. The site forms part of the rear residential garden of The Laurels; it has a site area in the region of 0.2ha and this is the largest plot by some considerable size in comparison to other plots in the vicinity.
- 6.2 In regards to built form the plot contains two garages (one finished externally in a grey-type buff brick and the other in a traditional red brick with weatherboarding features), sheds, greenhouses, a walled vegetable garden and an established pond. In regards to soft landscaping the plot is mainly laid to lawn which undulates significantly; the garden contains a substantial number of established conifers to the southernmost boundary and a small established orchard of fruit trees beyond the rear boundary of Wychwood. The substantial hedges on the boundaries with Wychwood and The Chase are to remain.
- 6.3 The property benefits from two separate parking areas – one is accessed via the existing driveway alongside the west flank and the other is located to the left hand of the dwelling and is currently laid to lawn.
- 6.4 The site is surrounded by residential development to the east, south and west, and is located within the heart of the settlement boundary. The surrounding dwellings are of a mixed vernacular and comprise both two-storey, chalet and single-storey bungalows. Immediate neighbours comprise Wychwood (east) – a much-enlarged single-storey bungalow; Fir Tree Cottage (west) – a late twentieth century dwelling; The Chase (east) – a mid-1970's two-storey dwelling sited in the side/rear garden of Rose Cottage; Chapel Lodge (south east) – a large single storey bungalow; and Wellan House (south west) – a two-storey dwelling.
- 6.5 New residential developments exist close to the application site; namely on: land at the entrance to Parsonage Lane, allowed on appeal under reference 14/01435/OUT for five

dwellings - this is approximately 80m from the application site; and east of Chapel Lane under reference 16/00668/OUT for five dwellings - this is approximately 170m from the application site.

Proposal

- 6.6 The proposal seeks the erection of three single-storey bungalows; following sub-division of the plot, the bungalows would be sited in what was the rear garden of The Laurels.
- 6.7 The dwellings would be accessed by utilising the first 32.5m metres of the existing driveway; a new internal access roadway would then sweep around behind the garage in a south-easterly curve providing driveway access to each of the dwellings.
- 6.8 Each of the three properties has variations in their external appearance but are of similar heights and have uniform eaves; all three dwellings have their own parking spaces, bin stores and secure cycle storage.
- 6.9 The sub-division of the site necessitates the provision of addition boundary treatment; a fence is proposed to delineate the new rear garden of the host property and this would be roughly in line with the existing fence panels to the boundary with The Chase and Chapel Lodge are also proposed. Along with additional boundary treatments, a new area of hardstanding for parking/turning for the host dwelling would be provided located forwards of the red-brick garage which is to remain.
- 6.10 In order to facilitate Plot 3 the grey-buff garage with its attached shed, the greenhouses and the pond will be removed.

Principle of Development

- 6.11 Whilst the Council has adopted Section 1 of the emerging Local Plan (which amongst other things sets the housing target and confirms the Garden Community development), Section 2 (which contains the new settlement hierarchy and revised settlement boundaries) remains the subject of examination with the hearings completed last week and the Inspector's conclusions still pending. Until such time that we are able to adopt Section 2 of the Local Plan, the 2007 adopted plan remains in force – albeit the weight you give to policies in the adopted and emerging plan varies on a case-by-case basis depending on pertinent issues and the guidance contained within the National Planning Policy Framework. I.e. the weight you give to emerging policies will depend on the stage of the planning process reached (which is now fairly advanced), consistency with national policy and the nature of any unresolved objections. There are objections to the removal of Tendring Green and its settlement boundary which are being considered by the Local Plan Inspector, even though the debate at the recent hearing sessions considered the settlement hierarchy and settlement boundaries in more general terms.
- 6.12 The reason for removing Tendring Green and other settlements including Aingers Green and Point Clear was discussed at the Local Plan examination hearings and here are links:
 - a) To the technical piece of work that informed the Council's decision: [EB3.1.1 Establishing a Settlement Hierarchy 2016.pdf \(tendringdc.gov.uk\)](#)
 - b) The Council's hearing statement in which it defends the position taken: [TDC Hearing Statement - Matter 2 - Spatial Strategy.pdf \(tendringdc.gov.uk\)](#) (see paragraphs 2.2.14 to 2.2.16 in particular.

- 6.13 Essentially, Tendring Green, compared to other settlements in the district is no longer considered to be a sustainable location to accommodate significant levels of development due to both its limited accessibility to shops, jobs, services and facilities and its existing size. That said, the Local Plan Inspector might conclude otherwise and until such point we get confirmation from the Inspector, we have to be sensible about how much weight can be applied to the emerging Spatial Strategy.
- 6.14 The site is located centrally within the current Development Boundary of Tendring Green therefore there it is considered, on balance, that no 'in principle' objection to the proposal can be raised, subject to the detailed considerations discussed below.

Appearance and Layout

- 6.15 The Government attach great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. One of the core planning principles of The National Planning Policy Framework (NPPF) as stated at paragraph 130 is to always seek to secure high quality design.
- 6.16 Saved Policies QL9, QL10 and QL11 aim to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties. Emerging Policy SP1 reflects these considerations.
- 6.17 Plot one is a three-bedroomed dwelling which would be located near the east boundary of the sub-divided plot; it is roughly 'L' shaped and a maximum of 11m wide and 9.5m deep. Its siting would require the loss of the four fruit trees, one sapling and one conifer; one sapling would be retained. Its rear elevation would be separated from the rear boundary with Wychwood by at least 4.2m. The main ridge runs in an east-west direction and this has a height of approximately 4.4m – in projecting forwards in a southerly-direction the ridge changes direction to north-south direction and this has a height in the region of 4.7m – this highest point is approximately 8.2m from the rear boundary with Wychwood. At its closet point (serving the dining room bay window) the side elevation would be approximately 9m from the rear boundary with The Chase – this separation distances increases to 11.3m. In regards to the higher of the two ridges, this would be over 14m away from The Chase's rear boundary.
- 6.18 Plot two is a three-bedroomed dwelling which would be located near the east boundary of the sub-divided plot. It would have a front-to-front relationship with plot one. It is roughly 'T' shaped and a maximum of 11m wide and 10.5m deep. Its siting would require the loss of one conifer. Its rear elevation would be separated from the rear boundary with Chapel Lodge by more than 9m. The main ridge runs in an east-west direction and this has a height of approximately 4.5m; in extending sideways in an easterly direction the ridge changes direction to north-south direction and this has a height in the region of 3.7m – this lower ridge is the one that runs almost parallel with the rear boundary of The Chase. At its closet point the side elevation would be approximately 5m from the rear boundary with The Chase – this separation distances increases to 7m. In regards to the higher of the two ridges, this would be over 9.8m away from The Chase's rear boundary.
- 6.19 Plot three is a three-bedroomed dwelling which would be located near the south boundary of the sub-divided plot. It is an irregular shape and a maximum of 11.1m wide and 10.3m deep. Its siting would require the loss of one cedar, one scots pine and two other trees. The cedar has suffered from a lightning-strike which has led to catastrophic damage to upper branches and the tree is at risk of being unstable. The damage to the cedar had a 'knock-on' effect on

the adjacent pine which in turn has led to damage and this tree now has a limited life expectancy. This plot also requires the removal of the garage, shed, greenhouses and the infilling of the pond. Its rear elevation would be separated from the side boundary with Fir Tree Cottage by between 3.9m and 4.2m; The main ridge runs in an east-west direction and this has a height of approximately 4.7m; in extending sideways in a northerly direction the ridge changes direction to north-south direction and this has a height in the region of 4.4m, this direction change increases the separation distances to the boundary with Fir Tree Cottage to 6.9m. Separation distances between the flank elevation and the rear boundary of Chapel Lodge are a little over 10m.

- 6.20 The site layout makes provision for two undeveloped areas – one in excess of 140sqm and the other in excess of 230sqm; these are an extremely positive feature in the overall appearance of the development by reason of contributing and maintaining a verdant and low-scale characteristic. It is considered appropriate to attach a condition to any forthcoming permission that these areas remain un-enclosed. The single-storey height, footprint and external construction materials accord with the overall established form of development within the locale and for these reasons the development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design.

