



PLANNING COMMITTEE

DATE: Tuesday, 28 September 2021
TIME: 6.00 pm
VENUE: Council Chamber, Council Offices,
Thorpe Road, Weeley, Essex, CO16 9AJ

MEMBERSHIP:

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

Most Council meetings are open to the public and press.

Agendas and Minutes are published on the Council's website www.tendringdc.gov.uk. 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 on 01255686007.

DATE OF PUBLICATION: Monday, 20 September 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 - 10)

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Wednesday, 1 September 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 20/00547/OUT - HAMILTON LODGE PARSONS HILL GREAT BROMLEY COLCHESTER ESSEX (Pages 11 - 68)

A resolution to approve this planning application was made by members of the Planning Committee on the 3rd August 2021. It was agreed, at the Committee that the Planning Conditions and the Heads of Terms forming the Legal Agreement would be placed before the Planning Committee to review and confirm agreement.

The recommended Conditions and Heads of Terms, are outlined below and reflect the comments of all consultees and the hybrid nature of the planning application. The Heads of Terms and Conditions have been reviewed by the applicant and they confirm agreement.

6 A.2 20-01798-FUL - LAND REAR OF UNA ROAD PARKESTON ESSEX CO12 4PS (Pages 69 - 124)

This application was originally brought before Planning Committee on 1 September 2021 and deferred for the following reasons:

- Allow for a full public review of the viability;
- Establish what affordable housing contributions would be required in terms of an off-site contribution;
- Agree heads of terms for a s106 to cover any increase in profit from the site;
- Seek to obtain additional comment from the HSE (Health and Safety Executive) on how they reached their, 'no objection' stance.

7 A.3 21/01145/FUL - LAND TO THE SOUTH OF HIGH STREET DOVERCOURT ESSEX CO12 3AT (Pages 125 - 146)

The application site comprises approximately 0.22 hectares of vacant, derelict land. The site is located within the defined Town Centre and the 'Dovercourt Town Centre Regeneration Area' as designated by the saved Local Plan (2007) and emerging Local Plan (2013-2033). The site is also situated within the Dovercourt Conservation Area. The application is placed before members of the Planning Committee as the applicant is Tendring District Council.

The application relates to the development of a surfaced car park comprising of 51 spaces, public toilet facilities, public open space, landscaping and associated works. The proposals also envisage the site being utilised as a multi-purpose space for various public events and activities on designated days throughout the year under permitted development rights. Access to the car park would be on the northern side of the site from Orwell Road.

8 A.4 21/00040/FUL - TOPSL HOUSE HIGH STREET MISTLEY MANNINGTREE ESSEX (Pages 147 - 156)

This application has been referred to Planning Committee at the request of Councillor Coley due to concerns with the building being listed and being in a Conservation Area, the introduction of a stairway access to the first floor, change of use of the first floor to residential, the building is located on the edge of a busy working dock and parking issues.

This application seeks planning permission for external changes to the fenestration including; the change of a window to a door to the front elevation, a change of a window to a door to the Quay elevation, a change from a door to a window to the side elevation and erection of a safety hand rail.

9 A.5 21/00046/FUL - TOPSL HOUSE HIGH STREET MISTLEY MANNINGTREE ESSEX (Pages 157 - 166)

This application has been referred to Planning Committee at the request of Councillor Coley due to concerns with the building being listed and being in a Conservation Area, the introduction of a stairway access to the first floor, change of use of the first floor to residential, the building is located on the edge of a busy working dock and parking issues.

This application seeks planning permission for the external staircase, balcony, window to a door to the quay elevation and a window to a door to the north west elevation.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Planning Committee is to be held in the Council Chamber - Council Offices, Thorpe Road, Weeley, CO16 9AJ at 6.00 pm on Tuesday, 26 October 2021.

Information for Visitors

PUBLIC ATTENDANCE AT PLANNING COMMITTEE MEETINGS

Welcome to this evening's meeting of Tendring District Council's Planning Committee. This is an open meeting which members of the public can attend to see Councillors debating and transacting the business of the Council. However, please be aware that, unless you have registered to speak under the Public Speaking Scheme, members of the public are not entitled to make any comment or take part in the meeting. You are also asked to behave in a respectful manner at all times during these meetings.

Members of the public do have the right to film or record Committee meetings subject to the provisions set out below:-

Rights of members of the public to film and record meetings

Under The Openness of Local Government Bodies Regulations 2014, any person is permitted to film or record any meeting of the Council, a Committee, Sub-Committee or the Cabinet, unless the public have been excluded from the meeting for the consideration of exempt or confidential business.

Members of the public also have the right to report meetings using social media (including blogging or tweeting). The Council will provide reasonable facilities to facilitate reporting.

Public Behaviour

Any person exercising the rights set out above must not disrupt proceedings. Examples of what will be regarded as disruptive, include, but are not limited to:

- (1) Moving outside the area designated for the public;
- (2) Making excessive noise;
- (3) Intrusive lighting/flash; or
- (4) Asking a Councillor to repeat a statement.

In addition, members of the public or the public gallery should **not** be filmed as this could infringe on an individual's right to privacy, if their prior permission has not been obtained.

Any person considered being disruptive or filming the public will be requested to cease doing so by the Chairman of the meeting and may be asked to leave the meeting. A refusal by the member of the public concerned will lead to the Police being called to intervene.

FIRE EVACUATION PROCEDURE

There is no alarm test scheduled for this meeting.

In the event of an alarm sounding, please calmly make your way out of any of the fire exits in the hall and follow the exit signs out of the building.

Please heed the instructions given by any member of staff and they will assist you in leaving the building and direct you to the assembly point.

Please do not re-enter the building until you are advised it is safe to do so by the relevant member of staff.

Your calmness and assistance is greatly appreciated.

Tendring **District Council**



PLANNING COMMITTEE MEETINGS PUBLIC SPEAKING SCHEME March 2021

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?

Public meeting of the Council's Planning Committee are normally held every 4 weeks at 6.00 pm in either the Council Chamber at the Council Offices, Thorpe Road, Weeley CO16 9AJ or at the Town Hall, Station Road, Clacton-on-Sea CO15 1SE or entirely by remote means and the public are encouraged to check the venue etc. on the Council's Website before attending.

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

1. The applicant, his agent or representative; or (where applicable) one person the subject of the potential enforcement action or directly affected by the potential confirmation of a tree preservation order, his agent or representative. A maximum of 3 minutes to speak is allowed;
2. 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 to speak is allowed;
3. 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 to speak is allowed;
4. 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 to speak is allowed;

5. 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 to speak is allowed;

In accordance, with Council Procedure Rule 34.1, this Public Speaking Scheme takes precedence and no other Member shall be entitled to address or speak to the Planning Committee under Rule 34.1; and

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

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

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

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

WHICH MATTERS ARE COVERED BY THIS SCHEME?

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

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

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

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

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

HOW DO I ARRANGE TO SPEAK AT THE MEETING?

You can:-

Telephone the Committee Services Officer ("CSO") (01255 686007) during normal working hours on any weekday after the reports and agenda have been published; or

Email: democraticservices@tendringdc.gov.uk

OR

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

If more than one person wants to speak who is eligible under a particular category (e.g. a member of the public within the description set out in numbered paragraphs 2 or 3 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.

As approved at the meeting of the Full Council held on 16 March 2021

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON WEDNESDAY, 1ST SEPTEMBER, 2021 AT 6.00 PM
IN THE COUNCIL CHAMBER - COUNCIL OFFICES, THORPE ROAD, WEELEY,
CO16 9AJ**

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| Present: | Councillors White (Chairman), Bray (Vice-Chairman), Alexander, Baker, Casey, Codling, Fowler, Clifton and McWilliams |
| Also Present: | Councillors Davidson, G Stephenson, M Stephenson and 10 members of the public. |
| In Attendance: | Joanne Fisher (Planning Solicitor), Gary Guiver (Assistant Director, Strategic Planning and Place), Graham Nourse (Assistant Director, Planning), Keith Simmons (Head of Democratic Services and Elections), Susanne Chapman-Ennos (Planning Team Leader), Nick Westlake (Planning Officer), Keith Durran (Democratic Services Officer), Emma Haward (Leadership Support Officer) and Matthew Cattermole (Communications Assistant). |

139. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies were received from Councillor Placey with Councillor Clifton substituting and Councillor Harris substituted by Councillor McWilliams.

140. MINUTES OF THE LAST MEETING

Subject to Councillor Codling's declaration shown in minute 137 being deleted and instead inserted at minute 138 of the previous minutes, it was moved by Councillor Bray and seconded by Councillor Alexander and **RESOLVED** that the minutes of the last meeting of the Committee held on 3 August 2021 be approved, with the stated amendment, as a correct record.

141. DECLARATIONS OF INTEREST

Councillor Baker declared a personal interest in **Planning Application A.1 & 2 20/01416/DETAIL and 21/00042/DISCON – Land Northwest of Sladbury's Lane, Clacton-on-Sea CO15 6NU** due to being the Ward Member. He considered that he had a pre-determined view on the application and therefore, left the meeting during the consideration and determination of it. He did not participate in the Committee's decision.

142. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were none on this occasion.

143. A.1 & 2 PLANNING APPLICATIONS – 20/01416/DETAIL AND 21/00042/DISCON – LAND NORTHWEST OF SLADBURYS LANE CLACTON ON SEA ESSEX CO15 6NU

The Chairman of the Committee declared that there were no speakers due to the application being formerly deferred.

Councillor Baker had earlier in the meeting declared a personal interest in **Planning Application A.1 & 2 20/01416/DETAIL and 21/00042/DISCON – Land Northwest of Sladbury’s Lane, Clacton-on-Sea CO15 6NU** due to being the Ward Member. He considered that he had a pre-determined view on the application and therefore, left the meeting during the consideration and determination of it. He did not participate in the Committee’s decision.

These applications were originally brought before Planning Committee on 8th June 2021.

The applications were deferred on the following grounds:

- To seek amendments to the layout to ensure that all dwellings comply with the Council’s adopted minimum Private Amenity Standards.
- To seek amendment to ensure that the affordable housing is in clusters of no more than 10 units.
- To provide clarification on Housing Standards in terms of Accessibility and Adaptability.
- To seek further clarification from Essex County Council SUDS and the Environment Agency on surface water drainage and flood risk issues.

It was requested that this application be referred to Committee for a decision by Cllr. Stephenson for the following reasons:

- Several garden sizes amongst the many plots did not comply with Policy in that they were too small.
- Only 1 bungalow was to be made wheelchair adaptable – a request was made by the Councillor that it should be all of the proposed bungalows.
- The SUDs report did not mitigate for the flood risk that was possible.

Members were reminded that the site was on the north-eastern edge of Clacton, it was divided into two fields by a line of trees and existing vegetation. To the north of the site beyond an agricultural field was the Colchester to Clacton railway line. To the east and south of site were the residential properties of Sladbury’s Lane and the Happy Valley Bowls and Tennis Club.

The current application sought approval of the reserved matters (access, appearance, landscaping, layout and scale) relating to outline planning permission 15/01351/OUT, which was allowed at appeal, for the erection of up to 132 dwellings and open space, including provision for a new sports field, new vehicular access and access via Sladbury’s Lane. This application included details of access, appearance, landscape, layout and scale which were not included as part of the outline application.

As established through the granting of outline application 15/01351/OUT, at appeal, the principle of residential development for up to 132 dwellings on this site was acceptable. The appeal decision also dealt with matters of impact on protected species, biodiversity and flood risk.

Members were informed that the detailed design, layout, access, landscaping and scale were considered acceptable. The proposal would result in no material harm to residential amenity or highway safety.

The flood risk details submitted in the form of a Sustainable Drainage Systems (SuDS) Design and Management Report were sufficient to discharge condition No. 10 (Surface

Water) of Planning Application 15/01351/OUT approved on appeal APP/P1560/W/17/3169220.

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

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

The Chairman had earlier in the meeting declared that due to the application being formerly deferred, there were no speakers.

| Matters raised by a Committee Member:- | Officer’s response thereto:- |
|---|--|
| A member of the Committee referred to page 36 of the agenda whereby, it referred to the effects of SUDS. Was all information in relation to the rates of litres used per second correct and accurate? | The Planning Officer confirmed that the developer has achieve the correct rates. All drainage information had been verified. |
| At what point in the process is the SUDS inspected? | The process is controlled by the Inspectorate’s condition as noted in the application. |

Following discussion by the Committee, it was moved by Councillor Alexander, seconded by Councillor McWilliams and unanimously **RESOLVED** that the Assistant Director (Planning) (or equivalent authorised officer) be authorised to grant planning permission for application **20/01416/DETAIL**, 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 toward RAMS
- b) Subject to the conditions stated in section 8.2.

Conditions and Reasons:

The development hereby permitted shall be carried out in accordance with the following approved Drawing Nos:

- 929-PL-01 G
- 929-PL-02 E
- 929-PL-03 E
- 929-PL-04 E
- 929-PL-05 E
- 929-PL-06 E
- 929-PL-07 E
- 929-PL-08 E
- 929-PL-07 F
- 929-PL-10 A

929-PL-11 A
929-PL-12
929-PL-13 B
929-PL-14 B
929-PL-15 B
929-PL-16 B
929-PL-17 B
929-PL-18 B
929-PL-19
929-PL-20 A
929-PL-21 A
929-PL-22
929-PL-23 A
929-PL-24 A
929-PL-25
929-PL-26 A
929-PL-27 A
929-PL-28 A
929-PL-29 A
929-PL-30 A
929-PL-31 A
929-PL-32 C
929-PL-33 A
929-PL-34 A
929-PL-36
929-PL-37 A
929-PL-38 G
929-PL-40 A
929-PL-41 A
E17840-TLP-001

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

2. Prior to the commencement of development evidence of the proposed materials, glazing and ventilation, confirming its effectiveness for compliance with BS8233:2014 (Guidance on sound insulation and noise reduction for buildings) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason – To ensure a suitable level of amenity for proposed residents.

3. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until sections i) to iv) have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied with in relation to that contamination.

i) Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the

nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

ii) Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

iii) Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

iv) Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

V) Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of 10 years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

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

4. Prior to the occupation of any of the proposed development the internal road site access and footway layout shall be provided in principal and accord with Drawing Numbers:

929 PL 01 Rev. G - Amended Site Layout Plan.

R984-008 Rev. C - Proposed access arrangements

929 PL 04 Rev. E - Amended parking provision

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

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

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety.

6. Any dwelling hereby permitted shall not be occupied until such time as a car parking and turning area has been provided. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

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

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

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

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

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

9. Prior to the first occupation of any dwelling hereby permitted details of the proposed cycle parking shall be submitted to and approved in writing. The development shall be carried out in accordance with the approved details and retained as such thereafter.

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

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

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

11. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Class B of the Town and Country Planning (General Permitted Development) Order 2016 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling shall be erected or carried out except in accordance with drawings showing the siting and design of such enlargement, improvement or other alteration which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - In the interest of amenities of the occupants of the neighbouring and proposed properties.

Following further discussion by the Committee, it was moved by Councillor Bray, seconded by Councillor Fowler and unanimously **RESOLVED** that the Head of Planning be authorised to approve discharge of Condition No. 10 (Surface Water Drainage) of Planning Application 15/01351/OUT approved on appeal APP/P1560/W/17/3169220.

144. A.3 PLANNING APPLICATION – 20/01798/FUL – LAND REAR OF UNA ROAD PARKESTON CO12 4PS

Members were made aware prior to the Committee meeting that this application was referred to Planning Committee at the request of Councillor Davidson due to concerns relating to; the design and street scene impact, impact on the neighbours, highway safety, general safety due to proximity to the Oil Refinery and parking concerns.

The site was within the defined Settlement Development Boundary of the existing and emerging local plans.