Backland Development

- 6.21 With regards to the siting of the proposed dwellings the development does constitute "Backland" development which is, for the purposes of the Policy, defined as the proposed erection of one or more dwelling houses on a parcel of land which lies generally behind the line of existing frontage development; has little or no frontage to a public highway; and which would constitute piecemeal development in that it does not form part of a large area allocated for development. Typical sites include the back gardens of existing dwellings, smallholdings, yards, or small vacant sites.
- 6.22 The District Council is committed to making effective use of land within existing built-up areas and this is reflected in the policies and objectives set out elsewhere in this Plan. However, clearly this should always be achieved through the development of sites well related to existing development and by schemes which would integrate well with their surroundings. It is often difficult to achieve this on backland sites and such sites also normally have restricted access potential. Consequently only in particular circumstances with careful planning and good design may such sites be acceptable for residential development.
- 6.23 There are seven criterion that must be met in order for backland development to be considered appropriate; these are listed here – alongside how the proposed development complies:-

| | |
|---|--|
| The site is within a defined settlement development boundary | The site is located inside the defined settlement development boundary of Tendring Green |
| Where a proposal includes existing private garden land which would not result in less satisfactory access or off-street parking arrangements, an unacceptable reduction in existing private amenity space or any other unreasonable loss of amenity to existing dwellings | Access and off street parking is acceptable to the Highways Authority. An acceptable degree of private amenity space is retained |
| A safe and convenient means of vehicular and pedestrian access/egress can be provided that is not likely to cause undue disturbance or loss of privacy to neighbouring residents or visual detriment to the street | Access and off street parking is acceptable to the Highways Authority |

| | |
|---|---|
| scene. Long or narrow driveways will be discouraged | |
| The proposal does not involve “tandem” development using a shared access. | The layout of the scheme does not cause an unacceptable inter-relationship between existing and proposed development in terms of its spatial configuration |
| The site does not comprise an awkwardly shaped or fragmented parcel of land likely to be difficult to develop in isolation or involve development which could prejudice a more appropriate comprehensive development solution | The site is unique in shape and form, sat centrally amongst the cluster. The site does not disrupt the rhythm or form of the locality to a detrimental degree |
| The site is not on the edge of defined settlements and likely to produce a hard urban edge or other form of development out of character in its particular setting | The site sits centrally to the defined settlement |
| The proposal would not be out of character with the area or set a harmful precedent for other similar forms of development | The proposal is in-keeping with the character of the area which comprises a varied mix of dwellings |

6.24 In terms of ‘backland’ developments nearby, the dwelling adjacent to the rear boundary - ‘The Chase’ - is the product of a late 1970’s development in a rear/side garden. A subsequent planning approval for the dwellinghouse makes reference to it as “Due to its setback from the highway, and siting behind properties which front the highway, the dwelling is not prominent in the street scene.” The current application would have similar circumstances, though the dwellings would be sited beyond a garage.

6.25 The proposal is defined as a backland form of development, it is however considered to adequately comply with the seven criteria and is therefore deemed an appropriate form of development.

Highways Safety/Parking

6.26 Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. These objectives are supported by emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

6.27 Essex County Council Parking Standards requires that new dwellings provide a minimum of two off-street spaces; sufficient space for the remaining development must also be provided.

6.28 *Following receipt on 16th March 2021 of an ECC Highways plan which indicates the extent of public highway land, ECC Highways now consider that a safe means of access to the site cannot be demonstrated by virtue of the 2.4m x 90m visibility splay to the site access not being achievable within the limits of the public highway and/or land in the control of the applicant.*

6.29 *Accordingly, contrary to the recommendation contained within the previous Officer Committee Report, it is now recommended that the application be **refused** planning permission for the following reason:*

The proposal fails to demonstrate that a safe means of access to the site can be achieved, by virtue of a 2.4m x 90m visibility splay to the site access not being deliverable within the limits of the public highway and/or land in the control of the applicant. For this reason the application is considered to be contrary to Paragraph 108 of the NPPF which seeks to ensure that safe and suitable access to a development site can be achieved for all users and contrary to saved Policy QL10 of the adopted Tendring District Local Plan 2007 and emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

- 6.30 *ECC Highways have further advised that the visibility requirements could be reviewed upon receipt of a speed survey. Accordingly, the applicant has been advised to undertake a 7-day speed survey and based on the results of that speed survey and using the Highway Boundary information provided by Highway Records produce new drawings to confirm what visibility splays can be achieved.*
- 6.31 *At the time of updating this report, a Speed Survey Report has not been submitted or reviewed by County Highways and, as such, the recommendation remains as one for refusal on highway safety grounds. If this information is forthcoming in advance of the Meeting this will form part of the Committee Update Sheet. However, County Highways have stated that whilst the applicant could commission the additional work there is no guarantee that the required standards can be met or that the proposal will be met or that the proposal will be acceptable to the Highway Authority.*
- 6.32 Separately, in regards to the access width; a width of 5.5m would be required for roads which have a high speed limit or where traffic is heavy; if the road was lightly trafficked and visibility was good then 4.8m is an acceptable width.
- 6.33 Drawing 1810.20.01E, received 6th November 2020 shows that a width of 4.8m can be achieved for the first 6m into the site at the access. The eastern-entrance boundary wall could be conditioned to be retain at a height no greater than 0.6m.

Landscaping and Biodiversity

- 6.34 Paragraph 175 of the National Planning Policy Framework requires that Local Planning Authorities "conserve and enhance biodiversity".
- 6.35 The application is accompanied by a very detailed Preliminary Ecological Appraisal which was dated 11th June 2020; the appraisal confirms that four surveys were undertaken during the peak great crested newt survey season (18th April to the 12th May 2020). The outcome of the survey is that no great crested newts were recorded in the on-site pond, or the pond 75m to the west (Fir Tree Cottage), which was the only other known pond within 500m of the site that was holding water at the time of the survey. The appraisal states that the pond in the neighbouring property had potential to support amphibians and was included within the newt survey. However, the pond had a very high fish population reducing the potential for presence of great crested newts, though other priority amphibians (e.g., toads) could be present. The majority of the area of impact was well-managed and short-mown lawn grassland, unlikely to support grass snakes, common lizards or other widespread reptiles.
- 6.36 In regards to the loss of existing trees on the site; the cedar has suffered from a lightning-strike which has led to catastrophic damage to upper branches and the tree is at risk of being unstable. The damage to the cedar had a 'knock-on' effect on the adjacent pine which in turn has led to damage and this tree now has a limited life expectancy. In regards to the loss of the fruit trees, these are of a low height typical of their species – there is negligible opportunity for nesting birds to occupy these trees and whilst they offer a small amount of positive biodiversity to the site, the significant benefit that the existing established tree line on the south boundary (which will remain as existing, save for the damaged trees), far outweighs the loss.

Impact on Residential Amenity

- 6.37 The NPPF, at paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.38 Different dwelling sizes and types provide accommodation for individuals and families with a wide range of expectations and need for private amenity space. "Private amenity space" comprises a private outdoor sitting area not overlooked by adjacent or opposite living rooms or outdoor sitting areas. It will therefore not necessarily always amount to the entire rear garden. Apart from its private recreation function, private amenity space is also important in achieving well laid out development.
- 6.39 Private amenity space shall be provided to new dwellings in accordance with the following standards: a three or more bedroom house - a minimum of 100 square metres. It is also a requirement that the retained dwelling's amenity space also accords. The host dwelling would have an amenity space in the region of 240sqm, Plot 1's amenity space is in excess of 210sqm, Plot 2's amenity space is in excess of 270sqm and Plot 3's amenity space is in excess of 280sqm. In accordance with the policy requiring the area to not be overlooked by adjacent or opposite living rooms or outdoor sitting areas, the proposed dwellings would have more than sufficient private amenity space available.
- 6.40 In regards to the privacy, daylight or other amenities of occupiers of nearby properties:-

Privacy

The scheme presents no opportunity for overlooking, as there are no openings at first floor level. The upper parts of openings at ground floor level are approximately 2.1m above external ground level and, with boundary treatments of 1.8m proposed, there is potential of only 30cm of window visible above the fence-line. Plot 3 has two windows on their north facing flank, one window serves a bedroom and the other an en-suite – this flank is in the region of 40m away from the rear elevation of Fir Tree Cottage.