In 2013 Planning permission (11/01172/OUT) was refused for the construction of 30 houses and associated parking, access and landscaping works. The reasons for refusal were due to the proximity to Carless Refinery and the increase in vehicular traffic along both Edward Street and Una Road. This decision was appealed; the appeal was allowed and planning permission granted. However, this approval was never implemented.

In 2015 the application site obtained a further outline planning approval for 30 dwellings, via application (Ref: 15/01792/OUT), the associated Reserve Matters approval was

issued via application (Ref: 19/00406/DETAIL). Further to this, the site to the immediate north, for which the applicant was also the freeholder, had planning permission for 12 dwellings via (Ref: 16/02128/OUT) and approved Reserve Matters via (Ref 20/00460/DETAIL).

Members were informed that this application involved the construction of thirty houses and associated parking, access and landscaping. This application sought to modify the existing planning consent (19/00406/DETAIL) in terms of layout to comply with Essex Highways Technical Standards.

For the reasons outlined in this report, Officers considered the scheme before members, subject to planning conditions, to be an acceptable development proposal as it was in accordance with the relevant policies in the development plan, as well as emerging policies in section 2 of the emerging Local Plan, and on a site that had recent planning history approval for a similar number of dwellings.

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

In conclusion, the proposed development would not result in any harmful impact upon visual amenity or neighbouring amenities and provides appropriately designed additional housing and sufficient additional parking spaces to serve the proposed units.

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.

The case officer referred the planning committee to the update sheet previously circulated as follows:

(1) Anglian Water's Response

Anglian Water had confirmed the site contained no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary. This included surrounding dwelling 75 Una Road in the south west corner, neighbouring the host site.

(2) Additional informatives recommended to be added to the decision recommendation, with the exception of Informative 3 that Anglian Water had confirmed in an email dated 1 September 2021 was not relevant in this case.

(3) Essex Ecology Statement

The Ecological Statement (Abrehart Ecology, November 2020) validated the findings of the previous suite of surveys onsite, and detailed that the ecological mitigation had already started. Updated surveys had been completed (where necessary for the licence applications- Natural England wouldn't accept survey results over two years old for licences) and no additional surveys were necessary.

(4) Essex County Council Highways recommend the following additional Highways Condition:

Prior to the commencement of development, a comprehensive traffic calming scheme (including the type, number, layout, levels, gradient, surfacing and means of surface water drainage of these traffic calming features) shall be submitted to the Local Planning Authority. The Local Planning Authority shall, in conjunction with Essex County Council Highways Department, formally approve these details. The approved traffic calming measures shall be fully implemented before first occupation of any of the dwellings hereby approved and retained in the agreed form at all times unless otherwise agreed with by the Local Planning Authority.

Reason: To ensure that traffic in the development is kept to a speed of no greater than 20mph. In the interests of highway Safety.

- (5) Planning Officers recommend that the following Planning Condition was added to the decision notice to reduce the possible risk to resident wellbeing during times of flood.

Prior to the commencement of the occupation of the site, a flood response plan shall be submitted to, and agreed in writing with, the Local Planning Authority. This response plan, including information regarding the availability of the Environment Agency's 'Floodline' flood warning scheme, shall be made available to future occupiers of the site by means of a fixed notice within each house prior to its first use.

Reason - To minimise the risk to the occupants of the building in the event of flooding.

- (6) Pre commencement Planning Conditions relating to the previous 30 dwelling approval on site 15/01792/OUT and Reserve Matters application 19/00406/DETAIL

All the required pre commencement conditions had been discharged prior to commencement of the works on site. The works on site represent the implementation of Planning Permission ref: 15/01792/OUT, which was subsequently validated by the Approval of Reserved Matters ref: 19/00406/DETAIL.

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

Councillor Bill Davidson, a local Ward Member, spoke against the application.

Stephen Archer, the agent's representative on behalf of the applicant, spoke in support of the application.

| Matters raised by a Committee Member:- | Officer's response thereto:- |
|--|--|
| Can you confirm that the Committee is deciding on the change in layout of this application and that there are no sufficient grounds for refusal? | The Planning Officer confirmed that the Committee is deciding based on the revised layout of the original application. Although the application is policy-compliant, there could potentially be grounds for refusal based on garden sizes for example. |
| A member of the Committee referred to the Health and Safety Executive's comments. At what distance is the hazard site? | The Planning Officer confirmed that the site measured 230 metres from the development, the HSE showed no objection to the site and their findings were correct. |

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| <p>A member of the Committee referred to sections 6.10 - 6.13 of the report and the viability study undertaken. They advised no information had been provided to Members.</p> | <p>The Planning Officer confirmed that at the time of publishing the report, the viability study was not publically accessible to Members.</p> |
| <p>Could the Committee recommend a condition whereby, any profit made as a result of the viability study are held back?</p> | <p>The Planning Officer confirmed that a s106 legal agreement can be recommended</p> |

Following discussion by the Committee, it was moved by Councillor Baker, seconded by Councillor Bray and unanimously **RESOLVED** that consideration of this application be deferred for the following reasons:

1. To review viability
2. To establish what affordable housing contributions would be required in terms of an offsite contribution.
3. Agree heads of terms for a S106 agreement to cover any increase in profit from the site.
4. To seek to obtain additional comments from HSE regarding how they reached their 'No Objection' stance.

The meeting was declared closed at 7.40 pm

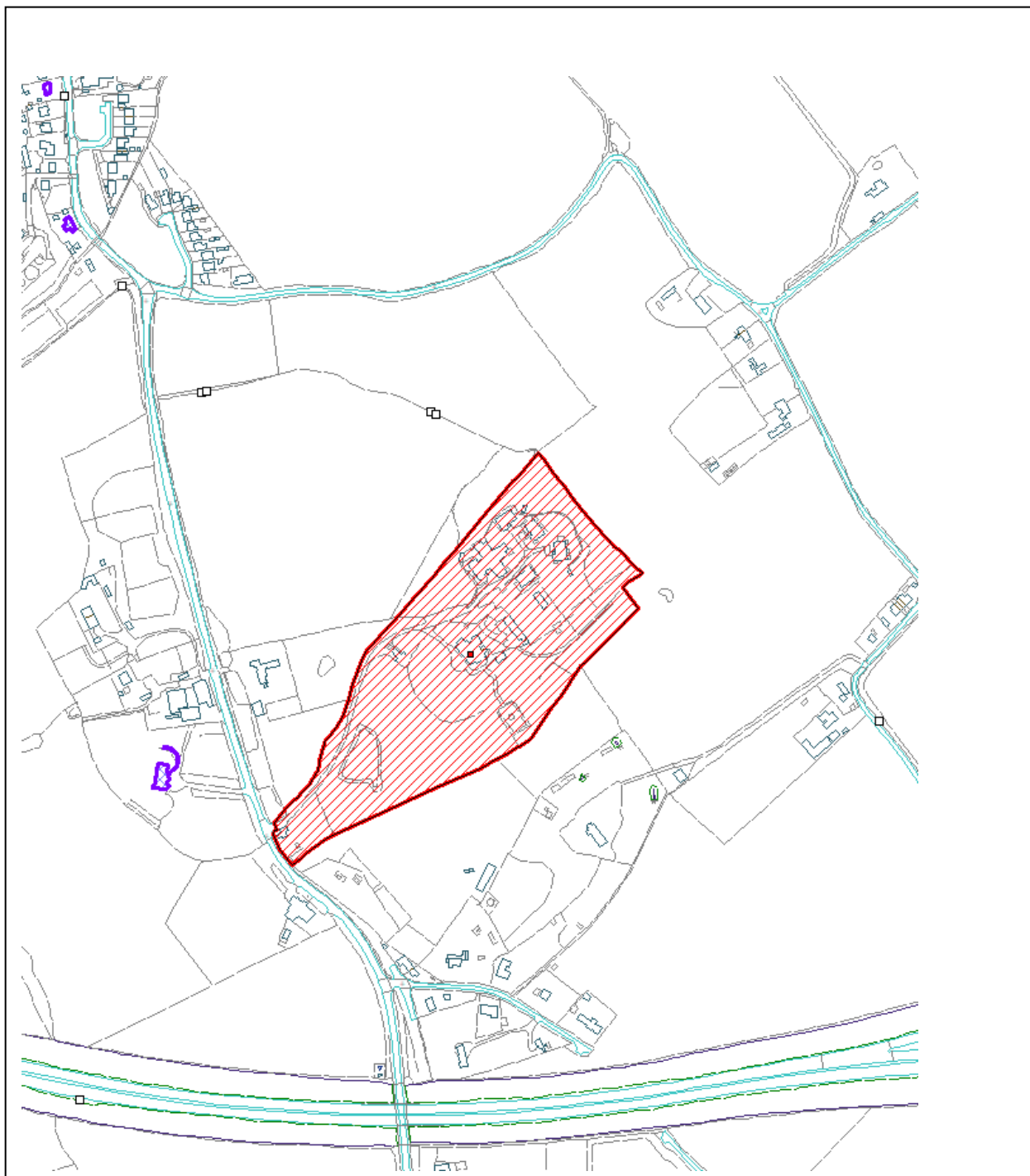
Chairman

PLANNING COMMITTEE

28th September 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.1 PLANNING APPLICATION – 20/00547/OUT – HAMILTON LODGE PARSONS HILL GREAT BROMLEY COLCHESTER ESSEX



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Application: 20/00547/OUT

Town / Parish: Great Bromley Parish Council

Applicant: Daniel Rapson - Colchester Development Ltd

Address: Hamilton Lodge Parsons Hill Great Bromley Colchester Essex CO7 7JB

Development: Hybrid Application for Outline application for residential development including: 67 dwellings including up to 30% as affordable housing and all necessary access roads (Outline), All associated amenity space, landscaping, parking, servicing, utilities, footpath and cycle links, on-site drainage, and infrastructure works including gas and electricity apparatus (Outline), Residential development for 12 dwellings (Use Class C3) and associated access roads including formation of new junction to Parsons Hill (Detail), Formal and informal open space including village green and meadow (Use Class D2) including landscaping, parking, servicing, utilities, footpath links (Detail).

Executive Summary

- 1.1 A resolution to approve this planning application was made by members of the Planning Committee on the 3rd August 2021. It was agreed, at the Committee that the Planning Conditions and the Heads of Terms forming the Legal Agreement would be placed before the Planning Committee to review and confirm agreement.
- 1.2 The recommended Conditions and Heads of Terms, are outlined below and reflect the comments of all consultees and the hybrid nature of the planning application. The Heads of Terms and Conditions have been reviewed by the applicant and they confirm agreement.
- 1.3 A copy of the officer's Planning Committee report (3rd August 2021 Committee) is included at Appendix A for reference.

Recommendation:

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

- a) **Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):**

- Affordable Housing - A written affordable housing scheme shall be completed and agreed, providing for 30% affordable housing. The tenure, mix and delivery to be agreed. All Affordable Housing units to be constructed prior to occupation of 60% of the market units (including occupation of 50% of the outline element).

- Village Green & Lodge Meadow Maintenance - The identification, laying out and establishing of such areas in accordance with approved plans by the applicant and transfer of same to the Parish Council for the benefit of the local community upon payment of contribution to enable ongoing maintenance of these areas.

- Education – Primary School Contribution (£486,040), Secondary School Transport Contribution (£104,728) and Library Contribution.

- Highways - £20,000 towards the design and/or delivery of the upgrade of the traffic signals at the A133 Main Road/ Colchester Road/ B1029 Great Bentley Road/ Bromley Road junction, Frating.

- RAMS - £127.60 per dwelling

- Heritage - Written scheme and method statement to address non-designated heritage assets on the site; survey and recording in accordance with ECC observations; the incorporation of structures into the layout will be subject of reserved matters approval. Timings, trigger points and obligations to be comprised in the legal agreement.

b) Subject to the following conditions;

Full Planning Permission (12 dwellings, Access/Open Spaces Elements)

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

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

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

- 19/2947/003 A – Massing/Layout Plan
- 19/2947/005 B – Boundary Treatments Plan
- 19/2947/006 B – Materials Plan
- 19/2947/007 A – Garden Areas Plan
- 19/2947/020 – ‘Oliver’ Elevations
- 19/2947/021 – ‘Oliver’ Elevations
- 19/2947/022 – ‘Oliver’ Floor Plans
- 19/2947/024 – ‘Dylan’ Elevations
- 19/2947/025 – ‘Dylan’ Floor Plans
- 19/2947/027 – ‘Arlo’ Elevations
- 19/2947/028 – ‘Arlo’ Floor Plans
- 19/2947/030 – ‘Seren’ Elevations
- 19/2947/031 – ‘Seren’ Floor Plans
- 19/2947/033 – ‘Jackson’ Elevations
- 19/2947/034 – ‘Jackson’ Floor Plans
- 19/2947/036 – ‘Jackson 1’ Elevations
- 19/2947/037 – ‘Jackson 1’ Floor Plans
- 19/2947/040 – ‘Jackson 2’ Elevations
- 19/2947/041 – ‘Jackson 2’ Floor Plans
- 19/2947/044 – ‘Sofia’ Elevations
- 19/2947/045 – ‘Sofia’ Elevations
- 19/2947/046 – ‘Sofia’ Floor Plans
- 19/2947/048 – ‘Sofia 1’ Elevations
- 19/2947/049 – ‘Sofia 1’ Elevations
- 19/2947/050 – ‘Sofia 1’ Floor Plans
- 19/2947/052 – ‘Ella-Rose’ Elevations
- 19/2947/053 – ‘Ella-Rose’ Floor Plans
- 19/2947/056 – ‘Ella-Rose 1’ Elevations
- 19/2947/057 – ‘Ella-Rose 1’ Elevations
- 19/2947/058 – ‘Ella-Rose 1’ Floor Plans
- 19/2947/070 – Double Garage (Gable) Elevations/Floor Plans
- 19/2947/071 – Double Garage Elevations/Floor Plans

19/2947/072 - Garage Floor Plan/Elevations
20066-100 – Access/Highway Works Plan

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

3). Prior to commencement of any above ground works precise details of the provision, siting, design and materials of screen walls and fences shall have been submitted to and approved in writing by the Local Planning Authority. The approved screen walls and fences shall be erected prior to the dwellings to which they relate being occupied and thereafter be retained in the approved form.

Reason - In the interests of visual and residential amenity.

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

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

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

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

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

Reason - To ensure the adequate maintenance of the approved landscaping scheme for a period of five years in the interests of the character of the surrounding area.

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

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

Outline Planning Permission – 67 dwellings/Access Roads/Conversion of non-designated heritage assets

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

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

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

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

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

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

Full and Outline Permission

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

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

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

- Discharge via infiltration for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- Final modelling and calculations for all areas of the drainage system.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

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

Reason -

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- To ensure the effective operation of SuDS features over the lifetime of the development.
- To provide mitigation of any environmental harm which may be caused to the local water environment

- Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

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). All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in Appendix 21 of the Ecological Impact Assessment (SES, October 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).

15). The works to demolish the buildings onsite shall not in any circumstances commence unless the local planning authority has been provided with either:
a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorising the specified activity/development to go ahead; or;
b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.”

Reason - To conserve protected and Priority species (Bats) 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 and s17 Crime & Disorder Act 1998.

16). The works shall not in in any circumstances commence unless the local planning authority has been provided with either:
a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorising the specified activity/development to go ahead; or;
b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.

Reason - To conserve protected and Priority species (Dormice) 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 and s17 Crime & Disorder Act 1998.

17). No development shall take place until a Reptile Mitigation Strategy addressing the final mitigation and translocation of reptiles has been submitted to and approved in writing by the local planning authority.

The Reptile Mitigation Strategy shall include the following;

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

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

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

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

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

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

19). Concurrent with the Reserved Matters submission a final Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority.

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

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

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

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

20). No demolition or conversion of any kind shall take place until the applicant has secured the implementation of a programme of historic building recording in accordance

with a written scheme of investigation which has been submitted by the applicant, and approved by the planning authority.

The applicant will submit to the local planning authority an approved historic building report (to be submitted within six months of the completion of fieldwork, unless otherwise agreed in advance with the Planning Authority).

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 1 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 – To safeguard archaeological remains on the site and details of retained/demolished buildings.

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

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

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

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

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

- a) A priority junction off Parsons Hill to provide access to the proposed site as shown in principle on planning application, drawing number: 20066-100 Rev. A4.

- b) The road junction at its centre line shall be provided with a minimum clear to ground visibility splay with dimensions of 2.4 metres by 92 metres to the north and 2.4 metres by 102 metres to the south, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.
- c) To current Essex County Council specification, the provision of two bus stops on Parsons Hill which would best serve the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development) to include but not restricted to shelter (x2) with bus stop flag, Kassel Kerbs, and bus timetables.
- d) Provision of a 2-metre-wide footway either side of the new junction and across the entire site frontage as shown in principle with drawing no. 20066-100 Rev. A4.
- e) Provision of a 2-metre-wide footway on the south-west side of Parsons Hill to provide a pedestrian link from the development to the Village Hall and bus stop as shown in principle with drawing no. 20066-100 Rev. A4.

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

23). Prior to occupation of the relevant dwelling the vehicle parking area (garage and/or driveway) serving that dwelling as indicated on the approved plans, shall have been provided. The vehicle parking area and associated turning areas and visitor parking shall thereafter be retained in the approved form. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

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

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

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

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

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

26). The development shall be carried out in full accordance with the tree/hedgerow protection measures outlined within the submitted Arboricultural Impact Assessment (as prepared by SES – dated 31st March 2020).

Reason – To protect the most important trees on site in the interests of amenity and biodiversity.

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

Reason – In the interests of sustainable transport.

- 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.**

Appendix A – Officer’s Planning Committee Report (3rd August 2021).

2. Planning Policy

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

This planning application was first submitted when the NPPF - National Planning Policy Framework February 2019 was in place. During the LPA assessment phase of the development proposals, a revised version of the National Planning Policy Framework (NPPF 2021) was published by the Ministry of Housing, Communities and Local Government (MHCLG) with revisions to both the NPPF and National Model Design Guide (NMDG), following consultation in January 2021. Among the key changes to the NPPF are updated policies aiming to improve the design of new developments, in response to the findings of the government's Building Better, Building Beautiful Commission. Due regard is given to both the NPPF 2019 as well as the NPPF 2021 (collectively referred to as the 'NPPF' in the remainder of this report) and as part of the assessment of this planning application.

National Planning Practice Guidance

Tendring District Local Plan 2007

| | |
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| QL2 | Promoting Transport Choice |
| QL3 | Minimising and Managing Flood Risk |
| QL11 | Environmental Impacts and Compatibility of Uses |
| QL12 | Planning Obligations |
| ER3 | Protection of Employment Land |
| HG4 | Affordable Housing in New Developments |
| HG7 | Residential Densities |
| HG9 | Private Amenity Space |
| COM1 | Access for All |
| COM2 | Community Safety |
| COM6 | Provision of Recreational Open Space for New Residential Development |
| COM21 | Light Pollution |
| COM22 | Noise Pollution |
| COM23 | General Pollution |
| COM26 | Contributions to Education Provision |
| COM29 | Utilities |
| COM31A | Sewerage and Sewage Disposal |

| | |
|-------|---|
| EN1 | Landscape Character |
| EN6 | Biodiversity |
| EN6A | Protected Species |
| EN6B | Habitat Creation |
| EN11A | Protection of International Sites European Sites and RAMSAR Sites |
| EN11B | Protection of National Sites SSSI's, National Nature Reserves, Nature Conservation Review Sites, Geological Conservation Review Sites |
| EN11C | Protection of Local Sites: Local Nature Reserves, County Wildlife Sites, Regionally Important Geological/Geomorphological Sites |
| EN12 | Design and Access Statements |
| EN13 | Sustainable Drainage Systems |
| EN29 | Archaeology |
| TR1A | Development Affecting Highways |
| TR1 | Transport Assessment |
| TR3A | Provision for Walking |
| TR4 | Safeguarding and Improving Public Rights of Way |
| TR5 | Provision for Cycling |
| TR7 | Vehicle Parking at New Development |

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

Section 1: North Essex Authorities' Shared Strategic Section 1 Plan, adopted January 2021

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| SP1 | Presumption in Favour of Sustainable Development |
| SP2 | RAMS |
| SP4 | Meeting Housing Needs |
| SP6 | Infrastructure & Connectivity |
| SP7 | Place Shaping Principles |

Section 2: Emerging

| | |
|------|-----------------------------------|
| SPL1 | Managing Growth |
| SPL2 | Settlement Development Boundaries |
| SPL3 | Sustainable Design |

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|------|---|
| HP5 | Open Space, Sports & Recreation Facilities |
| LP1 | Housing Supply |
| LP2 | Housing Choice |
| LP3 | Housing Density and Standards |
| LP4 | Housing Layout |
| LP5 | Affordable and Council Housing |
| PP6 | Employment Sites |
| PPL1 | Development and Flood Risk |
| PPL3 | The Rural Landscape |
| PPL4 | Biodiversity and Geodiversity |
| PPL5 | Water Conservation, Drainage and Sewerage |
| CP1 | Sustainable Transport and Accessibility |
| CP2 | Improving the Transport Network |
| DI1 | Infrastructure Delivery and Impact Mitigation |

Local Planning Guidance

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

- 2.1 Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).
- 2.2 The 'development plan' for Tendring comprises, in part, the 'saved' policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 26th January 2021 Section 1 of the 2013-2033 Local Plan was adopted and now also forms part of the 'development plan' for Tendring, superseding some of the more strategic policies in the 2007 Local Plan. Notably, the housing and employment targets were found sound and have been fixed, including the housing requirement of 550 dwellings per annum.
- 2.3 Paragraph 48 of the Framework 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 the policies of the

Framework. In this regard 'Proposed Modifications' to emerging Section 2 of the 2013-33 Local Plan which contains more specific policies and proposals for Tendring has been examined and hearing sessions have now closed. The main modifications recommended to make the plan legally compliant and sound were considered at the Council's Planning Policy and Local Plan Committee on 29th June 2021. The Council is holding a six week public consultation on the Main Modifications and associated documents, which began on 16th July 2021. The consultation will run for just over 6 weeks, closing at 5pm on 31st August 2021, following which adoption is expected later this year. Section 2 will join Section 1 as part of the development plan, superseding in full the 2007 Local Plan. Section 2 of the 2013-33 Local Plan is therefore at a very advanced stage of preparation and should be afforded considerable weight.

2.4 In relation to housing supply:

The Framework requires Councils 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, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, the 'tilted balance' at paragraph 11 d) ii) of the Framework is engaged. This requires applications for housing development be granted permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

2.5 Following the adoption of Section 1 of the 2013-33 Local Plan and the Council's 'Objectively Assessed housing Need' of 550 dwellings per annum there is no housing shortfall. The Council is able to report a comfortable surplus of housing land supply over the 5 year requirement. The 'titled balance' at paragraph 11 d) ii) of the Framework does not therefore apply to applications for housing.

3. **Relevant Planning History**

| | | | |
|--------------|--|----------|------------|
| 99/00737/FUL | Demolition of existing coach house, Springlands and other outbuildings, and the construction of 5 no. 8 person residential units of accommodation for persons with learning difficulties | Approved | 07.07.1999 |
| 05/01468/FUL | Single storey extension to existing building | Approved | 10.10.2005 |
| 07/01250/FUL | Demolition of 4 buildings and erection of 4 detached bungalows for residential care purposes (Class C2). | Approved | 14.11.2007 |
| 10/00034/FUL | Alteration and extension of existing residential home (Selbourne Court); Development of four bungalow units | Approved | 15.03.2010 |

to provide self contained one person studio flats, four per bungalow.

| | | | |
|--------------|--|----------|------------|
| 14/01560/FUL | Proposed 8 new supported living apartments, staff office, car park and landscaping and demolition of existing lean-to store and wall to make way new access driveway. | Approved | 19.12.2014 |
| 20/00547/OUT | Hybrid Application for Outline application for residential development including: 67 dwellings including up to 30% as affordable housing and all necessary access roads (Outline), All associated amenity space, landscaping, parking, servicing, utilities, footpath and cycle links, on-site drainage, and infrastructure works including gas and electricity apparatus (Outline), Residential development for 12 dwellings (Use Class C3) and associated access roads including formation of new junction to Parsons Hill (Detail), Formal and informal open space including village green and meadow (Use Class D2) including landscaping, parking, servicing, utilities, footpath links (Detail). | Current | |

4. Consultations

Anglian Water Services Ltd
02.02.2021

ASSETS

Section 1 - Assets Affected

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

WASTEWATER SERVICES

Section 2 - Wastewater Treatment

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

Section 3 - Used Water Network

This response has been based on the following submitted documents: Drainage Assessment.

The sewerage system at present has available capacity for these flows. 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. (1) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087. (2) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087. (3) INFORMATIVE - Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water. (4) INFORMATIVE - Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087. (5) INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

Section 4 - Surface Water Disposal

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

From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management. The

Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be re-consulted to ensure that an effective surface water drainage strategy is prepared and implemented.

TDC Building Control and Access
Officer
19.01.2021

No adverse comments at this time

Essex County Council
Archaeology
19.01.2021

The following advice follows updated information that the historic assets identified in the planning application will no longer be demolished. The existing buildings have been identified as non-designated heritage assets and if conversion or demolition is required then a historic building record will need to be completed.

The development site lies within an area of archaeological potential, evidence for medieval settlement has been revealed beyond the northwest boundary of the site, the quality of the floor tiles recovered suggest a domestic or religious building of high status within the vicinity dating to the 14th century. Along the former eastern boundary evidence for a medieval pottery kiln was recovered. Cropmark evidence for further archaeological activity lies within the surrounding area and find spots dating from the Roman to post-medieval period surround the site. The site itself contains extant historic garden and landscape features associated with the estate which will also be disturbed or destroyed in the groundworks associated with the development.

The following recommendation is made in line with the National Planning Policy Framework:

Recommendation: Historic building recording and archaeological evaluation

No demolition or conversion of any kind shall take place until the applicant has secured the implementation of a programme of historic building recording in accordance with a written scheme of investigation which has been submitted by the applicant, and approved by the planning authority.

The applicant will submit to the local planning authority an approved historic building report (to be submitted within six months of the completion of fieldwork, unless otherwise agreed in advance with the Planning Authority).

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 1 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.

A professional historic building specialist and archaeological contractor should undertake any fieldwork. A g brief detailing the requirements can be produced from this office. The District Council should inform the applicant of the recommendation and its financial implications.

Essex County Council Ecology
27.01.2021

No objection subject to securing:

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

Summary

ECC Ecology have reviewed the Preliminary Ecological Appraisal (SES, November 2019), the Ecological Impact Assessment (SES, October 2020) and the Concept Masterplan (Grafik Architecture, November 2020) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats.

ECC Ecology are satisfied that there is sufficient ecological information available for determination.

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

The mitigation measures identified in the Ecological Impact Assessment (SES, October 2020) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority Species.

ECC Ecology note that this application will require the LPA to prepare a project level HRA Appropriate Assessment as the development lies within the Zone of Influence (ZOI) for the Essex Coast RAMS, approximately 10km from Hamford Water SAC, SPA and Ramsar. Delivery of mitigation measures in perpetuity will therefore be necessary to ensure that this proposal will not have an adverse effect on the integrity of the above Habitats sites from recreational disturbance, when considered 'in combination' with other plans and projects. A proportionate financial contribution will need to be secured from the applicant under a legal agreement.

ECC Ecology note from the Concept Masterplan (Grafik Architecture, November 2020) that Hamilton Lodge will be retained and converted. As concluded in the Ecological Impact Assessment (SES, October 2020) the site supports six pipistrelle bat days roosts in buildings, two pipistrelle bat days roosts in trees, two Brown Long-eared (BLE) hibernation roosts in buildings, a BLE day roost in a building and a BLE maternity roost which was not used during the 2020 maternity season. Therefore, the development will require a European Protected Species (EPS) licence for the demolition/conversion of the buildings and removal of trees on site which support roosting bats. In line with Natural England's licensing policy 4, ECC Ecology are satisfied that further bat surveys will be needed to support the licence and they recommend that the LPA secures a copy of the EPS mitigation licence for bats by a condition of any consent.

ECC Ecology recommend that all the mitigation, compensation and enhancement measures detailed in Appendix 21 of the Ecological Impact Assessment (SES, October 2020) are secured by a condition of any consent and implemented in full for both full and outline elements of the development. This will also include soft felling techniques and mitigation measures for the trees on site assessed as having bat roost potential, but with no roosts identified.

ECC Ecology also note that the Ecological Impact Assessment (SES, October 2020) identifies that Hazel Dormice are present onsite, and an EPS mitigation licence for this species will also be required from Natural England prior to any vegetation clearance. They also recommend that the LPA secures a copy of the EPS mitigation licence for Hazel dormice by a condition of any consent.

The Ecological Impact Assessment (SES, October 2020) also identifies that a 'moderate' population of Common Lizards has been identified onsite. Section 6 of the Ecological Impact Assessment (SES, October 2020)

identifies suitable outline mitigation and enhancement measures for this species. The final mitigation, translocation and enhancement measures should be included in a Reptile Mitigation Strategy to be secured as a condition of any consent.

ECC Ecology also support the proposed reasonable biodiversity enhancements, which have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 170d of the National Planning Policy Framework 2019. We note that Appendix 21 of the Ecological Impact Assessment (SES, October 2020) and that identifies the biodiversity enhancement measures proposed for the detailed part of this hybrid application including the locations in the Proposed Mitigation and Enhancement Plan. However, the confirmed details for the outline elements of this application should be included within a Biodiversity Enhancement Strategy and should be secured as a condition of any consent for discharge at Reserved Matters stage.

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

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

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

Recommended conditions for the Full element of the application:

1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in Appendix 21 of the Ecological Impact Assessment (SES, October 2020) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

Reason: To conserve and enhance Protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species

Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

2. PRIOR TO COMMENCEMENT: SUBMISSION OF A COPY OF THE EPS LICENCE FOR BATS

"The following works to demolish/convert the buildings onsite shall not in any circumstances commence unless the local planning authority has been provided with either:

- a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
- b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence."

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

3. PRIOR TO COMMENCEMENT: SUBMISSION OF A COPY OF THE EPS LICENCE FOR HAZEL DORMICE

"The works shall not in any circumstances commence unless the local planning authority has been provided with either:

- a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
- b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence."

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

4. PRIOR TO COMMENCEMENT: REPTILE MITIGATION STRATEGY

"No development shall take place until a Reptile Mitigation Strategy addressing the final mitigation and translocation of reptiles has been submitted to and approved in writing by the local planning authority.

The Reptile Mitigation Strategy shall include the following.

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

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

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

5. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

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

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

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

Recommended conditions for Outline elements of the application:

1. CONCURRENT WITH RESERVED MATTERS
ACTION REQUIRED IN ACCORDANCE WITH
ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in Appendix 21 of the Ecological Impact Assessment (SES, October 2020) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

2. CONCURRENT WITH RESERVED MATTERS
PRIOR TO SLAB LEVEL: FINAL BIODIVERSITY
ENHANCEMENT STRATEGY

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

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

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

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

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

3. CONCURRENT WITH RESERVED MATTERS
PRIOR TO OCCUPATION: WILDLIFE SENSITIVE
LIGHTING DESIGN SCHEME

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

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

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

ECC Highways Dept

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

The Transport Assessment accompanying the planning application has been considered in detail and the Highway Authority is satisfied that, at peak times, the number of trips generated by the proposal on the highway network would be unlikely to be severe, therefore:

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

1. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:
 - i. vehicle routing,
 - ii. the parking of vehicles of site operatives and visitors,

- iii. loading and unloading of plant and materials,
- iv. storage of plant and materials used in constructing the development,
- v. wheel and underbody washing facilities.
- vi. Before and after condition survey to identify defects to highway in the vicinity of the access to the site and where necessary ensure repairs are undertaken at the developer expense when caused by the developer.