Daylight

The focus of the development is towards the southernmost boundary and, with the path of the sun moving from right to left, the siting of the development would be well contained beneath the extremely established and dense tree line.

Amenity

Built form visible from a private vantage point does not necessarily result in adverse residential amenity. The highest ridge of Plot 1 is some 27m away from the rear elevation of Wychwood, an oblique relationship exists between Plots 1 and 2 and The Chase – as such the rear elevation of Plot is closest to the flank of The Chase – notwithstanding this the highest ridge point of Plot 1 is at least 14m away from the boundary – with Plot 2's highest ridge being approximately 18m from the flank elevation. The highest ridge of Plot 3 is in excess of 46m from the rear elevation of Fir Tree Cottage. In regards to noise and pollution (vehicles etc); Fir Tree Cottage has a boundary fence in the region of 2m in height with established planting above it as well as a large detached outbuilding and both of these will contribute to a degree of protection.

- 6.41 For the reasons given above, the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

Archaeology

- 6.42 Archaeological sites are a finite and non-renewable resource. In many cases they are highly fragile and vulnerable to damage or destruction. These sites contain information about our past, are part of our sense of place and are vulnerable for their own sake and for their role in education, leisure and tourism. As a result it is important that they are not needlessly or thoughtlessly destroyed. Within Tendring approximately 1880 sites of archaeological interest are recorded on the Essex Heritage Conservation Record (EHCR) of which 27 are Scheduled Ancient Monuments. These sites range from Palaeolithic deposits of international significance through those of the prehistoric Roman, Saxon and medieval periods and up to modern industrial and World War II/ Cold War monuments. However, the EHCR records only a proportion of the total with many more important sites remaining undiscovered and unrecorded. The nature of archaeological evidence means that all areas of high potential may not have yet been identified. Important archaeological evidence may exist on any site, and thus may be at risk from proposed developments. The District Council, in conjunction with the County Archaeologist and relevant bodies, is determined to identify and protect all-important remains through the use of appropriate policies and their implementation through the development control process. Where the Council believe important archaeological remains are likely to exist, it is reasonable to request a field evaluation funded by the developer, but carried out independently, is carried out prior to determining a planning application. Not all surviving archaeological remains are of equal importance and Policy EN29 reflects this hierarchy. Where permission is granted for development affecting archaeological remains, and preservation in situ is not possible or feasible, conditions will be imposed to ensure that the remains are properly recorded and evaluated and where practicable, preserved, prior to development. Saved Policy EN29 states that development will not be permitted where the Council considers that it will adversely affect nationally important archaeological sites and their setting and permission will be refused where development proposals do not satisfactorily protect archaeological remains of local importance.
- 6.43 The Essex Historic Environment Record (HER) and Tendring Historic Environment Characterisation Project, demonstrate that the proposed development lies within an area of archaeological interest.
- 6.44 The site lies within a historic green, identified on the Chapman and Andre map of 1777 as Parsonage Green and later known as Tendring Green. Settlement around greens was common in the medieval period, Thatched Cottage lies to the west and dates from the 16th/17th century. Historic mapping shows that the green was infilled before c.1870. The 1st edition OS map shows a house and outbuildings located within the development area, it is identified as a beer house on the 2nd edition OS map. To the east aerial photographic evidence has recorded cropmark features of a rectangular enclosure which meets Chapel Lane and may be earlier in date than the green. In the surrounding area further cropmark evidence of circular enclosures may indicate prehistoric activity.
- 6.45 There is potential for the survival of below ground remains of the outbuildings and structures associated with the historic beer house on the site as well as earlier features relating to the nearby cropmarks. The Historic Environment Officer recommends that pre-commencement and post-excavation conditions in regards to requiring written scheme of investigation are attached to any forthcoming permission.

Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)

- 6.46 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. The contribution is secured by unilateral undertaking.
- 6.47 The application scheme proposes three new dwellings on a site that lies within the Zone of Influence (Zol) being approximately 5,400metres from Hamford Water Special Protection Area. Since the development is for 3 dwellings only, the number of additional recreational visitors would be limited and the likely effects on Hamford Water from the proposed development alone may not be significant. However, new housing development within the Zol would be likely to increase the number of recreational visitors to Hamford Water; and, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.
- 6.48 A unilateral undertaking has been prepared to secure this legal obligation. This will ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Public Open Space

- 6.49 Paragraph 54 of the National Planning Policy Framework (2019) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 56 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.
- 6.50 Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built". These sentiments are carried forward within emerging Policy HP5.
- 6.51 In line with the requirements of saved Policy COM6 and emerging Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space. The outcome of the consultation is that there is a deficit of 1.33 hectares of equipped play/formal open space in the village of Tendring.
- 6.52 Due to the significant lack of provision in the area if it is felt that a contribution is justified and relevant to the planning application the contribution received would be used to upgrade and improve the play equipment and the only play area in Tendring. The play area is located on Heath Road, Tendring. The contribution is secured by unilateral undertaking.

7 Conclusion

- 7.1 On balance, applying the relative weight of the adopted Local Plan spatial strategy as set against the emerging Local Plan (Part 2), the principle of residential development in this locality is supported by Local Plan policy. The proposal does not amount to any visual harm or harm to residential amenities. However, notwithstanding the earlier recommendation, following further consideration of additional evidence, County Highways are now recommending that the application be refused on highway safety grounds by virtue of the scheme being unable to

demonstrate appropriate highway visibility splays onto Parsonage Lane. The application is, therefore recommended for refusal.

8 Recommendation

The Planning Committee is recommended to refuse planning permission for the following reason:

8.1 Reason(s) for Refusal

1. *The proposal fails to demonstrate that a safe means of access to the site can be achieved, by virtue of a 2.4m x 90m visibility splay to the site access not being deliverable within the limits of the public highway and/or land in the control of the applicant. For this reason the application is considered to be contrary to Paragraph 108 of the NPPF which seeks to ensure that safe and suitable access to a development site can be achieved for all users and contrary to saved Policy QL10 of the adopted Tendring District Local Plan 2007 and emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.*

Additional Considerations

Public Sector Equality Duty (PSED)

- 8.2 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.

- 8.3 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.

- 8.4 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.

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

Finance Implications

- 8.6 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.

- 8.7 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.

9 Background Papers

- 9.1 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/>.