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

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

- a) A priority junction off Parsons Hill to provide access to the proposed site as shown in principle on planning application, drawing number: 20066-100 Rev. A4.
- b) The road junction at its centre line shall be provided with a minimum clear to ground visibility splay with dimensions of 2.4 metres by 92 metres to the north and 2.4 metres by 102 metres to the south, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.
- c) To current Essex County Council specification, the provision of two bus stops on Parsons Hill which would best serve the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development) to include but not restricted to shelter (x2) with bus stop flag, Kassel Kerbs, and bus timetables.
- d) Provision of a 2-metre-wide footway either side of the new junction and across the entire site frontage as shown in principle with drawing no. 20066-100 Rev. A4.
- e) Provision of a 2-metre-wide footway on the south-west side of Parsons Hill to provide a pedestrian link from the development to the Village Hall and bus stop as shown in principle with drawing no. 20066-100 Rev. A4.

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM1, DM9 and DM10.

3. A Section 106 financial contribution of £20,000 (index linked) towards the design and/or delivery of the upgrade of the traffic signals at the A133 Main Road/ Colchester Road/ B1029 Great Bentley Road/ Bromley Road junction, Frating. Such contribution to be paid on commencement of development. (Payback 5 years).

Reason: In the interests of highway safety and efficiency.

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

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

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

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

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

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

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

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

8. Prior to first occupation of the proposed development, the Developer shall submit a residential travel plan to the Local Planning Authority for approval in consultation with Essex County Council. Such approved travel plan shall then be actively implemented for a minimum period from first occupation of the development until 1 year after final occupation.

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

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

Informatives:

- The above requirements should be imposed by way of negative planning conditions or planning obligation agreements as appropriate.
- In making this recommendation the Highway Authority has treated all planning application drawings relating to the internal layout of the proposal site as illustrative only.
- Prior to any works taking place in the highway the developer should enter into an S278 agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.
- All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible)
- All highway related details should be agreed with the Highway Authority.
- The proposed junction layout, and footway proposals will require a further Stage 1 Road Safety Audit.
- The development should be in accordance with the Parking Standards Design and Good Practice Supplementary Planning Document dated September 2009.

ECC Schools Service
02.02.2021

Thank you for providing details of the revised hybrid planning application for up to 79 new homes. As no residential unit mix has been provided I have assumed that all of these units are homes with two or more bedrooms, and therefore a development of this size can be expected to generate the need for up to 7.11 Early Years and Childcare (EY&C) places; 23.7 primary school, and 15.8 secondary school places.

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

Early Years and Childcare

Essex County Council has a statutory duty under the Childcare Act 2006 to ensure that there is sufficient and accessible high-quality early years and childcare provision to meet local demand.

The proposed development is located within the Alresford and Elmstead ward. According to latest available childcare sufficiency data, there are 8 early years and childcare providers within the ward, however only one childminder is within a 3 mile radius. Overall a total of 15 unfilled places were recorded.

As there are sufficient places available in the area, a developers' contribution towards new childcare places will not be required for this application.

Primary Education

This development would be within the priority admissions area of St George's CE Primary, Great Bromley, which has a Published Admission Number of 17 places per year. As of October, the school was full in most year groups, including Reception, with a total of 119 pupils on roll. Forecasts for the wider area (Tendring Primary Group 3), which are published in the Essex School Organisation Service's 10 Year Plan to meet demand for school places, suggest that up to 32 additional places per year group will be required by the end of the Plan period.

In accordance with the ECC Developer's Guide to Infrastructure Contributions (Revised 2020), based on demand generated by this proposal set out above, a developer contribution of £486,040, index linked to Q1 - 2020, is sought to mitigate its impact on local primary school provision. This equates to £20,508 per place.

Secondary Education

This development would be within the priority admission area of Manningtree High. A one form entry expansion project is underway, which is expected to provide sufficient medium term secondary school capacity for the area. A developer contribution would therefore not be required at this time.

School Transport

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

Having reviewed the proximity of the site to the nearest secondary school, Essex County Council would seek a secondary school transport contribution as the distance from the proposed development to the nearest secondary school falls outside of the statutory 3 mile limit. The current cost of providing this is £104,728 index Linked to Q1 - 2020.

Libraries

ECC may seek contributions to support the expansion of the library service to meet customer needs generated by residential developments of 20+ homes. The provision of a Library Service is a statutory duty under the 1964

Public Libraries and Museums Act and it's increasingly become a shared gateway for other services such as for accessing digital information and communications.

In this case the suggested population increase brought about by the proposed development is expected to create additional usage of Wivenhoe primarily, Greenstead and/or Manningtree libraries. In accordance with the Essex County Council Developers' Guide to Infrastructure Contribution (Revised 2020), a contribution is therefore considered necessary to improve, enhance and extend the facilities and services provided, at a cost of £244.92 and £77.80 per unit, respectively. Improvements could include, but is not limited to, additional facilities, additional furniture, provision of learning equipment / play equipment for younger children, improved access, external works such as parking and bike racks and IT.

In this case, and taking the above into account, it is calculated that a contribution of £25,494.88 is requested and should be included in any Section 106 Agreement should the Council be minded to grant permission.

In view of the above, I request on behalf of Essex County Council that if planning permission for this development is granted it should be subject to a section 106 agreement to mitigate its impact on primary education, secondary school transport and libraries.

The contributions requested have been considered in connection with the CIL Regulations 2010 (as Amended) and are CIL compliant. Our standard formula s106 agreement clauses that ensure the contribution would be necessary and fairly and reasonably related in scale and kind to the development are available from Essex Legal Services.

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

Essex Wildlife Trust

No comments received

TDC Housing Services
22.02.2021

The Council's emerging Local Plan requires that sites delivering 11 or more dwellings need to provide affordable housing. This application proposes 79 dwellings in total and therefore there is a requirement to deliver affordable housing. The emerging Local Plan requires that 30% of dwellings on eligible sites should be

delivered as affordable housing and therefore on this application, this equates to 23 dwellings in total.

There is a high demand for housing in Great Bromley from households residing in the district on the housing register. There are currently the following number of households on the housing register seeking housing in the village:

1 bedroom - 103 households*
2 bedroom - 63 households
3 bedroom - 46 households
4 bedroom - 23 households

*of the 103 households seeking 1 bedroom accommodation, 38 households are aged 60 or over.

The Housing Services preference is that affordable housing should be delivered on site and that another registered provider should be sought to take on the affordable housing dwellings.

TDC UU Open Spaces
13.05.2021

There is currently a deficit of -1.15 hectares of equipped play and formal open space in Great Bromley.

There is one play area in Great Bromley, located at Hare Green approximately 1 mile from the development. To cope with any further development this provision will need to be increased.

Recommendation

The application includes formal and informal open space, however for a development of this size we would expect to see some provision for play to be included on site, ideally made from natural materials and following the contours of the land.

TDC Waste Management
20.01.2021

No comments at this stage.

Essex County Council Heritage
28.01.2021

ECC Heritage consider the Site to contain the following non-designated heritage assets:

- Hamilton Lodge;
- Associated stable block;
- Associated walled garden; and
- Associated gate lodge.

ECC Heritage commend the applicant team for taking on board heritage comments, working with the local authority and altering a scheme which can save a collection of heritage assets in this site. Development is needed as a form of intervention to halt the decline of these heritage assets and provide them with a

sustainable use. As such, ECC Heritage support this application in principle.

The concept masterplan shows areas of development. ECC Heritage support these in principle as well as the space given to the front of Hamilton Lodge. There is still an unknown future for Trelawn, the associated gate lodge (shown retained on concept plan but noted as lost in the heritage aspirations document). However, ECC Heritage are confident this can be resolved during the reserved matters stage.

The buildings to be demolished are of no heritage value, detract from the setting of the heritage assets and as such there is no objection to this aspect of the application.

ECC Heritage support this application on the assumption that proper legal agreements are put in place to safeguard the future of the heritage assets as part of this development.

Should this application be approved, ECC Heritage recommend TDC suggest design workshops with the applicant in advance of reserved matter applications. If delivered correctly I consider this development would make a good case study of how appropriate new build development can save and rejuvenate heritage assets which are at risk.

TDC Environmental Protection
12.01.2021

Environmental Protection have reviewed the above application and if this application is to proceed to the full planning phase then Environmental Protection would require the following:

Demolition & Construction

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

- 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.

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

5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents. 6) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.

- Emission Control

1) All waste arising from the 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.

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

External Lighting

No development shall take place until a scheme for the control of light pollution has been submitted to and approved in writing by the local planning authority. The scheme shall be devised by a competent person and fully comply with the Code of Practice for the Reduction of Light Pollution issued by the Institution of Lighting Professionals, the DETR document "Lighting in the Countryside: Towards Good Practice" and all current official guidance. Such light pollution control measures as shall have been approved shall be installed prior to

[the building hereby permitted/ use hereby permitted]
[coming into beneficial use/commencing] and thereafter
be retained and maintained to the agreed specification
and working order

Any lighting of the development shall be located,
designed and directed [or screened] so that it does not
[cause avoidable intrusion to adjacent residential
properties/constitute a traffic hazard/cause unnecessary
light pollution outside the site boundary]. "Avoidable
intrusion" means contrary to the Code of Practice for the
Reduction of Light Pollution issued by the Institute of
Lighting Professionals (www.theilp.org.uk)

Contaminated Land

I have checked the councils contaminated land database
and there is no information in relation to contaminated
land in this area therefore we would recommend the
following:

No development shall take place until the ground
conditions on the site have been subject to a Risk
Assessment. This will enable Tendring District Council to
decide whether the site is suitable for its proposed use
prior to any development taking place.

This will incorporate a 'phase one' assessment in the
form of a desktop study/site walkover report. This will
include a review of previous investigations; previous
uses; potential sources of contamination; and potential
pathways and receptors. If necessary, this shall be
followed up by a 'phase two' risk assessment that shall
incorporate a detailed intrusive investigation referring to
the phase one study.

Individual risk assessments shall be submitted to
Environmental Protection for approval on completion.

NHS East Essex CCG
10.08.2020

As it stands currently the impacted practice/practices are
not over capacity therefore we will not be seeking a
healthcare contribution at this stage, however if anything
changes please consult us further and we will carry out
a further healthcare impact assessment to review
capacity within the relevant practice/s.

ECC SuDS Consultee
18.11.2020

Lead Local Flood Authority position

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

Condition 1

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

- Discharge via infiltration for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- Final modelling and calculations for all areas of the drainage system.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

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

Reason

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

Condition 2

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.

Any questions raised within this response should be directed to the applicant and the response should be

provided to the LLFA for further consideration. If you are minded to approve the application contrary to this advice, we request that you contact us to allow further discussion and/or representations from us.

5. Representations

5.1 Great Bromley Parish Council supports the application in general, however would question TDC as to why more affordable units are required when the identified need is 8 units, following a previous survey from the Rural Community Council of Essex, has already been fulfilled. There is also concern on the impact on services such as health and education. The current access point is also cause for concern.

5.2 15 letters of representation have been received outlining the following concerns;

- This proposal is an over development of the site that will only increase pressure on current infrastructure with no benefit to the local area

- Where are the jobs to support these houses certainly not in this area. So travel by car will be required as the limited bus service will not work for most people travelling to work.

- No proper attempt has been made by the development company to liaise with ALL of the village. Especially considering that many may have been shielding, staying at home or not had suitable internet access.

- The proposed site's entrance and egress is sited on a bend, whilst a mini roundabout and lower speed limit has been considered as traffic calming methods. The potential of an additional 200 + daily car journeys through an already busy village shows a severe lack of forward planning and neglect to our village.

- This site is deemed to in the open country by TDC's own classification. In TDC's Local Plan, Great Bromley is classed, in Section 3, Sustainable Places, 3.2.1.4.2, as a "Smaller Rural Settlement.

- All journeys will have to be made by car, which is against the aims of TDC and the Government.

- Site cannot support large scale residential development and retain a village feel.

- Lack of local infrastructure to support residents – school places and doctor appointments.

- Junction at Parsons Hill and surrounding rural lanes will have difficulty coping with increased volume of traffic.

- Light pollution impacts upon rural locality and wildlife.

- Maintenance concerns in respect of the new areas of landscaping/village green.

- Wildlife corridor will be destroyed by the development.

- Development would incorporate double the number of homes than the village of Gt Bromley.

- Housing numbers have been achieved and the site is located outside of the defined settlement boundary for the village.

- Public transport and facilities are largely non-existent.

5.3 1 neutral representation have been received outlining the following comments;

- Hamilton Lodge along with its parkland is a heritage asset of Great Bromley although it has been remodelled over the years and in the recent past has fallen into decline.

- Our main concerns are that the bottle shape of the plot could easily be converted into a "gated community" at any time in the future, to the detriment of the village.

- The outline plan has no parking marked for visitors to the meadow and new village green, which was presented as open to the whole village to enjoy.

- There are few local amenities in the village with no medical practitioners, shops and few employment opportunities other than farming or self-employment. The village primary school is small and already full to capacity, there is no secondary school in the village.

6. **Assessment**

The main issues to consider in assessing this application are whether there is any conflict with Development Plan policies. If there is any conflict, whether the application can be considered to be in accordance with the Development Plan when taken as a whole. If the application is not in accordance with the Development Plan, whether there are any material considerations, including emerging policies in the Local Plan to 2033 and the NPPF, which indicate that planning permission should be granted.

It is considered that the principal, important and contentious issues in this case are:

- Principle of Development & Loss of Employment Use
- Visual Impacts and Tree Impacts
- Design/Layout
- Impacts on Residential Amenity
- Heritage Considerations
- Ecology Matters
- Highway Safety/Parking
- Drainage/Foul Drainage
- Legal Obligations/Viability

Site Context

6.1 Hamilton Lodge is located south of the village of Great Bromley and virtually immediately north of the A120, approximately 8 miles east of Colchester. It comprises 16 acres of buildings, hardstanding, grassland and parkland around an early 20th Century house and more recently constructed care home/assisted living accommodation. It is a former residential care home and is comprised within the Tendring District Council brownfield register. The care home function ceased in 2017. Hamilton Lodge itself has been unoccupied since 2014.

6.2 The site has a narrow frontage to Parson's Hill with gate piers and a single storey lodge cottage. This frontage is screened by reasonably dense and unkempt vegetation.

6.3 The current access/driveway is offset to the left and tree-lined. It curves north-eastwards to the care home buildings. The site boundaries are well-landscaped. The key characteristic of the site is the wealth of trees within what is an overgrown parkland site with an extensive range of buildings, hardstanding and circulation areas.

6.4 Hamilton Lodge itself is of Regency construction has been much altered over its lifetime, both internally and externally, due to the major phases of its redevelopment. It is uncertain how much built fabric, if any, the building retains and much of the subsequent gothic alterations were lost

towards the end of the nineteenth century or early twentieth century. Internally, the main building has been comprehensively altered for care home use

6.5 In total the buildings on site have a total gross internal floor area of some of 38,842 sqft (3,612 sqm). In addition to Hamilton Lodge itself (providing approximately 12,000 sqft of accommodation), the following buildings are on site:

- Coach House: A two storey building of rendered solid brick construction under a slated roof.
- Bungalows: Four bungalows arranged as four studio units each, providing open plan accommodation.
- Selbourne Court: A 1980's built single storey property providing 18 bedrooms, 3 x kitchen/dining areas, resident's lounge and ancillary offices.
- Springlands: A single storey building timber building.
- Trelawn: Single storey gatehouse situated at the entrance to the property.

6.6 Taking the above into account the current built form on the site equates to approximately 5% of the total site area.

6.7 The site is located outside of any defined settlement boundary in both the saved Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Proposal

6.8 This application seeks planning permission for 79 residential units on the site which incorporates the renovation and conversion of Hamilton Lodge, The Stable Block and Walled Garden elements.