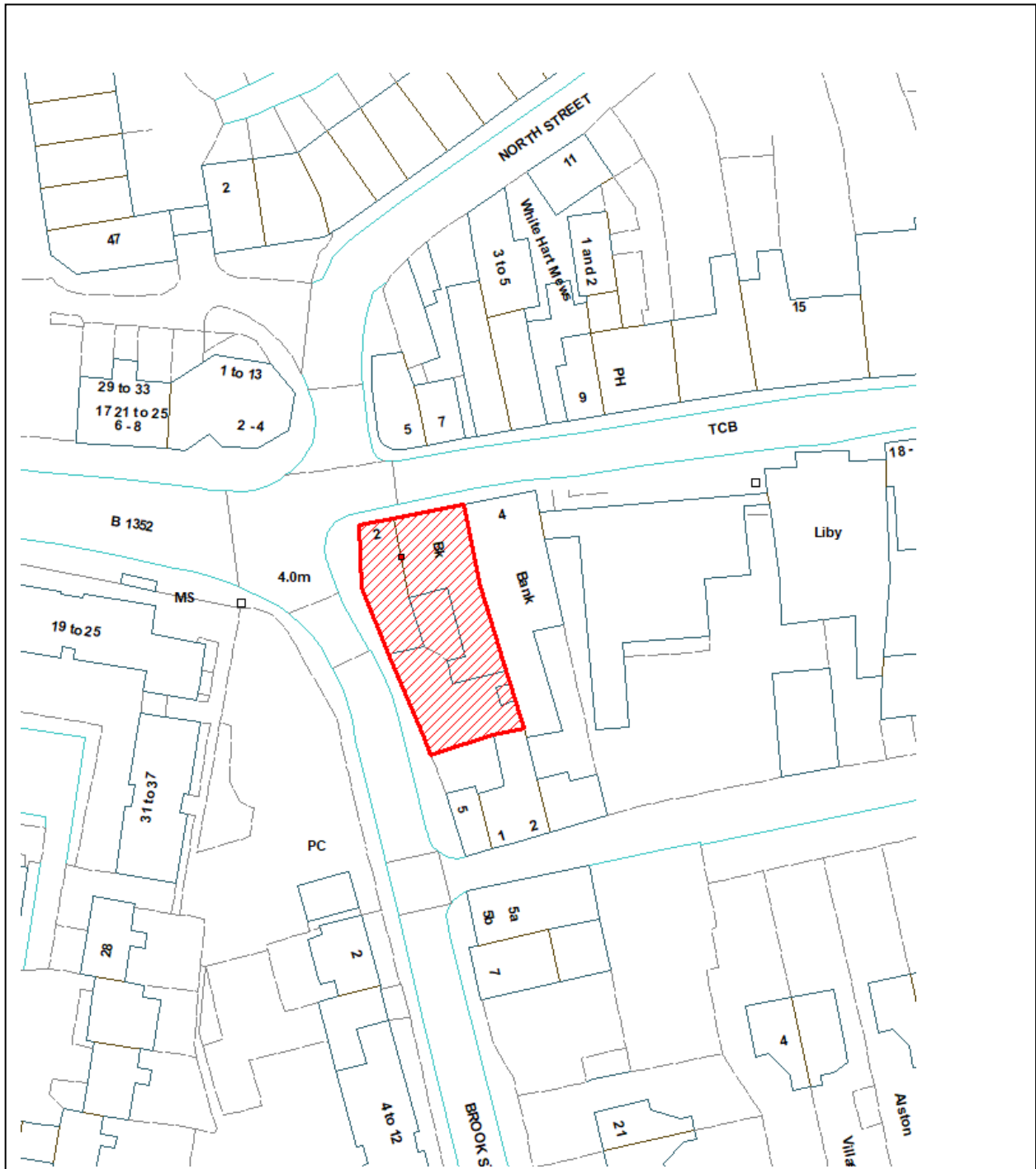
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PLANNING COMMITTEE

13th April 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.2 PLANNING APPLICATION – 20/01385/FUL – 2 HIGH STREET MANNINGTREE CO11 1AD



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Application: 20/01385/FUL

Town / Parish: Manningtree Town Council

Applicant: Harry Edwards - Roundwood Restorations

Address: 2 High Street Manningtree CO11 1AD

Development: Variation of conditions 2 and 3 of application 17/01479/FUL to allow for change of use of ground floor unit from retail premises to two bedroom residential unit alongside the other residential uses (6 flats and 1 house)

1. Executive Summary

- 1.1 The application has been referred to the Planning Committee by the Councillor G Guglielmi due to the loss of the commercial premises in the 'Primary and main Shopping Frontage of Manningtree High Street'.
- 1.2 The site is located inside the Development Boundary for Manningtree as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 1.3 The host building is a Grade II Listed Building located in the Town Centre of Manningtree and within Manningtree Conservation Area. The former bank has obtained planning permission in 2017 for a retail unit at ground floor facing the High Street, with six flats making up the rest of the building and a separate dwellinghouse to the rear.
- 1.4 The host building is not within the Primary Shopping Frontage area as designated by policy ER33.
- 1.5 A similar application was submitted and refused in 2020 again to convert the ground floor retail unit to a residential use. The four reasons of refusal were:
 - Poor levels of residential amenity internally and externally.
 - Development proposed is within a Flood Risk 3 with Flood Risk implications
 - Unacceptable impact on the Listed Building and the Conservation Area.
 - Lack of RAMS payment in accordance with the habitat regulations.
- 1.6 Officers consider the current application has overcome these concerns.

- 1.7 The proposed development will not result in any material harm to the character of the area, residential amenities or highway safety. The application is therefore recommended for approval subject to conditions and in conjunction with a completed legal agreement.

Recommendation: Approval

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

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

2. Planning Policy

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

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL2 Promoting Transport Choice

QL3 Minimising and Managing Flood Risk

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

QL12 Planning Obligations

ER3 Protection of Employment Land

ER31 Town Centre Hierarchy and Uses

ER33 Non Retail Uses Within Primary Shopping Frontages

HG1 Housing Provision

| | |
|--|--|
| HG3 | Residential Development Within Defined Settlements |
| HG9 | Private Amenity Space |
| COM6 | Provision of Recreational Open Space for New Residential Development |
| EN6 | Biodiversity |
| EN6A | Protected Species |
| EN11A | Protection of International Sites European Sites and RAMSAR Sites |
| EN12 | Design and Access Statements |
| EN17 | Conservation Areas |
| EN22 | Extensions or Alterations to a Listed Building |
| TR7 | Vehicle Parking at New Development |
| <i>Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)</i> | |
| SP1 | Presumption in Favour of Sustainable Development |
| SP6 | Place Shaping Principles |
| SPL2 | Settlement Development Boundaries |
| SPL3 | Sustainable Design |
| PP2 | Retail Hierarchy |
| PPL1 | Development and Flood Risk |
| PPL8 | Conservation Areas |
| PPL9 | Listed Buildings |
| CP1 | Sustainable Transport and Accessibility |

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

- 2.2 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. 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.
- 2.3 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.

- 2.4 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.
- 2.5 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.
- 2.6 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.
- 2.7 In relation to housing supply:
- 2.8 The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.
- 2.9 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

| | | | |
|--------------|---|----------|------------|
| 17/01479/FUL | Alterations and extensions of existing vacant bank premises, to provide a retail unit and change of use to multi-residential accommodation. (1 Retail Unit, 6 Flats and 1 House). | Approved | 10.11.2017 |
| 17/01480/LBC | Alterations and extensions of existing vacant bank premises, to provide a retail unit and change of | Approved | 10.11.2017 |

| | | | |
|-----------------|--|----------|------------|
| | use to multi-residential accommodation. (1 Retail Unit, 6 Flats and 1 House). | | |
| 17/02092/DISCON | Discharge of condition 4 (Archaeology) of planning permission 17/01479/FUL. | Approved | 07.06.2018 |
| 18/00120/DISCON | Discharge of conditions 6 (Materials), 7 (Joinery), 12 (Cycle Parking) & 14 (Landscaping) of Planning Application 17/01479/FUL, and Discharge of conditions 3 (Materials) and 4 (Joinery) of Listed Building Consent 17/01480/LBC. | Approved | 07.06.2018 |
| 18/00911/DISCON | Discharge of conditions 5 (archaeological monitoring), and 13 (transport mitigation) of planning permission 17/01479/FUL. | Approved | 18.07.2018 |
| 20/00410/LBC | Insertion of replacement windows (14 no.) | Approved | 17.12.2020 |
| 20/00411/LBC | Proposed re-roofing of building. | Approved | 02.12.2020 |
| 20/00413/FUL | Proposed change of use of the ground floor from A2/approved retail unit to residential flat (including changes to High Street frontage). | Refused | 07.07.2020 |
| 20/01386/LBC | Variation of conditions 2 and 3 of application 17/01479/FUL to allow for change of use of ground floor unit from retail premises to two bedroom residential unit alongside the other residential uses (6 flats and 1 house) | Current | |
| 20/01722/FUL | Variation of condition 3 of approved application 17/01479/FUL to change the condition wording to allow for one residential unit to be occupied before works are complete | Approved | 04.03.2021 |

4. Consultations

ECC Highways Dept
11.12.2020

The observations below are based on submitted material, google earth image dated September 2018. The site is in a central location and it is noted that there are several existing residential properties in the vicinity with no off-street parking. There are existing parking restrictions present outside the existing building and in part on the surrounding streets. There is existing public transport links and a car park close to the premises. Considering these factors, the Highway Authority would not deem the introduction of one additional dwelling at this location to have a severe impact.