6.9 The application has been submitted in a hybrid format (i.e. part outline/part detail application) and proposes the following;

- 67 dwellings including the conversion of Hamilton Lodge, The Stable Block and Walled Garden and all associated access roads, amenity space, landscaping, parking, servicing, utilities, footpath and cycle links, on-site drainage, and infrastructure works including gas and electricity apparatus (Submitted in Outline Form);

- Residential development for 12 dwellings and associated access roads including formation of new junction to Parsons Hill (Submitted in Detail Form);

- Formal and informal open space including village green and meadow including landscaping, parking, servicing, utilities, footpath links (Submitted in Detail Form).

6.10 The conversion of the existing structures (Hamilton Lodge, The Stable Block and Walled Garden) sit within the 'outline' part of the application and it is the applicant's intention to undertake further detailed assessment, survey and design as part of the Reserved Matters approval process.

6.11 The more recent buildings on site and those not identified as non-designated heritage assets are to be demolished as part of the application proposals.

6.12 Overall the proposed re-development of the site, depending on the detailed design and siting of the reserved matters elements of the scheme, would result in approximately 40-45% of the site being covered in built form.

Principle of Development & Loss of Employment Use

- 6.13 Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise as set out in (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). The 'development plan' for Tendring comprises, in part, the 'Saved' policies of the 2007 Local Plan. Paragraph 213 of the Framework allows local planning authorities to give due weight to adopted albeit outdated policies, according to their degree of consistency with the policies within it.
- 6.14 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.
- 6.15 The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) is now expected to proceed in 2021 and two Inspectors have already 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.
- 6.16 Where emerging policies are particularly relevant to a planning application and can be given considerable weight in line with the principles set out in the National Planning Policy Framework (NPPF), they will be considered and, where appropriate, referred to in decision notices.
- 6.17 The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.
- 6.18 As the supply of deliverable housing sites in the modified Section 1 of the Local Plan is now in the order of 6.5 years this actual objectively assessed housing need for Tendring is a significant material consideration in the determination of planning applications which substantially tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing - particularly in the consideration of proposals that fall outside of the settlement development boundaries in either the adopted or the emerging Section 2 Local Plan.
- 6.19 Adopted Policy SP3 (Spatial Strategy for North Essex) of the 2013-2033 Local Plan states, amongst other things, that development will be accommodated within or adjoining settlements, according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area. Future growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting. New housing development should be focused towards the larger urban areas and to within settlement development boundaries. This is consistent with the Framework's objectives for achieving sustainable development through a plan-led approach that

focuses development to locations which are or can be made sustainable, limiting the need to travel and offering a genuine choice of transport modes

- 6.20 As set out above, the policies for the delivery of housing are considered up-to-date and the application must therefore be determined in accordance with Paragraph 11 c) of the NPPF, thus in accordance with the development plan. In this instance it is evident that the site is not located within any defined settlement boundary. The site is within the countryside for the purposes of planning policy. The proposal is therefore contrary to adopted policy SP3.
- 6.21 The main aims of Policy SP3 are to direct growth to those places where a good range of services and facilities are easily accessible by means other than private motorised transport, to reduce the need to travel and to protect the character and appearance of the countryside.
- 6.22 Although the application site is some distance outside of any defined settlement boundary, the proposed dwellings would not be isolated from other dwellings. Nevertheless, the development would be situated 450m from the defined settlement boundary of Great Bromley (as outlined in the emerging local plan) and 1.4km from the defined settlement boundary of Frating. These villages are, under emerging policy SPL1, themselves considered to be among the lowest order settlements, suitable for the provision of only a limited amount of additional housing, due to the minimal level of services and facilities they provide. Residents of these villages are considered to be reliant on other larger villages and towns in order to access a full range of services, facilities and employment opportunities.
- 6.23 There is a surfaced footpath that passes directly beside the application site and leads to the village of Great Bromley to the north and extends south to the junction with Harwich Road. There are bus services available near to this junction, which is approximately a 5 minute walk from the site. This bus service runs to Colchester and other settlements on an hourly basis. Whilst regular, it is not considered to be particularly frequent. However, the footpath is unlit and only runs along the eastern side of the road. There is no refuge from traffic on the western side of the road nor shelter provided from inclement weather on either side of the road. It is therefore considered that these matters, along with the time taken for the journeys to and from larger settlements, would encourage a reliance on the use of private motorised transport. As such it is not concluded that the public transport provision offers a reasonable alternative mode in this location.
- 6.24 In addition, although it would be possible to walk to Great Bromley, and other settlements may technically be within walking distance of the site, the service provision within these settlements is limited and would not meet every day needs of future occupiers of the proposed development. It is therefore considered that it would be highly likely that, rather than walking or cycling to the nearby villages, future occupiers would regularly use private motorised transport to access a full range of services, facilities and employment opportunities.
- 6.25 It is acknowledged that there will be forthcoming provision of a village shop within a 5 minute walk of the site. However, by its nature it would likely provide a limited range of goods. Nevertheless, this would allow for the reduction in some journeys, particularly for top up items. This attracts modest weight in favour of the proposal.
- 6.26 Overall it is considered that the existence of the unlit footways, the bus services and the forthcoming village shop, along with other limited facilities in proximity to the site, including the offerings of The Court House Public House, are sufficient to reach a finding that the location of the development would not be acceptable in relation to accessibility to services and facilities.
- 6.27 This conclusion is consistent with the findings of a planning inspector within a recent appeal decision at Field House, Parsons Hill, Great Bromley (Appeal Reference - APP/P1560/A/14/2229002), which is located approximately 430m to the south of the site. Whilst relating to a smaller residential development for 3 dwellings the inspector concluded that the site

was unsustainable and future residents would be heavily reliant on private vehicle to access their everyday needs.

- 6.28 It is appreciated that opportunities to maximise alternative transport solutions will vary between urban and rural areas and it is also acknowledged that the site is brownfield in nature and attracted a certain level of traffic movements under its former care home use, but even taking this into account, it is considered that the proposal for 79 dwellings in this unsustainable location runs contrary to the objectives of Policy SP3 and is of an inappropriate scale, in a countryside location clearly detached from the nearest settlement of Great Bromley which is identified as a smaller rural settlement under emerging policy SPL3.
- 6.29 Moreover, whilst it is acknowledged that the land has been previously developed, the site essentially comprises of care home/assisted living buildings, areas of hardstanding, grassland and parkland around an early 20th Century house. The extent of the combined building footprints present on this extensive site equate only to approximately 5% of the total site coverage. Whereas the proposed built form will cover a significantly wider area of the site at approximately 40-45% of the land. This increase in built form is considered to result in a harmful urbanising effect and would represent a substantial and material change to the character of the site in this essentially rural location. The higher and more urban density proposed would evidently be at odds with the prevailing pattern of built form in the vicinity, which comprises of loose knit development within large spacious plots more akin to the rural character of the locality. Consequently, the development would also be in conflict with adopted policy SP7 of the Tendring District Local Plan 2013-2033 and Beyond - Section 1 and saved policy EN1 of the adopted Tendring District Local Plan (2007), which state that all new development should reflect the following place shaping principles, where applicable respond positively to local character and context to preserve and enhance the quality of existing places and their environs and that the quality of the district's landscape and its distinctive local character will be protected and, where possible, enhanced and any development which would significantly harm landscape character or quality will not be permitted.
- 6.30 It is therefore concluded that the site would not be in a suitable location for the proposed development having regard to local and national policies concerned with the location of development. The proposal would conflict with adopted Policy SP3 and emerging local plan Policy SPL1 as the proposal would conflict with the aims of the settlement hierarchy it sets out.
- 6.31 In terms of the previous employment element (associated with the former care home), saved Policy ER3 of the adopted Tendring District Local Plan (2007) applies to all land in employment use. This policy states that the Council will ensure that land in, or allocated in this Plan for employment use will normally be retained for that purpose. Its redevelopment or change of use for non-employment purposes will only be permitted if the applicant can demonstrate that it is no longer viable or suitable for any form of employment use. The policy therefore requires applicants to either:
- i. submit evidence of a sustained but ultimately unsuccessful marketing exercise, undertaken at a realistic asking price; or
 - ii. show that the land (site, or premises) is inherently unsuitable and/or not viable for any form of employment use
- 6.32 In this instance, the current lawful use of the development site is C2 (Residential Institutional Use/Care Home). This falls to be considered as an employment use and therefore the provisions of saved policy ER3 as outlined above are relevant.
- 6.33 The application has not been submitted with a sustained and robust marketing campaign to demonstrate that the site is not in demand for alternative employment uses. Nor has it been suitably shown that the land and buildings are inherently unsuitable for any form of employment use.

- 6.34 A document provided by the applicant seeks to address this matter by stating that the saved policy is of limited weight, that the application site is not specifically allocated for employment use, that marketing took place following the closure of the care home use and that the development of the site does not undermine the policy objectives of safeguarding identified employment sites.
- 6.35 Officers have reviewed this document and remain of the view that saved policy ER3 is relevant to this application and carries significant weight being that it is a policy contained within the adopted Tendring District Local Plan (2007). The policy evidently states that any employment site, regardless of whether it is allocated or not, is caught by the requirements of this policy.
- 6.36 In addition, the applicant's position that marketing took place following the closure of the care home use is noted, however details and evidence of this marketing have not been provided as part of the planning application. Therefore, in the absence of any marketing particulars or robust evidence to show that the site cannot be utilised for alternative employment uses the application proposals for a 100% residential development are contrary to saved policy ER3.
- 6.37 Notwithstanding the clear conflict with established housing settlement policies outlined above it is acknowledged by officers that the development does provide some benefits which can be weighed up against the harm identified. These benefits include;
- The re-development of a brownfield site;
 - The conversion and safeguarding of non-designated heritage assets present on the site;
 - Provision of an ancillary open space area, to be maintained by the parish council, which will open up public access to the site;
 - Provision of 30% on-site affordable housing and policy compliant infrastructure contributions;
 - The development represents a viable solution for the future of the site.

These matters are discussed in more detailed below.

Visual Impact/Trees Impacts

- 6.38 The application site is situated the Bromley Heaths (Heathland Plateau) Landscape Character Area (LCA) as defined in the Tendring District Council Landscape Character Assessment.
- 6.39 In order to show the potential visual impact of the development proposal on the area the applicant has provided a Landscape and Visual Impact Assessment (LVIA). This document quantifies the likely visual impact of the completed development on the character and appearance of the local landscape character. The document identifies several locations (visual receptor viewpoints) from which the application site can be viewed.
- 6.40 The LVIA sets out the existing qualities and values of the local landscape character, describes the existing level of screening provided by vegetation on the site and refers to additional landscaping that will be carried out to enhance the overall appearance of the application site as well as strengthening screening.
- 6.41 In order to consider the impact from each viewpoint (VP) the following conclusions are made by the Council's Trees and Landscaping Officer:

VP1 - Parsons Hill ' Back Lane West Junction.

The new entrance to the site may be visible from this VP, however the main body of the application and the proposed development contained thereon will not be visible from this point. The visual impact is therefore minimal.

VP2 - Cricket Club

Glimpses of the developed land may be possible during the period of time before new planting becomes established but views will be distant and not significantly harmful to users of the Village Hall, Cricket Club or surrounding area

VP3 - Site Entrance Parsons Hill' looking north

Fleeting glimpses for users of the highway that will decrease with the passage of time as planting matures. Little visual impact or harm.

VP4 - Site Entrance Parsons Hill ' looking south

Fleeting glimpses for users of the highway that will decrease with the passage of time as planting matures. Little visual impact or harm.

VP5 - Parsons Hill ' Approach to Site.

No clear views of the application site from this viewpoint. Some minor changes to the vegetation species by the entrance that will be assimilated into their setting in the fullness of time.

VP6 - Parsons Hill ' View to south east through gap in hedge

From the gap in the field side boundary hedgerow on Parsons Hill there will be the opportunity for glimpsed and fairly distant views of the site. However the views are restricted by existing vegetation and will be diminished further by proposed soft landscaping. The harmful visual impact will be minimal.

VP7 - Mary Lane North ' South from gap in hedgerow

Views are distant and restricted by existing vegetation between the viewpoint and the application site as well as vegetation on the boundary of the application site itself. The LVIA acknowledges that the proposed development will be partially visible during the winter months but that the resultant visual harm is negligible.

VP8 - Mary Lane North ' South from gap in hedgerow

As with viewpoint 7 views are distant and restricted by existing vegetation between the viewpoint and the application site as well as vegetation on the boundary of the application site itself. The LVIA acknowledges that the proposed development will be partially visible during the winter months but that the resultant visual harm is negligible.

VP9 - Mary Lane North ' South west from Manor Farm

There are strong field side hedgerows for much of Mary Lane North and views of the application are consequently restricted. VP9 offers a glimpse of the site from some distance. Little, if any adverse impact on local landscape character from this VP.

VP10 - Mary Lane North -South west from hedgerow gap adjoining Guild Hall orchard

As with VP9 there are strong field side hedgerows for much of Mary Lane North and views of the application are consequently restricted. VP10 offers a glimpse of the site from some distance through a gap in the hedgerow. The north eastern edge of the development may be visible from this VP until new planting becomes established. In terms of the visibility of the development in the landscape it is likely that there will be clear views of the development will be from this point.

In the short term the visual impact is likely to be harmful, with harm diminishing as new planting becomes established.

VP11 - Mary Lane North ' Westwards from adj. 4 Park Cottages.

Views of the development from this viewpoint, along with VP12 are probably the most significant. Although boundary planting will soften the appearance of the development views of dwellings are likely to remain visible in the long term albeit primary from residential dwellings known as The Cottages. There is no real gap in the hedgerow at this point and no public access to the agricultural land. The harm is categorized as minor in the LVIA and this is considered to be an accurate reflection of the impact of the development on the local landscape character from this VP.

VP12 - Camp Road PRow 166 _ 15 Westwards

As described in VP11 views of the development from this viewpoint are probably the most significant. Although boundary planting will soften the appearance of the development views of dwellings are likely to remain visible in the long term and, to a degree, diminish the experience for users of the PRow. The harm is categorized as minor in the LVIA and this is considered to be an accurate reflection of the impact of the development on the local landscape character from this VP.

VP13 - PRow 166_17 looking south

Views would be from such a distance that they would not diminish or otherwise affect user's enjoyment of the countryside from this viewpoint.

VP14 - St Georges Church, Badley Hall Rd, looking south

The application site is not visible from this viewpoint

VP15 - PRow 166_18 looking south

Any views of the site would be from such a distance that any change to the local landscape character would be imperceptible from this viewpoint.

- 6.42 The Summary and Conclusion section of the LVIA describes the impact and effects on the local landscape character, taking into account the historic use of the land and the surrounding area.
- 6.43 Section 7.1.19 of the LVIA is particularly relevant as it succinctly describes the different ways that development can be considered and assessed. It states; the nature of these visual effects is subjective. While the loss of land to new development can be judged as having a negative visual influence, the proposed development is designed with an appropriate vernacular appearance and a significant level of public open space which, over time as planting establishes, will complement existing views. Views are also currently degraded on-site and the proposals will enhance certain views both in the short and long term. Unless otherwise stated residual effects are assessed as neutral-minor beneficial.
- 6.44 In respect of the impact of the development upon existing trees the application site comprises the land and buildings associated with Hamilton Lodge (former residential care home). Much of the site is neglected parkland with established specimen trees with an understory of less significant growth.
- 6.45 The site contains fairly dense areas of trees, within the main body of the land and on site boundaries as well as dense undergrowth and areas of open grassland. There is a large pond close to the existing access road.