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

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

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

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

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

3. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

4. Prior to occupation a financial contribution of £2,000 (index linked) towards the introduction of any future residents parking scheme for the surrounding roads subject to any scheme being put forward by the North Essex Parking Partnership. The contribution (£2,000) will be returned to the applicant if a scheme is not forthcoming at the end of the 3-year period, from the date of first occupation.

Reason: To control and manage the location of on street parking for the area to minimize inconsiderate parking in the interests of highway safety and Policy DM1.

Note: the financial contribution will form part of a Section 106 contribution which will be for the North Essex Parking Partnership.

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

Informative:

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

2: Steps should be taken to ensure that the Developer provides sufficient turning and off-loading facilities for delivery and site worker vehicles, together with an adequate parking area for those employed in developing the site.

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 Building Control and Access Officer
20.11.2020
No adverse comments at this time.

TDC Environmental Protection
15.01.2021

With reference to the above application, I can confirm that we have had the opportunity to review the relevant documents, and we have the following comments and observations to make:

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

Prior to the commencement of any construction works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, Environmental Protection Team. This report should include, but is not limited to, the following information -

Noise Control

1) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.

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

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

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

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

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

Emission Control

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

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

3) 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.

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

Dust Control

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

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

The above comments and requests are in order to protect the amenity of nearby residential premises and to protect the health of site workers and end users.

In addition to the above, we have a query concerning the following -

Noise: Information is required in relation to the expected internal noise levels within the proposed residential units (with the windows closed) and their compliance, or not, with relevant guideline values such as those outlined in BS8233: 2014- Guidance on sound insulation and noise reduction for buildings, and any relevant mitigation techniques.

Should you have any queries concerning this, please do not hesitate to contact me

Essex County Council Heritage
15.02.2021

Following the submission of detailed updated proposals and the changing of the application descriptions, ECC Heritage are unopposed to this application subject to the following recommended conditions:

- Prior to commencement of works, a schedule of external finish materials and fixtures, including ventilation grilles, vents and flues, brick and bond style for the stallriser to match existing brickwork, finish colour for the timber work, proposed materials for the timberwork and proposed materials for the steps, shall be submitted to and approved in writing by the local planning authority. Works shall be implemented in accordance with the approved details and shall be permanently maintained as such.
- Prior to commencement of works, plans and elevation drawings showing the locations of flues and extract vents to be installed shall be submitted to and approved in writing by the local planning authority. Works shall be implemented in accordance with the

approved details and shall be permanently maintained as such.

- Prior to installation, a schedule of drawings that show details of proposed windows and doors including their ironmongery and glazing type, cills, glazing bars, in section and elevation at scales between 1:20 and 1:1 as appropriate shall be submitted to and approved in writing by the Local Planning Authority. Works shall be implemented in accordance with the approved details and shall be permanently maintained as such.

- Rainwater goods shall be black painted or powder-coated metal and shall be permanently maintained as such.

TDC Emergency Planner

No Comments against the Emergency Evacuation Plan

TDC UU Open Spaces
12.03.2021

Current Position

There is currently a deficit of -2.16 hectares of equipped play/open space in Manningtree.

Recommendation

No contribution is being requested from Open Spaces on this occasion.

Environment Agency
31.12.2020

Thank you for your consultation dated 14 December 2020. We have reviewed the application as submitted and are raising a holding objection on Flood Risk grounds.

Flood Risk

Our maps show the site lies within tidal Flood Zone 3a, defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for the change of use of ground floor unit from commercial premises as permitted under application 17/01479/FUL to a two bedroom residential unit, which is classified as a 'more vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance (PPG). Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment (FRA).

We have reviewed the submitted flood risk assessment (FRA), prepared by Amazi Consulting Ltd., referenced AMA804 Rev 0 and dated October 2020 and do not consider it to comply with the requirements of the PPG. In particular:

- The proposed development includes a basement within its design, with floor levels set at 2.43mAOD. This area would be at risk of flooding internally during its [100yr] lifetime by 2.10m depth in the 0.5% (1 in 200) annual probability with climate change flood event through overtopping of the existing defences, and would therefore be unsafe for the occupants.
- The FRA shows that the proposed building would flood internally by 0.76m depth on the ground floor in the 0.1% (1 in 1000) annual probability with climate change flood event. The planning application plans show that there is no higher refuge available within the ground floor development that is accessible from within the dwelling. The only available refuge would require residents to exit the dwelling and seek refuge within the stair well/landing above. The entrance corridor to the dwelling (which would be the route for residents to access the stair well) is set at 4.61mAOD and would be expected to flood to a depth of 0.98m in the 0.1% (1 in 1000) annual probability with climate change flood event. Consequently, there may be an unacceptable risk to the health and safety of the occupants in a flood event.
- Table 3.1 referenced within section 3.3.5 of the FRA is missing from the FRA. Based upon the information contained within the FRA, we have compared flood levels to floor levels within the technical appendix.

Overcoming our Objection The applicant can overcome our holding objection by:

- Removing high risk basement accommodation from the development to prevent internal flooding of the development in the 0.5% (1 in 200) annual probability climate change event.
- Providing a satisfactory higher refuge accessible to the occupants of the self-contained ground floor flat above the 0.1% (1 in 1000) annual probability with climate change flood depths, including a 300 millimetre freeboard. The FRA proposes that the safety of the occupants is reliant on the Flood Response Plan in the FRA. However due to the vulnerable nature of residential development we have concerns as to whether in this instance it is

appropriate or safe for the proposed self-contained ground floor flat) to flood internally to 3.16m in basement and 0.76m on the ground floor, without a higher refuge available.

Consequently if a higher refuge is not provided for the self-contained ground floor flat then we will only remove our objection if the local council, in consultation with their Emergency Planner, inform us in writing that they accept the flood risk to the future occupants and consider the proposed risk of internal flooding in a breach to be acceptable and safe and able to be managed through the Flood Response Plan for the proposed self-contained ground floor residential development. The council should also make it clear whether or not they consider the basement area an acceptable element of the development.

We look forward to being re-consulted following submission of an amended FRA. If you are minded to approve the application contrary to this advice, we request that you contact us to allow further discussion and/or representations from us in line with the Town and Country Planning (Consultation) (England) Direction 2009.

ECC SuDS Consultee
06.01.2021

Lead Local Flood Authority position

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

This application is for change of use and does not make any additional changes to the previously approved application (17/01479/FUL).

Summary of Flood Risk Responsibilities for your Council

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

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

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

INFORMATIVES:

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

Appendix 1 - Flood Risk responsibilities for your Council

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

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

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

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

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

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

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

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

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

- Sustainability of the development

The purpose of the planning system is to contribute to the achievement of sustainable development. The

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

5. Representations

5.1 The application was called in to Committee by Councillor G Guglielmi on the following grounds:

'We raised a fundamental objection to the loss of yet another commercial premises in the Primary and main Shopping Frontage of Manningtree High Street, when it was originally considered by the Planning Committee. The application was refused, and the applicant's agent then contacted us to understand how the application could be modified to address our concerns. We met on site and it was agreed that as long as the ground floor once occupied by the Nat West Bank was going to be retained in commercial use, we would withdraw our objection to the whole proposal. This second attempt to go against our agreement is simply unacceptable, and the principle of safeguarding commercial premises in the High Street must be upheld.'

5.2 Manningtree Parish Council

The Parish objected to the application for the following reasons:

- Retaining this commercial unit is crucial in a high street that needs to be preserved.
- The town council does not believe that the owner has to date properly marketed the unit as a retail space.
- The town council is also concerned about the impact another residential unit would have on public car parking spaces, which are already limited as well as the moving of the main access point of the building from High Street to Brook Street.

5.3 A single member of the public objected to this application for the following reasons:

- Erosion of business premises in the town. - too many have been turned into private dwellings.
- There are business owners interested in the building, but their interests have been 'blocked ' by developers who don't really want this to be anything other than a dwelling.
- There is no parking at that location.
- The premises would be better used commercially, to say there is no interest is not true

6. Assessment

Site Context

- 6.1 The host building is set on a corner formed by the junction of the High Street and Brook Street. The building has two full storeys and accommodation within a hipped roof. The property was last used as a bank. However, an application in 2017, (Planning ref: 17/01479/FUL) approved alterations and extensions of the then vacant bank premises, to a retail unit at ground floor and change of use to multi-residential accommodation involving six flats and a separate house to the rear.
- 6.2 Works are currently ongoing to bring the six approved flats in the main building into use, while the house to the rear has been completed, this has access onto Brook Street.
- 6.3 The host building is on the southern side of High Street in a location that forms part of the western edge of Manningtree Town Centre as defined by the adopted Local Plan.
- 6.4 Opposite the host building, on the northern side of the High Street, the premises designated as being within the Primary Shopping Frontage in the adopted Local Plan. However, the southern side of the road, including the host building, is not within this designated area. Along the southern side of the road going east into the Town Centre is a library, post office, a bank and the odd residential unit.
- 6.5 In the wider locality to the north, south and west there are mainly housing units of flats and terraced houses, while the commercial uses are to the east.
- 6.6 The host property is a Listed Building, within a Conservation Area and within the designated Town Centre of Manningtree.

Planning History

- 6.7 Planning permission, (Ref: 17/01479/FUL), provided for the change the use of the building from a bank, to provide a retail unit on ground floor and construct six flats and one house to the rear. Condition 3 of this planning permission states:

“The development hereby approved shall be carried out in its entirety as shown on the submitted plans. No dwelling or flat shall be occupied until such time as the works to the front facade of the building and new shop-front have been installed and the retail unit completed for occupation.” The reason for the condition is *“The development has been permitted due to the significant benefits that would result for the listed building, and it is essential that the works are carried out as a package of improvements in the interest of the character and setting of the listed building.”*
- 6.8 However, in 2021 an application (Ref: 20/01722/FUL) was approved allowing the ‘variation of condition 3 of approved application 17/01479/FUL to change the condition wording to allow for one residential unit to be occupied before works are complete on the shop front.
- 6.9 Also relevant to this application is previous application ref: 20/00413/FUL for the change of use of the ground floor from an approved retail unit to residential flat (including changes to High Street frontage). This essentially is a very similar application to the

current proposal subject of this report. The previous application was refused on 4 grounds:

- Poor levels of residential amenity internally and externally.
- Development proposed is within a Flood Risk 3 area and an alternative site outside this area has not been found.
- Unacceptable impact on the Listed Building and the Conservation Area.
- Lack of RAMS payment for the development in accordance with the habitat regulations.

Proposal

- 6.10 The application involves the change of use of the ground floor from retail unit to residential flat.
- 6.11 The flat would have two bedrooms and an open plan living area and kitchen. The existing front elevation would be replaced with a new shop front (although this shall serve as the windows for the ground floor flat). The proposed shop front is a highly detractive feature and shall include 6 full sized windows with a centrally fixed central door. The lower half of the glass windows shall be etched glazing with 800mm wooden panelling on the inside, behind the obscured window. The top half of the windows shall be clear glass. Entrance to the proposed flat shall be via the Brook Street elevation.
- 6.12 The main planning considerations are:
- Principle of Development
 - Amenity of future residents
 - Impact to heritage assets
 - Loss of an employment use
 - Flood risk
 - Legal Obligation – Recreational Impact Mitigation
 - Legal Obligation – Open Space/Play Space Contribution
 - Other Considerations

Principle of Development

- 6.13 The host site is a sustainable town centre location, within the settlement boundary of Manningtree. The conversion to a residential unit would contribute, albeit minimally, to housing provision. The site is not designated as Primary Shopping Frontage under policy ER33 with regard to retaining the vitality of a commercial centre. Considering the principle of the proposal in isolation, the proposal is acceptable with regard to strategic Policies QL1, QL2 and ER33.
- 6.14 The detailed development management policies associated with this proposal are assessed in turn below.

Amenity of future residents

- 6.15 The proposed dwelling would have no private amenity space and no on-site parking. However, the proposed flat appears to not be for family accommodation and benefits

from a very sustainable location. These factors are considered to outweigh the lack of private amenity space or parking. Essex County Council Highways have also not objected to the proposal on lack of parking. Therefore, as with the flats approved by the original conversion application (Ref: 17/01479/FUL), the proposal is considered acceptable with regard to Policy HG9 and TR7.

- 6.16 The two bedrooms within the flat would be well served by windows facing the High Street in the form of the new 'artificial' shop front and the two existing sash windows. Likewise, the central kitchen / dining area benefits from three large windows facing the High Street, providing natural light. There are ventilation grills at the top of the 'artificial' shop front providing ventilation. Also, the bottom half of the shop front windows shall be frosted glass, with wooden panelling behind to protect amenity. The Environmental Protection Team have not objected to these arrangements subject to a planning condition associated with the type of glass to be installed.
- 6.17 Bedroom 1 includes an en-suite area facing Brook Street, the total combined size is approximately 18.2sq m. Bedroom 2 has a separate bathroom, that can be served by visitors and residents alike. This room would have to be mechanically ventilated. The bedroom size is 12.0sq m. The central kitchen / dining / living area measures some 25.7sq m.
- 6.18 Technical housing standards -nationally described space standards (19 May 2016), deals with internal space within new dwellings. It sets out requirements for the Gross Internal (floor) Area of new dwellings at a defined level of occupancy as well as floor area. The document sets out that a two-bedroom, four person dwelling on a single storey should have a minimum gross internal floor area of 70 sq m (for 4 people) or 61sq m (for 3 people) and 2sq m of built in storage. The proposed flat would have a gross internal area of some 63sq m and circa 3 sqm of built-in storage. Whilst the technical housing standards document has not been formally adopted by the local planning authority, it is considered a useful guide. It is perhaps more likely that 3 people max would reside at a flat of this size and location. Therefore, the development could be said to be in excess of the national standards.
- 6.19 The windows would face the High Street, however this is not an uncommon arrangement and ECC Heritage have confirmed they would not object to the use of double glazing in this location. Officers are content, subject to details of the materials used, that the rooms would be both thermally efficient and able to minimise noise from the street scene.
- 6.20 In relation to Policy QL10, 'Designing New Developments to Meet Functional Needs'. The first two criteria relate to highway matters which are not strictly relevant to this proposal given the town centre location. The third criterion is that safe and convenient access for people with mobility impairments is available. This is not the case with the host application. However, given that the property forming the site is a Listed Building, and its location next to a public pavement, it is considered that this could not reasonably form a reason for refusal. Indeed, the application for a similar proposal to convert the ground floor flat in 2020 was not refused on this ground. The fourth criterion is that the development contributes to community safety. By having a dwelling on the High Street there would be informal surveillance of the public realm after the normal working day and the proposal is considered to have some limited merit in this regard. The fifth criterion is that there is orientation to ensure adequate daylight, outlook and privacy. Officers consider the arrangements acceptable in this case given the internal design and

levels of natural light. Officers accept that the bathrooms would not be served by natural light, however this is not an uncommon occurrence for such non habitable rooms. The sixth criterion is that provision is made for functional needs including private amenity space, waste storage, separation and recycling facilities, servicing, vehicle and cycle parking. Again, given the town centre location the lack of parking spaces on site is considered on balance acceptable, furthermore, a bike could be stored in the ground floor flat. Therefore, no objection is raised. The final criterion relates to utility services, there is water, gas and electrics supplied to the building. No objection is raised.

6.21 The proposals are also considered acceptable with regards Policy QL11 which states that all new development should be compatible with surrounding land uses and minimise any adverse environmental impacts. The first criterion relates to the scale and nature of the development; officers consider a ground floor flat in this town centre location is acceptable in principle. The building is not within a Primary Shopping Frontage and the sympathetic proposals would enhance the appearance of the Listed Building and the Conservation Area more widely. The second criterion relates to the development retaining the privacy, daylighting and other amenities of nearby properties. Via the use of frosted glass and internal wooden panelling, no objections in this regard are raised. The third criterion relates to ensuring no harm to the historic environment. ECC Heritage do not object to the proposals put forward, as such no objection is raised. The final two points relate to the amenity of future occupiers, again subject to planning condition no objections are raised.