- 6.46 In terms of trees and other vegetation on the application site and adjacent land the applicant has provided a detailed tree survey and report. The report accurately describes the health and condition of existing trees and the extent to which they are a constraint on the development potential of the land. The information contained in the report is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction. Recommendations.
- 6.47 The tree report adequately demonstrates that the development of the land could take place without causing harm to the important trees on the land. In terms of formal legal protection of the trees it should be noted that the site is not affected by a tree preservation order and is not situated within a conservation area.
- 6.48 Taking into account the current limited amenity value of the trees resulting from their low profile in the public domain and the fact that the development proposal makes provision for the retention of the most significant trees on the application site it is not considered necessary or expedient to make a new tree preservation order (TPO) at the present time. If planning permission were to be granted it may become necessary for new TPO's to be made to deal with post development pressures.
- 6.49 In conclusion, and having regard to the above input from the Councils Trees and Landscaping Officer, it is considered that the visual impact of the development proposals and the impact upon trees to be, on balance acceptable. Where there are minor harm this can be mitigated through necessary planning conditions and or this impact will be lessened over time and as new and additional landscaping become established.

Design/Layout

- 6.50 The proposed development comprises of clear separate areas. Each element of the development is broken down as follows;

Detailed Residential Element (12 units)

- 6.51 This comprises 12 dwellings in two cul-de-sacs, 7 will face towards the village green and 5 will face towards 'Lodge Meadow'.
- 6.52 The form is a mix of principally detached homes at an appropriate density served by private amenity spaces of over 100sqm. These properties would be served by a minimum of 2 no. parking spaces and in most cases exceed this requirement. The proposed back to back distances between the two elements of development here would meet standard and ensure future resident's amenity is safeguarded.
- 6.53 Materials employed within this section of the development will be brick, render, weatherboarding and clay tiles. The dwellings would take on a traditional appearance comprising of varying pitches of roof, bay window features and brickwork/timber detailing to add interest.
- 6.54 The detailed design of this section of the development represents an appropriate response to the character of the area.

Village Green/Lodge Meadow

- 6.55 The open area in front of the pond is to be a focus for recreation and forms part of the 'Village Green'. It is a public-facing part of the site and is subject of specific proposals designed by the landscaping company employed by the applicant. This part of the site measures 8,880 sqm, or 2.25 acres. Wooded edges, stands and individual trees comprised within this area are safeguarded as part of the landscape and maintenance proposals. It is intended that this area will be transferred to the Parish Council and will include areas of informal play.

- 6.56 'Lodge Meadow' is proposed to provide a transition between the 12 dwellings and Hamilton Lodge/Coach House elements to the east. This area will include the retention of the Ha-Ha.

Hamilton Lodge/Coach House/Walled Garden

- 6.57 The conversion and re-use of these structures for residential use is included within the remaining 67 units that are submitted in outline form. Consequently, the detailed aspects of the conversion of these non-designated heritage assets (NDHA) are not included within this submission. However, the submitted Heritage Aspirations document and associated Concept Masterplan demonstrates that these NDHA can be retained and converted for residential use. The exact housing mix for these converted structures would be confirmed at reserved matters stage. The concept plans show that a communal garden area can be provided between Hamilton Lodge and The Stable Block and provide sufficient amenity space for future residents. Parking will be absorbed around the building/structures in question.

New Build Residential Elements

- 6.58 The remaining new build dwellings are to be incorporated within several development parcels located predominantly at the eastern end of the site and in and around the retained non-designated heritage assets. These parcels will accommodate approximately 50 dwellings in total and are shown on the submitted concept masterplan drawing in limited detail. In the event of an approval the detailed design and layout of these sections of the development would be reviewed at reserved matters stage. Notwithstanding the need to submit reserved matters for this element of the development it is considered that there is sufficient spacing to accommodate the number of units envisaged for these development parcels whilst incorporating adequate parking provision, private amenity space and suitable distances between properties to safeguard future resident's privacy.

Impact on Residential Amenity

- 6.59 The NPPF at paragraph 130 states that planning should secure developments with a high standard of amenity for existing and future users. Saved Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.60 There are residential properties located in around the application site at varying distances. To the east there are dwellings located approximately 225m from the site, to the south residential properties are sited between 110m-149m from the site and to the north a dwelling is located 88m at its closest point to the development. On the opposite side of Parsons Hill a dwelling is situated in a setback location from the highway at approximately 109m from the frontage of the site.
- 6.61 Therefore given the degree of separation of these dwellings to the development site and the presence of mature vegetation existing on the site perimeters any impact upon the resident's amenity, in terms of outlook and privacy, would not be harmful thereby according with the provisions of the local and national planning policies outlined above.

Heritage Considerations

- 6.62 Government policies relating to planning are given in the National Planning Policy Framework (NPPF). Section 16 (paragraphs 189 – 208) of the NPPF (Conserving and enhancing the historic environment) outlines policies relating to the historic environment and the key role it plays in the Government's definition of sustainable development, the principle which underpins the document.

- 6.63 The NPPF requires that local planning authorities 'should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment', recognising that 'heritage assets are an irreplaceable resource' and should be conserved 'in a manner appropriate to their significance'.
- 6.64 The NPPF requires that planning applicants should 'describe the significance of any heritage assets affected' by their application, 'including any contribution made by their setting'. Specifically, the NPPF states the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 6.65 Place Services (Heritage) have identified the following on-site structures as non-designated heritage assets;
- Hamilton Lodge;
 - Associated stable block;
 - Associated walled garden; and
 - Associated gate lodge.
- 6.67 These structures are not designated heritage assets. They are not included on the National Heritage List for England, nor are they in a conservation area. However, they have been identified by the Place Services as non-designated built heritage assets.
- 6.68 Consequently, following on-site discussions the application has been amended to include the retention and conversion of these buildings for residential purposes.
- 6.69 The revised principles have been developed and involve an improved design response including:
- Incorporation of the non-designated built heritage assets on the site, including their adaptive re-use;
 - An outline strategy for the integration, re-use and alteration of these built heritage assets;
 - An urban design strategy for the proposed new residential development in the setting of the non-designated built heritage assets. This will retain key elements of the site that contribute to the significance of the heritage assets. These include:
 - Retention of the ha-ha associated with Hamilton Lodge;
 - Providing a landscape buffer between the ha-ha and Hamilton Lodge;
 - Retaining partial views towards Hamilton Lodge through the tree line;
 - Retaining the woodland and pond to the south of Hamilton Lodge;
 - Low density development to the area in front of the ha-ha;
 - Redefining the courtyard to the rear of the site, and ensuring its continued use;
 - Creating a courtyard style development within the walled garden, subservient to the garden wall and stable block; and
 - Creating a new entrance to the walled garden framed by appropriate new built form.
- 6.70 As a result of these revisions to the development masterplan Place Services support this application on the assumption that, in the event of an approval, a robust legal agreement is put in place to safeguard the future of the heritage assets as part of this development.

Ecology Matters

6.71 Paragraph 174 of the NPPF requires Councils, when determining planning applications, to minimise impacts on and providing net gains for biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission. Saved policies EN6 of the adopted Local Plan and emerging policy PPL4 of the emerging Local Plan give special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for.

6.72 An Ecological Impact Assessment has been submitted by the applicants and assessed by ECC-Place Services. Place Services conclude that there is sufficient ecological information available for determination which provides certainty for the Council of the likely impacts on protected and Priority species & habitats.

6.73 The comments of Place Services outline the following;

- The site supports six pipistrelle day roosts in buildings, two pipistrelle day roosts in trees, two Brown Long-eared (BLE) hibernation roosts in buildings, a BLE day roost in a building and a BLE maternity roost which was not used during the 2020 maternity season. Therefore, the development will require a European Protected Species (EPS) licence for the demolition/conversion of the buildings and removal of trees on site which support roosting bats. In line with Natural England's licensing policy 4, we are satisfied that further bat surveys will be needed to support the licence and we recommend that the LPA secures a copy of the EPS mitigation licence for bats by a condition of any consent.

- We recommend that all the mitigation, compensation and enhancement measures detailed in Appendix 21 of the Ecological Impact Assessment (SES, October 2020) are secured by a condition of any consent and implemented in full for both full and outline elements of the development. This will also include soft felling techniques and mitigation measures for the trees on site assessed as having bat roost potential, but with no roosts identified.

- A European Protected Species mitigation licence for Hazel Dormice will also be required from Natural England prior to any vegetation clearance. We also recommend that the LPA secures a copy of the EPS mitigation licence for Hazel dormice by a condition of any consent.

- The Ecological Impact Assessment (SES, October 2020) also identifies that a 'moderate' population of Common Lizards has been identified onsite. Section 6 of the Ecological Impact Assessment (SES, October 2020) identifies suitable outline mitigation and enhancement measures for this species. The final mitigation, translocation and enhancement measures should be included in a Reptile Mitigation Strategy to be secured as a condition of any consent.

- We also support the proposed reasonable biodiversity enhancements, which have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 170d of the National Planning Policy Framework 2019. We note that Appendix 21 of the Ecological Impact Assessment (SES, October 2020) and that identifies the biodiversity enhancement measures proposed for the detailed part of this hybrid application including the locations in the Proposed Mitigation and Enhancement Plan.

These requirements would be secured via suitably worded conditions.

6.74 Under Regulations 61 and 62 of the Habitats Regulations, local planning authorities as the 'competent authority' must have regard for any potential impact that a plan or project might have on European designated sites. The application site is not, itself, designated as site of international, national or local importance to nature conservation. However, the site lies within the Zone of Influence (Zoi) of the Colne Estuary Special Protection Area (SPA) and Ramsar as defined in the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy

(RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreational purposes. In order to avoid a likely significant effect in terms of increased recreational disturbance to Coastal European designated sites (Habitats sites) in particular Colne Estuary SPA and Ramsar site, mitigation measures will need to be in place prior to occupation. These would be in the form (for schemes of under 100 net additional dwellings) of an off-site financial contribution of £127.60 per dwelling.

- 6.75 Whilst the applicant has confirmed their agreement to payment of this contribution, in the absence of a completed Section 106 Agreement such obligations cannot be secured against any permission and this will therefore form part of a reason for refusal.

Highway Safety/Parking

- 6.76 Paragraph 110 of the NPPF requires Councils, when making decisions to ensure:
- a) appropriate opportunities to promote sustainable transport modes can be, or have been, taken up, given the type of development and its location;
 - b) safe and suitable access to the site can be achieved for all users; and
 - c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 6.77 Saved policy TR1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. Policy CP1 in the emerging Local Plan states that developments will only be acceptable if the additional vehicular movements likely to result from the development can be accommodated within the capacity of the existing or improved highway network or would not lead to an unacceptable increase in congestion.
- 6.78 The development proposes the construction of a new access approximately 30 metres to the south of the existing access onto Parsons Hill, and the existing access will be stopped up. To support the new access proposals a Road Safety Audit has been provided in conjunction with a detailed highway visibility plan and plans outlining required highway infrastructure improvements including new bus stops in the vicinity of the site and new associated footpaths.
- 6.79 The existing access to the site is clearly not suitable to serve a residential development of the scale proposed. Consequently, the new access and associated highway improvement works have been designed and assessed through a Road Safety Audit that has been reviewed by Essex County Council Highways. Therefore, they have confirmed that they have no objection to the development subject to the following requirements being secured;
- The submission of a Construction Management Plan
 - No occupation of the development taking place until the following have been provided or completed:
- a) *A priority junction off Parsons Hill to provide access to the proposed site as shown in principle on planning application, drawing number: 20066-100 Rev. A4.*
 - b) *The road junction at its centre line shall be provided with a minimum clear to ground visibility splay with dimensions of 2.4 metres by 92 metres to the north and 2.4 metres by 102 metres to the south, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction/access is first used by vehicular traffic and retained free of any obstruction at all times.*
 - c) *To current Essex County Council specification, the provision of two bus stops on Parsons Hill which would best serve the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development) to include but not restricted to shelter (x2) with bus stop flag, Kassel Kerbs, and bus timetables.*

d) Provision of a 2-metre-wide footway either side of the new junction and across the entire site frontage as shown in principle with drawing no. 20066-100 Rev. A4.

e) Provision of a 2-metre-wide footway on the south-west side of Parsons Hill to provide a pedestrian link from the development to the Village Hall and bus stop as shown in principle with drawing no. 20066-100 Rev. A4.

- A financial contribution of £20,000 (index linked) towards the design and/or delivery of the upgrade of the traffic signals at the A133 Main Road/Colchester Road/B1029 Great Bentley Road/Bromley Road junction, Frating. Such contribution to be paid on commencement of development.

- No discharge of surface water onto the Highway.

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

- Vehicular and cycle parking provision being provided prior the first occupation of the relevant residential use.

- The submission of a residential travel plan

6.80 The above requirements can either be secured via planning conditions or through a legal agreement. Therefore in the absence of a completed legal agreement the failure to secure the above contribution to provide upgraded traffic signals, will form part of the reasons for refusal.

Drainage/Foul Drainage

6.81 Paragraph 159 of the NPPF requires Councils, when determining planning applications, to direct development away from areas at highest flood risk. Although the site is in Flood Zone 1 (low risk), the NPPF, Policy QL3 in the adopted Local Plan and Policy PPL1 in the emerging Local Plan still require any development proposal on sites larger than 1 hectare to be accompanied by a site-specific Flood Risk Assessment (FRA). This is to assess the potential risk of all potential sources of flooding, including surface water flooding that might arise as a result of development.

6.82 The applicant has submitted a Flood Risk Assessment which has been considered by Essex County Council as the authority for sustainable drainage. The strategy outlines that the proposed drainage network shall comprise of a series of carrier pipes, which intercept surface water runoff from roofs and paved areas, which then finally discharge to an infiltration component. The proposed road network and driveways will drain via a permeable pavement system and infiltrate directly to ground. The surface water drainage network has been designed for all storms up to and including the 1 in 30-year storm event with controlled ponding to the surrounding car park area in the 1 in 100-year storm plus a 40% allowance for climate change.

6.83 ECC have reviewed this strategy and have no objections subject to conditions being applied to any approval securing further details as to the precise nature of the drainage strategy, maintenance details and measures to mitigation against flooding/pollution during construction.

6.84 In terms of foul drainage the proposed development will discharge foul water flows via the existing foul water connection into the 150mm diameter foul water public sewer within the adjacent field to the west. The proposed drainage network shall comprise of a series of carrier pipes that will drain by gravity to independent foul water package pumping stations located within both Phase 1 and Phase 2. Anglian Water has commented upon the application, and confirm the foul drainage from the development is in the catchment of Great Bromley Water Recycling Centre that will have available capacity for flows from this site.

6.85 Based on the details contained within the FRA and Drainage Report, it is considered that the application site could be developed in the manner proposed without any risk of flooding from or to the proposed development compliant with the aims and objectives of the NPPF as well as Local Plan Policies set out above.

Legal Obligations/Viability

- 6.86 Policy COM6 in the adopted Local Plan and Policy HP4 of the emerging Local Plan require large residential developments to provide at least 10% of land as public open space or otherwise make financial contributions toward off-site provision.
- 6.87 The Council's Open Space Team has commented on the application and has identified a deficit of equipped play and formal open space in Great Bromley Parish.
- 6.88 The application does include formal and informal open space, however for a development of this size the Open Spaces Team have confirmed that they would expect to see some provision for play to be included on-site, ideally made from natural materials and following the contours of the land. If minded to approve the play provision would be secured via condition or at reserved matters stage.
- 6.89 As the on-site open space (and play provision) is to be transferred to Great Bromley Parish Council for future maintenance, an additional financial contribution towards maintenance will also need to be secured through a Section 106 legal agreement. If the Council were minded to approve this application, Officers would engage in negotiations with the applicant to agree the necessary requirements in line with the guidance contained within the Council's Supplementary Planning Document on Open Space.
- 6.90 However, as the application is recommended for refusal, the lack of a Section 106 Agreement to secure the on-site play provision and future maintenance of the open space (excluding areas including SUDs features) will be included as a reason for refusal, to ensure that this matter is properly addressed if the applicant decides to appeal in the event of a refusal.

Council Housing/Affordable Housing

- 6.91 Policy HG4 in the adopted Local Plan requires large residential developments to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy LP5 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 30% of new dwellings on large sites to be made available for affordable or Council Housing.
- 6.92 If members are minded to approve this application, up to 24 of the proposed properties would need to be secured for affordable housing purposes through a Section 106 legal agreement and the applicant has indicated that they would be willing to provide the full policy-compliant contribution of affordable housing. However, as the application is to be refused, the lack of a Section 106 Agreement to secure the necessary level of affordable housing will be included as a reason for refusal, to ensure that this matter is properly addressed if the applicant decides to appeal in the event of a refusal.

Education Provision

- 6.93 Policy QL12 in the adopted Local Plan and Policy PP12 in the emerging Local Plan require that new development is supported by the necessary infrastructure which includes education and library provision.
- 6.94 Essex County Council as the Local Education Authority has been consulted on the planning application and has made representations. ECC advised that, based on its standard formula, a development of this size can be expected to generate the need for up to 7.11 Early Years and Childcare (EY&C) places; 23.7 primary school, and 15.8 secondary school places.
- 6.95 ECC state that there are sufficient EY&C and Secondary School places available in the local area and as such a contribution in this respect will not be required.

- 6.96 However, on the basis that there are insufficient places to meet the needs of this development in respect of Primary provision, ECC has requested a financial contribution of £486,040 for primary school places. They have also requested £104,728 for secondary school transport provision and £25,494.88 towards the provision of a library services in the area. The total contribution requested by ECC-Education is therefore £616,262.88.
- 6.97 As the application is to be refused, the lack of a Section 106 Agreement to secure the necessary education specific contributions will be included as a reason for refusal, to ensure this matter is properly addressed if the applicant decides to appeal in the event of a refusal.

Healthcare Provision

- 6.98 NHS CCG have confirmed that as it stands currently the impacted practice/practices are not over capacity therefore they will not be seeking a healthcare contribution at this stage.
- 6.99 In conclusion, the developer has agreed to the contributions/legal obligations outlined above and has submitted a viability appraisal to demonstrate that these obligations can be provided in conjunction with the renovation and conversion of the non-designated heritage assets. The viability appraisal also shows that the number of residential units proposed (i.e. 79 units) is required to ensure the development is viable. This report has been independently reviewed by BNP Paribas who concur with this view.

7. Conclusion/Planning Balance

- 7.1 Tendring District Local Plan (2007) Policy QL1, which previously set out the spatial strategy and defined a hierarchy of settlements, has been superseded by the adopted Tendring District Local Plan Section 1 Policy SP3. Policy SP3 states that new development will be accommodated within or adjoining settlements according to their scale, sustainability, and existing role both within each individual district and, where relevant, across the wider strategic area. Policy SPL2 of the emerging TDLP Section 2 advises that outside the 'Settlement Development Boundaries' new development will be subject to strict control in relation to the Settlement Hierarchy and any other relevant policies in the plan. As such full weight can be afforded to Policy SP3 and the proposal's conflict with it in determining this application.
- 7.2 In terms of the benefits of the development, the proposal would make a contribution to the supply of housing by the delivery of 79 dwellings, thereby boosting the supply of housing as required by the Framework. However, the Council is able to demonstrate that it has a 5-year supply of deliverable housing sites and is able to meet its housing need over the plan period of 2013 to 2033. Therefore, although the 5-year supply is not a 'ceiling' and the proposal would help to meet the Government's objective of significantly boosting the supply of homes, the weight that can be attached to this benefit is reduced below substantial due to the Council already demonstrating that it has sufficient sites for future housing to meet its identified needs.
- 7.3 The proposal would also have economic benefits by way of the support for construction jobs during the build and demand for supplies and materials. These benefits would together be modest. There would also be the support for services by future occupiers and again this benefit would be modest.
- 7.4 The applicant has indicated a willingness to deliver, by way of the UU, policy compliant financial contributions for the delivery/maintenance of public open or play space provision and education contributions. However, this is a requirement to make the development acceptable and is not a benefit that weighs in the balance. Similarly, other matters where no material harm has been identified, are neutral in the planning balance.

- 7.5 The applicant has confirmed acceptance to provide the policy required 30% affordable housing provision. The housing department has identified that there is a high demand for affordable housing in the area. There is therefore a need for affordable housing to be delivered on site and the proposal would make a significant contribution to the Council meeting its objectively assessed need for affordable housing in the District. Therefore, this benefit can be given moderate weight as there is a high demand for affordable housing in the district.
- 7.6 In terms of the non-designated heritage assets and their conversion and retention, whilst this element of the proposal is welcomed, in the first instance, the lack of a sustained and robust marketing campaign to demonstrate that the site is not in demand for alternative employment uses, as well as the failure to demonstrate that the land and buildings are inherently unsuitable for any form of employment use results in the considered position which is that officers apply moderate weight to this benefit. Whilst the retention of these assets is supported by the Council and ECC-Place Services the amount of weight that can be given to their retention is also tempered by the fact that they are not statutory listed buildings and not situated within a designated conservation area.
- 7.7 It is also acknowledged that the site would have attracted a good amount of vehicular movements associated with its lawful residential institutional use, the provision of a village green and its accessibility to the wider public, as well as the re-development of a brownfield site which is supported in part by the Framework.
- 7.8 However, overall, the proposal's benefits are modest. The Framework places emphasis on managing patterns of growth to support objectives which include opportunities to promote walking, cycling and public transport use, and mitigating any adverse environmental impacts of traffic.
- 7.9 Development in rural areas is not precluded but the Framework indicates that significant weight should be given to the benefits of using suitable sites within settlements for homes and therefore supports the general thrust of the local plan in terms of location of housing.
- 7.10 Consequently, the adverse impacts on, and clear conflict with, the Council's housing strategy and of increasing travel by private motorised transport would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal would conflict with the development plan as a whole, and there are no other considerations including the provisions of the Framework which outweigh this finding.

8. Recommendation

- 8.1 The Planning Committee is recommended to refuse planning permission for the following reasons;
- 8.2 1). For the purposes of the determination of this application the Council can currently demonstrate that a 5 year housing land supply exists. Therefore, paragraph 11d) of the NPPF is not engaged. The policies for the delivery of housing are considered up-to-date and the application must therefore be determined in accordance with Paragraph 11c) of the NPPF, thus in accordance with the development plan.
- 8.3 Adopted Policy SP3 (Spatial Strategy for North Essex) of the 2013-2033 Local Plan states, amongst other things, that development will be accommodated within or adjoining settlements, according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area. Future growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting. New housing development should be focused towards the larger urban areas and to within settlement development boundaries. This is consistent with the

Framework's objectives for achieving sustainable development through a plan-led approach that focuses development to locations which are or can be made sustainable, limiting the need to travel and offering a genuine choice of transport modes

- 8.4 As set out above, the policies for the delivery of housing are considered up-to-date and the application must therefore be determined in accordance with Paragraph 11 c) of the NPPF, thus in accordance with the development plan.
- 8.5 In this instance it is evident that the site is not located within any defined settlement boundary. The site is within the countryside for the purposes of planning policy. The proposal is therefore contrary to adopted policy SP3.
- 8.6 The main aims of Policy SP3 are to direct growth to those places where a good range of services and facilities are easily accessible by means other than private motorised transport, to reduce the need to travel and to protect the character and appearance of the countryside.
- 8.7 These policies are consistent with the NPPF objective for achieving sustainable development. This is through a plan-led approach that focuses development to locations which are or can be made sustainable, limiting the need to travel and offering a genuine choice of transport modes.
- 8.8 Nearby Great Bromley and Frating are classified as 'Smaller Rural Settlements' in the emerging local plan, primarily due to the lack of job opportunities, local services, facilities and other infrastructure. There is also a reliance on neighbouring towns and villages for work, shopping and other services, often involving car travel. These smaller villages are considered to be the least sustainable locations for growth and therefore only suitable for the provision of a limited amount of additional housing, due to the minimal level of services and facilities they provide.
- 8.9 It is appreciated that opportunities to maximise alternative transport solutions will vary between urban and rural areas and it is also acknowledged that the site is previously developed, in a rural location, and attracted a certain level of traffic movements under its former care home use, but even taking this into account, it is considered that the proposal for 79 dwellings in this unsustainable location runs contrary to the objectives of Policy SP3 and is of an inappropriate scale, in a countryside location clearly detached from the nearest settlement of Great Bromley, which is identified as a smaller rural settlement under emerging policy SPL3.
- 8.10 Moreover, whilst it is acknowledged that the land has been previously developed the site essentially comprises of care home/assisted living buildings, areas of hardstanding, grassland and parkland around an early 20th Century house. The extent of the combined building footprints present on the site equate only to approximately 5% of the total site coverage. Whereas the proposed built form will cover a significantly wider area of the site at approximately 40-45% of the land. This increase in built form would represent a substantial and material change to the character of the site in this essentially rural location. The higher and more urban density proposed would evidently be at odds with the prevailing pattern of built form in the vicinity, which comprises of loose knit development within large spacious plots more akin to the rural character of the locality. As such, the development is in conflict with adopted policy SP7 of the Tendring District Local Plan 2013-2033 and Beyond - Section 1 and saved policy EN1 of the adopted Tendring District Local Plan (2007), which state that all new development should reflect the following place shaping principles, where applicable respond positively to local character and context to preserve and enhance the quality of existing places and their environs and that the quality of the district's landscape and its distinctive local character will be protected and, where possible, enhanced and any development which would significantly harm landscape character or quality will not be permitted.
- 8.11 The planned growth for the District to meet housing need has been established. In applying the NPPF's presumption in favour of sustainable development, the adverse impacts of the proposal

both on the Council's ability to manage growth through the plan-led approach, the character of the area and the unsustainable location of the site, are not outweighed by any public benefits or other material considerations that might warrant the proposal being considered in an exceptional light.

8.12 It is therefore concluded that the site would not be in a suitable location for the proposed development having regard to local and national policies concerned with the location of development. The proposal would conflict with adopted Policy SP3 and emerging local plan Policy SPL1 as the proposal would conflict with the aims of the settlement hierarchy it sets out.

2). Saved Policy ER3 of the adopted Tendring District Local Plan (2007) applies to all land in employment use. This policy states that the Council will ensure that land in, or allocated in this Plan for employment use will normally be retained for that purpose. Its redevelopment or change of use for non-employment purposes will only be permitted if the applicant can demonstrate that it is no longer viable or suitable for any form of employment use. The applicant should either:

- i. submit evidence of a sustained but ultimately unsuccessful marketing exercise, undertaken at a realistic asking price; or
- ii. show that the land (site, or premises) is inherently unsuitable and/or not viable for any form of employment use

8.13 In this instance the current lawful use of the development site is C2 (Residential Institutional Use/Care Home). This falls to be considered as an employment use and therefore the provisions of saved policy ER3 as outlined above are relevant.

8.14 The application has not been submitted with a sustained and robust marketing campaign to demonstrate that the site is not in demand for alternative employment uses. Nor has it been suitably shown that the land and buildings are inherently unsuitable for any form of employment use.

8.15 A document provided by the applicant seeks to address this matter by stating that the saved policy is of limited weight, that the application site is not specifically allocated for employment use, that marketing took place following the closure of the care home use and that the development of the site does not undermine the policy objectives of safeguarding identified employment sites.

8.16 Officers have reviewed this document and remain of the view that saved policy ER3 is relevant to this application and carries significant weight being that it is a policy contained within the adopted Tendring District Local Plan (2007). The policy evidently states that any employment site, regardless of whether it is allocated or not, is caught by the requirements of this policy.

8.17 Therefore, in the absence of any marketing particulars or robust evidence to show that the site cannot be utilised for any alternative employment uses the application proposals for a 100% residential scheme are considered contrary to the requirements of saved policy ER3.

3). The National Planning Policy Framework (2021) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be sought where they meet all of the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

8.18 Saved Policy HG4 of the Tendring District Local Plan (2007) requires up to 40% of new dwellings on residential schemes of 5 or more units to be provided in the form of affordable housing to meet the needs of people that are unable to access property on the open market. Emerging

Policy LP5 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017), which is based on more up-to-date evidence of housing need and viability, requires for developments of 10 or more dwellings, the Council expect 30% of new dwellings to be made available to Tendring District Council or an alternative provider to acquire at a discounted value for use as affordable housing, or as an alternative, the Council will accept a minimum of 10% if new dwellings are to be made available alongside a financial contribution toward the construction or acquisition of property for use as affordable housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement. A completed Section 106 has not been provided prior to the application determination date and the application is therefore contrary to the above policy.

- 8.19 Saved Policy COM26 of the Tendring District Local Plan states where necessary planning permission will only be granted for residential developments of 12 or more dwellings if land and/or financial contributions are made to provide the additional school places that will be needed to service the development. Emerging Policy PP12 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) states planning permission will not be granted for new residential development unless the individual or cumulative impacts of development on education provision can be addressed, at the developer's cost, either on-site or through financial contributions towards off-site improvements. Essex County Council Education Services have identified the need for financial contributions toward primary provision and secondary school transport along with a contribution towards library provision. A completed Section 106 obligation to secure these contributions has not been provided prior to the application determination date and the application is therefore contrary to the above policies.
- 8.20 Saved Policy COM6 and emerging Policy HP5 state that for residential development on a site of 1.5ha and above, where existing public open space and/or play equipment are inadequate shall provide appropriate provision on-site or by way of a financial contribution towards the provision of new or improved off-site facilities to meet the projected needs of future occupiers of the development. In this case there is likely to be sufficient on-site open space provision to meet the Council's requirements. However, there will also be a need to provide play provision and if the open space and play provision is to be maintained by the Parish Council then provisions/responsibility arrangements will need to be secured through a Section 106 obligation. Without such provisions being secured the proposals are contrary to the above policies.
- 8.21 Paragraph 110 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy TR1a requires new development to be considered in relation to the road hierarchy to reducing and preventing hazards and inconvenience to traffic. Policy CP1 in the emerging Local Plan states that developments will only be acceptable if the additional vehicular movements likely to result from the development can be accommodated within the capacity of the existing or improved highway network or would not lead to an unacceptable increase in congestion.
- 8.22 ECC-Highways have confirmed the need for a financial contribution of £20,000 towards the design and/or delivery of the upgrade of the traffic signals at the A133 Main Road/ Colchester Road/ B1029 Great Bentley Road/ Bromley Road junction, Frating, to protect highway efficiency of movement and safety.
- 8.23 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. This residential development lies within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In this case the nearest designated site is the Colne Estuary SPA and Ramsar site and the Essex Estuaries SAC.

- 8.24 In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) mitigation measures will need to be in place prior to occupation. A proportionate financial contribution has not been secured in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements and the provisions of adopted policy SP2 (Spatial Strategy for North Essex) of Section 1 of the 2013-2033 Local Plan.
- 8.25 A completed Section 106 obligation to secure the relevant contributions towards, RAMS, education, highway improvements, open space/play space and affordable housing has not been provided and is therefore contrary to the above policies.