Impact to heritage assets

6.22 The proposals concern the following heritage assets:

- The host building the Grade II listed National Westminster Bank and Return to Number 2 Brook Street (List UID: 1261374)
- Setting of Grade II listed Return to Numbers 1 and 2 Stour Street (List UID: 1254251) located to the south of site.
- Grade II listed 5 High Street (List UID: 1260956) located opposite the site
- Mistley and Manningtree Conservation Area.

6.23 Policy EN17 states that development within a Conservation Area must preserve or enhance the character or appearance of the Conservation Area. The policy goes on to say that development will be refused where a number of criteria are not met. Policy EN22 requires that development involving proposals to alter a Listed Building will only be permitted where the special character and appearance or setting of the building would be preserved or enhanced. Emerging policy at PPL 8 and at PPL 9 support this approach. Section 16 of the NPPF is concerned with conserving and enhancing the historic environment.

6.24 ECC Heritage has been consulted regarding the proposal, indeed a meeting was held on site with Heritage Officers, the applicant and case officers. The proposed designs have been informed from this meeting. ECC Heritage have confirmed that they have no objections to the proposals subject to conditions on the schedule of the external finish materials and fixtures, elevational drawing of the flues and extract vents, details of the windows, doors and ironmongery, finally the rainwater goods being black painted or

powder coated metal. Officers accept all these conditions other than the black painted rainwater goods, as the rest of the rainwater goods on the building are white. Nevertheless, these should not be required for the proposed ground floor flat.

- 6.25 The proposals are deemed a sympathetic, highly detailed, impressive alteration to this prominent elevation in the streetscape. The current ground floor elevation onto the High Street is detrimental to the architectural articulation and rhythm of the host building. However, the proposals are a significant improvement that would improve the character and significance of the Conservation Area and enhance the setting of the Grade II host building and those nearby. As such paragraph 200 of the NPPF is relevant here as the proposals would 'better reveal' the significance the associated designated heritage assets in the locality, therefore the application is supported on heritage grounds.
- 6.26 The proposal is in accordance with Policies EN17 and EN22 and the Government advice regarding conserving and enhancing the historic environment as set out at section 16 of the NPPF.

Loss of an employment use

- 6.27 Policy ER3 states that the Council will ensure that land in employment use will normally be retained for that purpose. The text of the policy goes on to require the applicant to demonstrate that the employment use is no longer viable for any form of employment use.
- 6.28 A marketing report has been submitted as part of this application. The unit was marketed between October 2018 and January 2020 (15 months) by a local estate agent. Indeed, the same marketing report has been used for this application and the previously refused application (Ref: 20/01722/FUL). Officers would point out that the first application to convert the ground floor to a residential flat was not refused on grounds of 'loss of employment land'. However, the fact that no additional marketing has taken place since the previous application is unfortunate.
- 6.29 The marketing included information online (Rightmove), within the estate agent window, on the host building and on the estate agent's website. Appendix 3a of the adopted Local Plan indicates that a 6 month time frame could be considered acceptable for such marketing. The marketing report clearly showed the interior of the building in a state of construction that was not ideal for prospective tenants. Nevertheless, the marketing report concludes with an opinion that the property has received sufficient market exposure and based on the lack of demand from retailers and the feedback received to date it is evident the unit is not suitable for occupation as a commercial unit.
- 6.30 The receiving Officer of the original application (Ref: 20/01722/FUL) had concerns about the level and nature of marketing originally undertaken, although this did not manifest itself as a reason for refusal. Equally with this application, Officers are content this should not form a reason for refusal. The effects of Covid 19 during the last year has significantly reduced demand for such commercial ventures. In December 2020, the agent reported there were two further vacant units and two other seasonal 'pop up units' locally. Demonstrating the weak demand for such retail uses in the area.
- 6.31 Officers would also add that a new (Class E) use class has been brought in from 1 September 2020. This allows for a wide range of uses including retail, food, financial

services, gyms, healthcare, nurseries, offices and light industry into a single Class E use class. The previous approval on site for retail at ground floor, did not remove permitted development rights therefore there is a much wider range of uses that could occur in the building within Class E. However, due to the effects of Covid 19 and the reduced demand for such units, Officers accept the conclusions drawn in the previous application remain in place with this current application. The loss of an employment use under policy ER3 is not a reason to refuse the application in this instance as the exemption criteria of policy ER3 have been adequately demonstrated.

- 6.32 A requirement of Policy ER3, in addition to marketing evidence to the effect that the site is commercially unwanted, is that the applicant will normally be expected to provide a suitable alternative site, or a financial contribution to the Council's employment, training or regeneration programmes and initiatives. This is only required on larger sites ie allocated employment areas or out of town retail spaces, this not being applicable for this proposal.
- 6.33 As the site is located within the Town Centre boundary the proposal has to be assessed against Policy ER31. This policy states development proposals which adversely affect the vitality, viability and urban regeneration objectives associated with each centre will not be permitted. Given the lack of interest in the building during the 15 month marketing campaign the introduction of additional people living in the town will provide economic benefits and possibly social enhancements also through the wider range of accommodation choices available. Furthermore, environmentally the new shopfront albeit, a dummy shop front, shall significantly improve the character and appearance of the host building and Conservation Area as a whole.
- 6.34 Overall, the proposal is considered acceptable with regards Policy ER3 and ER31.

Flood risk

- 6.35 Policy QL3 is concerned with minimising and managing flood risk. The application site lies within Flood Zone 3 and 2, which is land defined by the planning practice guidance as having a high and medium probability of flooding. The National Planning Policy Framework (paragraph 163, footnote 50) states that an FRA must be submitted when development is proposed in such locations.
- 6.36 A Flood Risk Assessment has been submitted. This indicates if flood defences remain in operation, then the site peak flood level during the future 1:200 year flood event may reach 4.53m AOD (Metres above ordnance datum). To combat this risk the applicant has raised the internal floor level (finished floor level) to 4.831m AOD which is 0.3m above the predicted peak 1:200 year flood level. In the event that the flood defences were to fail, there is a cellar for some of the water to drain into, also the inhabitants could use the stairs by the entrance to seek safety at higher ground.
- 6.37 Furthermore, the applicant has submitted an Emergency Evacuation Plan that has been reviewed by the Council's Emergency Planner and has resulted in no objections, which should result in the Environment Agency withdrawing their holding objection to the proposal, as this was a pre-requisite for them to do so; albeit at the time of writing this report this formal confirmation is still awaited and an update will be provided to Committee.

- 6.38 Paragraph 155 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Where development is necessary in such areas, the development should be made safe for its lifetime without increasing the risk of flooding elsewhere.
- 6.39 In terms of current policy the proposal, it is considered that the public realm shall benefit from a high quality shop front, significantly improving the appearance of the building. The loss of the commercial premise has been accepted in the previous application and no tenant has been found in the following months. It is regretful that the application is in a location where flooding takes place. However, the internal floor level has been significantly increased in height. The applicant has submitted a comprehensive Emergency Evacuation Plan which shall be provided to any future resident. Overall, Officers consider the measures taken to mitigate the flood risk as acceptable and therefore on balance hold no objection to the development via Policy QL3.

Legal Obligation – Recreational Impact Mitigation

- 6.40 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. The contribution is secured by unilateral undertaking.
- 6.41 The application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zol) being approximately 85m from the Stour and Orwell Estuaries RAMSAR. New housing development within the Zol would be likely to increase the number of recreational visitors to the Stour and Orwell Estuaries and, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.
- 6.42 A proportionate financial contribution has been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements.
- 6.43 The proposal is therefore considered to be complainant to Policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013- 2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Legal Obligation – Open Space/Play Space Contribution

- 6.44 Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".
- 6.45 It has been confirmed in writing that no contribution is being requested from Open Spaces on this occasion. Accordingly, the proposal is acceptable with regard to Policy COM6.

7. Conclusion

7.1 For the reasons set out above, the proposal is considered to represent a sustainable form of development that will not result in any material environmental or residential harm that warrants refusal of planning permission. Therefore, the adverse impacts of the proposal would not significantly and demonstrably outweigh its benefits when assessed against the policies in the adopted and emerging local plans and also the NPPF taken as a whole.

8. Recommendation

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

| CATEGORY | TERMS |
|--|--------------|
| Highway Improvements – towards promoting future residents parking scheme for the surrounding roads | £2,000 |

8.2 Conditions and Reasons

1. The development has already commenced therefore there is no time limit.

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

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

Drawing Number - 3633-0102-P03-Location Plan

Drawing Number - 3633-0300-P08-Floor Plans as Proposed (Excluding the ground floor flat facing the High Street)

Drawing Number - 3633-0301-P02-Floor Plans as Existing

Drawing Number - 3633-0302-P01-Graphic Flood Risk Assessment

Drawing Number - 3633-0400-P02-Existing Elevations

Drawing Number - 3633-0401-P03-Proposed Elevations (Sheet 1) (Excluding the ground floor flat facing the High Street)

Drawing Number - 3633-0403-P02-Demolition Plans

Drawing Number - 3633-1202-P01-Joinery Sheet 3

Drawing Number - 3633-1203-P01-Joinery Sheet 4

Drawing Number - 3633-1204-P01-Joinery Sheet 5

Drawing Number - 3633-1205-P01-Joinery Sheet 6

Drawing Number - 3633-1206-P01-Joinery Sheet 7

Drawing Number - 3633-1207-P01-Joinery Sheet 8

Drawing Number - 4999-01001 b - Replacement shop front details

Drawing Number - 4999-01000 b - Replacement shop front details sheet 2

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

3. The development hereby approved shall be carried out in its entirety as shown on the submitted plans. One residential unit may be occupied before works to the front facade of the building and new shop-front have been installed and the retail unit completed for occupation.

Reason - The development has been permitted due to the significant benefits that would result for the listed building, and it is essential that the works are carried out as a package of improvements in the interest of the character and setting of the listed building.

4. The Archaeological Recording shall be undertaken in accordance with the written scheme of investigation, entitled Historic Building Record - TM 10567 31851 by Leigh Alston, dated May 2018 as approved via application 17/02092/DISCON.

Reason - In the interests of protecting/recording features of archaeological importance.

5. The Archaeological Monitoring shall be undertaken in accordance with the written scheme of investigation, (Project Number 1225), dated March 2018 as approved via application 18/00911/DISCON.

Reason - In the interests of protecting/recording features of archaeological importance.

6. The materials used on the construction of the development hereby approved shall be as agreed within application 18/00120/DISCON:

Brick Work

Sussex Hand Made Brick - 3 colour custom mix -

- Hastings Medium
- Waverley Orange
- Guestling Red

Roofing Tiles

- Sussex Hand Made Brick - William Blyth - Weathered plain clay tile

Metal roofing and wall cladding

- Powder coated metal, Merlin (BS 18B25)

The development shall then be carried out in accordance with the approved details. Unless otherwise agreed in writing by the Local Planning Authority. The proposed materials for any repairs shall match those of the existing building as closely as possible.

Reason - In order to preserve and enhance the character and appearance of the Listed Building/Conservation Area.

7. The joinery details used in the construction of the development hereby approved shall be those approved within application 18/00120/DISCON.

Joinery Details on Plan Nos drawing 3633 - 1207 P01, 3633 - 1208 P01 and 3633 - 1209 P01.

The joinery shall then be constructed in accordance with the agreed details and be retained as such thereafter.

Reason - In order to preserve and enhance the character and appearance of the Listed Building/Conservation Area.

8. Prior to occupation of the development the vehicular parking facility, as shown on the submitted plan 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 controlled manner in the interest of highway safety.

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

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

10. At no point shall gates be provided at the vehicular access. The access shall remain open and free for use in perpetuity.

Reason - To give vehicles using the access free and unhindered access to and from the highway in the interest of highway safety.

11. Notwithstanding the submitted plans, any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, retained in perpetuity.

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

12. The cycle parking facilities of the development hereby approved shall be those approved within application 18/00120/DISCON.

Drawing No 3633 - 1220 P01

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

Reason - To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 13 The Residential Transport Information Packs for each unit shall be provided in accordance with the information provided within the submitted RTIP information sheet, as approved via application 18/00911/DISCON.

Reason - In the interests of mitigating the impact of the approved development by seeking to reduce the need to travel by private car through the promotion of sustainable transport choices.

- 14 The Landscape details used in the construction of the development hereby approved shall be those approved within application 18/00120/DISCON.

Drawing No 3633 - 1220 P01

All planting, seeding or turfing in the approved scheme of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason - In the interest of the appearance of the area.

- 15 There shall be no public access to the cellar and it shall not be used for retail sales.

Reason - In the interest of public safety as the site falls within a flood-risk zone and the cellar could be subject to rapid inundation in the event of flooding.

16. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety.

17. Prior to the commencement of any construction works related to the shop front, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, Environmental Protection Team. This report should include, but is not limited to, the following information -

Noise Control

- 1) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.
- 2) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted

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

Emission Control

- 1) All waste arising from the demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
- 2) No materials produced as a result of the site development or clearance shall be burned on site.
- 3) 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.
- 4) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Dust Control

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

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

18. Prior to commencement of works related to the shop front, a schedule of external finish materials and fixtures, including ventilation grilles, vents and flues, brick and bond style for the stallriser to match existing brickwork, finish colour for the timber work, proposed materials for the timberwork and proposed materials for the steps, shall be submitted to and approved in writing by the local planning authority. Works shall be implemented in accordance with the approved details and shall be permanently maintained as such.

Reason: The application relates to a listed building and within a Conservation Area, therefore such details are necessary in order to preserve and enhance the historic character and integrity of that building.

19. Prior to commencement of works related to the shop front, plans and elevation drawings showing the locations of flues and extract vents to be installed shall be submitted to and approved in writing by the local planning authority. Works shall be implemented in accordance with the approved details and shall be permanently maintained as such.

Reason: The application relates to a listed building and within a Conservation Area, therefore such details are necessary in order to preserve and enhance the historic character and integrity of that building.

20. Prior to installation and any works relating to the shop front, a schedule of drawings that show details of proposed windows and doors including their ironmongery and glazing type, cills, glazing bars, in section and elevation at scales between 1:20 and 1:1 as appropriate shall be submitted to and approved in writing by the Local Planning Authority. Works shall be implemented in accordance with the approved details and shall be permanently maintained as such.

Reason: The application relates to a listed building and within a Conservation Area, therefore such details are necessary in order to preserve and enhance the historic character and integrity of that building.

21. Prior to installation and any works relating to the shop front, an assessment on the potential for noise in relation to the expected internal noise levels within the proposed residential units (with the windows closed) and their compliance, or not, with relevant guideline values such as those outlined in BS8233: 2014- Guidance on sound insulation and noise reduction for buildings, and any relevant mitigation techniques. Shall be submitted to and been approved in writing by the Local Planning Authority.

If the assessment indicates that noise from the surrounding area is likely to affect neighbouring affecting residential or commercial properties, then a detailed scheme of noise mitigation measures shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The noise mitigation measures shall be designed so that nuisance will not be caused to the occupiers of residential noise sensitive premises by noise from outside.

The noise assessment shall be carried out by a suitably qualified acoustic consultant/engineer and shall take into account the provisions of BS 8233: 2014 Guidance on sound insulation and noise reduction for buildings.

The approved scheme shall be implemented prior to the commencement of the use and be permanently maintained thereafter.

Reason: In order that noise levels may be agreed prior to the commencement of works on site which may require changes to the design and to safeguard the amenities of nearby occupiers.

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.

Highway Authority advice

1. - All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at

development.management@essexhighways.org or by post to:

Essex Highways, Colchester Highways Depot, 653 The Crescent, Colchester, CO4 9YQ.

2. - The Highway Authority cannot accept any liability for costs associated with a developers 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.

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

4 Steps should be taken to ensure that the Developer provides sufficient turning and off-loading facilities for delivery and site worker vehicles, together with an adequate parking area for those employed in developing the site.

Note: Essex County Council as Highway Authority can assist in the production of appropriate material as packs of information are available for purchase by the developer. Contact the Sustainable Travel Planning team on 01245 436135 or email travelplanteam@essex.gov.uk for more information.

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

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

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

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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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