8.3 Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

9 Additional Considerations

Public Sector Equality Duty (PSED)

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

Human Rights

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

Finance Implications

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

10 Background Papers

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

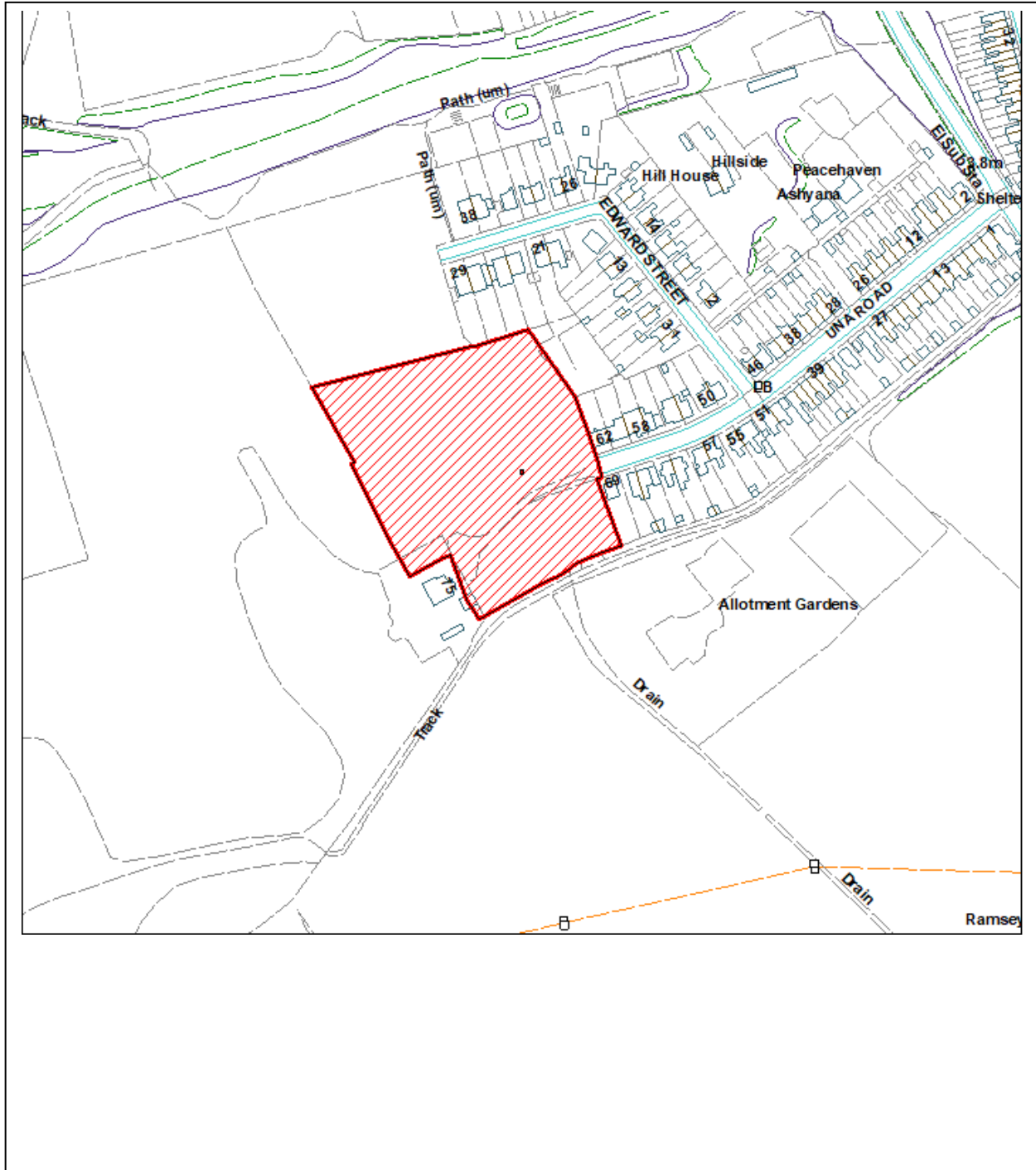
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PLANNING COMMITTEE

28th September 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.2 PLANNING APPLICATION – 20/01798/FUL – LAND REAR OF UNA ROAD PARKESTON ESSEX CO12 4PS



DO NOT SCALE

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Application: 20/01798/FUL

Town / Parish: Ramsey & Parkeston Parish Council

Applicant: Mr Jason Drane - MOEGM

Address: Land rear of Una Road Parkeston Essex CO12 4PS

Development: Proposed construction of thirty houses and associated parking, access and landscaping. This application seeks to modify the existing planning consent (19/00406/DETAIL) in terms of layout to comply with Essex Highways Technical Standards.

1. Executive Summary

1.1. This applications was originally brought before Planning Committee on 1 September 2021. Updates to the report are shown in bold text throughout.

1.2. The application was deferred for the following reasons:

- Allow for a full public review of the viability;
- Establish what affordable housing contributions would be required in terms of an off-site contribution;
- Agree heads of terms for a s106 to cover any increase in profit from the site;
- Seek to obtain additional comment from the HSE (Health and Safety Executive) on how they reached their, 'no objection' stance.

1.3 In response to these points, the following updates can be made:

- Viability Appraisals placed on public portal;
- TDC Housing have advised that if the site was viable to deliver affordable housing on site, Housing Services would seek 9 dwellings in total for affordable housing, and given the mix of dwellings on the site, the affordable mix would be 2 x 2 bed houses and 7 x 3 bed houses. In terms of a possible financial contribution towards off-site affordable housing, Housing Services have confirmed that if a financial contribution were to be requested it would amount to £210,000 (more detail on this calculation is provided with the main body of the report within Section 4 Consultations, 'Housing Services' comments);
- The applicant has confirm that they are prepared to enter into a Section 106 Agreement to include a Review Mechanism so that the matter of financial contributions towards off-site affordable housing contributions can be given further scrutiny should the financial position change. There shall be a clause written into the Section 106 document that if development has not commenced within 2 years a further viability study shall be undertaken to confirm the development remains unviable for additional contributions towards affordable housing;
- The HSE have responded recently and again confirmed they would not advise against the application. This is due to the fact that the planning application is for 30 dwellings with a proposed housing density of less than 40 dwellings per hectare (30 houses in 1.1ha = 27dph). The HSE submitted a map (published online) showing the 'HSE Consultation Zones' of the development, for this proposal it is only

gardens that are proposed within the inner zone (most at risk), so the whole development is deemed to be in the middle zone. Within HSE's Land Use Planning Methodology, HSE would not advise against a planning application for up to and including 30 dwellings units and at a density of no more than 40 dwelling units per hectare located within the middle HSE consultation zone.

- **The HSE have not objected to this or any other historic application for this site (more detail on this has been added to the main body of this report within paragraphs 6.49-6.55 inclusive). Notwithstanding the above, Officers consider it expedient to request an Emergency Evacuation Plan be provided by way of an additional Planning Condition is appropriate in this case. Such a plan should be given to all future occupiers of the site, so residents know what to do in times of emergency. On this basis the development is considered acceptable.**

- 1.4 This application has been referred to Planning Committee at the request of Councillor Davidson due to concerns relating to; the design and street scene impact, impact on the neighbours, highway safety, general safety due to proximity to the Oil Refinery and parking concerns.
- 1.5 The site lies within the defined Settlement Development Boundary of the existing and emerging local plans.
- 1.6 In 2013 Planning permission (11/01172/OUT) was refused for the construction of 30 houses and associated parking, access and landscaping works. The reasons for refusal were due to the proximity to Carless Refinery and the increase in vehicular traffic along both Edward Street and Una Road. This decision was appealed; the appeal was allowed and planning permission granted. However, this approval was never implemented.
- 1.7 In 2015 the application site obtained a further outline planning approval for 30 dwellings, via application (Ref: 15/01792/OUT), the associated Reserve Matters approval was issued via application (Ref: 19/00406/DETAIL). Further to this, the site to the immediate north, for which the applicant is also the freeholder, has planning permission for 12 dwellings via (Ref: 16/02128/OUT) and approved Reserve Matters via (Ref 20/00460/DETAIL).
- 1.8 This application involves the construction of thirty houses and associated parking, access and landscaping. This application seeks to modify the existing planning consent (19/00406/DETAIL) in terms of layout to comply with Essex Highways Technical Standards.
- 1.9 For the reasons outlined in this report Officers consider the scheme before members, subject to planning conditions, to be an acceptable development proposal as it is in accordance with the relevant policies in the development plan, as well as emerging policies in section 2 of the emerging Local Plan, and on a site that has recent planning history approval for a similar number of dwellings.
- 1.10 A legal agreement is required for this application to secure a financial contribution towards Essex Coast Recreational Disturbance and Avoidance and Mitigation Strategy (RAMS).
- 1.11 In conclusion, the proposed development would not result in any harmful impact upon visual amenity or neighbouring amenities and provides appropriately designed additional housing and sufficient additional parking spaces to serve the proposed units.

Recommendation:

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

- a) **Within 6 (six) months of the date of the Committee’s resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing to include the following matters (where relevant):**
- **Financial Contribution towards RAMS**
 - **Viability Review Mechanism, for a further viability to be undertaken if development has not commenced in 2 years.**
- b) Subject to the conditions stated in section 8.2
- c) That the Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

2. Planning Policy

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

NPPF National Planning Policy Framework February 2021

National Planning Practice Guidance

Tendring District Local Plan 2007 (part superseded)

| | |
|-------|--|
| QL2 | Promoting Transport Choice |
| QL3 | Minimising and Managing Flood Risk |
| QL11 | Environmental Impacts and Compatibility of Uses (part superseded) |
| HG3 | Residential Development within Defined Settlements |
| HG3A | Mixed Communities |
| HG4 | Affordable Housing in New Developments |
| HG6 | Dwelling Size and Type |
| HG7 | Residential Densities |
| HG9 | Private Amenity Space |
| HG14 | Side Isolation |
| COM6 | Provision of Recreational Open Space for New Residential Development |
| COM19 | Contaminated Land |

| | |
|-------|---|
| COM26 | Contributions to Education Provision |
| EN1 | Landscape Character |
| EN2 | Local Green Gaps |
| EN6 | Biodiversity |
| EN11A | Protection of International Sites European Sites and RAMSAR Sites |
| EN13 | Sustainable Drainage Systems |
| EN29 | Archaeology |
| TR1A | Development Affecting Highways |
| TR2 | Travel Plans |
| TR3A | Provision for Walking |
| TR4 | Safeguarding and Improving Public Rights of Way |
| TR5 | Provision for Cycling |
| TR6 | Provision for Public Transport Use |
| TR7 | Vehicle Parking at New Development |

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

- Section 1: Adopted

| | |
|-----|--|
| SP1 | Presumption in Favour of Sustainable Development |
| SP2 | RAMS |
| SP3 | Spatial Strategy for North Essex |
| SP4 | Meeting Housing Needs |
| SP6 | Infrastructure & Connectivity |
| SP7 | Place Shaping Principles |

- Section 2: Emerging

| | |
|------|--|
| SPL1 | Managing Growth |
| SPL2 | Settlement Development Boundaries |
| SPL3 | Sustainable Design |
| HP3 | Green Infrastructure |
| HP5 | Open Space, Sports & Recreation Facilities |

| | |
|------|---|
| LP1 | Housing Supply |
| LP2 | Housing Choice |
| LP3 | Housing Density and Standards |
| LP4 | Housing Layout |
| LP5 | Affordable and Council Housing |
| PPL1 | Development and Flood Risk |
| PPL3 | The Rural Landscape |
| PPL4 | Biodiversity and Geodiversity |
| PPL5 | Water Conservation, Drainage and Sewerage |
| PPL6 | Strategic Green Gaps |
| PPL7 | Archaeology |
| CP1 | Sustainable Transport and Accessibility |

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Status of the Local Plan

- 2.1 Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).
- 2.2 The 'development plan' for Tendring comprises, in part, the 'saved' policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 26th January 2021 Section 1 of the 2013-2033 Local Plan was adopted and now also forms part of the 'development plan' for Tendring, superseding some of the more strategic policies in the 2007 Local Plan. Notably, the housing and employment targets were found sound and have been fixed, including the housing requirement of 550 dwellings per annum.
- 2.3 Paragraph 48 of the Framework 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 the policies of the Framework. In this regard 'Proposed Modifications' to emerging Section 2 of the 2013-33 Local Plan which contains more specific policies and proposals for Tendring has been examined and hearing sessions have now closed. The main modifications recommended to make the plan legally compliant and sound were considered at the Council's Planning Policy and Local Plan Committee on 29th June 2021. The Council is holding a six week public consultation on the Main Modifications and associated

documents, which began on 16th July 2021. The consultation will run for just over 6 weeks, closing at 5pm on 31st August 2021, following which adoption is expected later this year. Section 2 will join Section 1 as part of the development plan, superseding in full the 2007 Local Plan. Section 2 of the 2013-33 Local Plan is therefore at a very advanced stage of preparation and should be afforded considerable weight.

2.4 In relation to housing supply:

The Framework requires Councils 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, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, the 'tilted balance' at paragraph 11 d) ii) of the Framework is engaged. This requires applications for housing development be granted permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

2.5 Following the adoption of Section 1 of the 2013-33 Local Plan and the Council's 'Objectively Assessed housing Need' of 550 dwellings per annum there is no housing shortfall. The Council is able to report a comfortable surplus of housing land supply over the 5 year requirement. The 'tilted balance' at paragraph 11 d) ii) of the Framework does not therefore apply to applications for housing.

3. Relevant Planning History

| | | | |
|-----------------|--|-----------|------------|
| 00/01248/FUL | Erection of 76 No. houses on land currently vacant | Withdrawn | 21.03.2005 |
| 00/01811/OUT | Residential development - Renewal of Planning permission TEN/96/0848 | Approved | 14.08.2002 |
| 88/01539/OUT | (Land at the end of Una Road and Edward Street, Parkeston) Residential Development (revised application) | Refused | 17.11.1992 |
| 96/00848/OUT | (Land at the rear of Una Road and Edward Street, Parkeston) Renewal of outline planning permission TEN/1539/88 residential development | Approved | 27.01.1998 |
| 02/01614/FUL | 77 residential dwellings with associated parking, landscaping and open space and parking court for 20 unallocated parking spaces. | Refused | 19.02.2003 |
| 02/01635/DETAIL | 77 residential dwellings with associated parking, landscaping and open space | Withdrawn | 06.01.2009 |
| 04/02094/FUL | Relaxation of Conditions 6 and 9 of planning permission 00/01811/OUT of 14 August 2002 | Withdrawn | 06.01.2009 |

| | | | |
|-----------------|--|-----------|------------|
| 04/02096/DETAIL | Erection of 30 dwellings with associated parking and open space. | Approved | 24.09.2008 |
| 05/01080/DETAIL | Reserved matters application for the erection of 50 dwellings pursuant to outline planning permission 00/01811/OUT. | Refused | 17.07.2007 |
| 11/01172/OUT | Construction of thirty houses with associated parking, access and landscaping works. | Refused | 05.04.2013 |
| 15/00348/OUT | Variation of condition 4 of planning permission 11/01172/OUT (allowed at appeal under reference APP/P1560/A/13/2196059) substituting drawing number 8088/200 Rev B for 8088/300, to allow an amendment to the approved site plan, with the addition of an internal road between the north and south of the site. | Refused | 24.04.2015 |
| 15/30158/PREAPP | Proposed development of 30 dwellings. | Refused | 09.09.2015 |
| 15/01792/OUT | Construction of thirty houses with associated parking, access and landscaping. | Approved | 13.06.2016 |
| 16/01267/OUT | Construction of eight houses with associated parking, access and landscaping. | Approved | 04.10.2016 |
| 16/02128/OUT | Construction of twelve houses with associated parking, access and landscaping (alternative scheme to application ref 16/01267/OUT). | Approved | 28.06.2017 |
| 19/00381/DISCON | Discharge of Conditions 5) Construction Materials, 6) Hard and Soft Landscaping, 8) Screen Walls, Fences and Bin enclosures, 9) Floor Levels, 11) Driveways and Parking Areas, 12) Flood response plan, 14) Estate roads, footways and vehicle access, 16) Ecological Mitigation Strategy, 17) Storage of bicycles, 20) Surface water drainage scheme and 21) Scheme to minimise risk of offsite flooding - to approved Planning Application 15/01792/OUT. | Withdrawn | 28.05.2019 |
| 19/00406/DETAIL | Construction of thirty houses with associated parking, access and landscaping. | Approved | 28.08.2019 |

| | | | |
|-----------------|--|----------|------------|
| 19/01665/DETAIL | Variation of condition 1 (approved plans) of reserved matters application 19/00406/DETAIL. | Approved | |
| 20/00460/DETAIL | Reserved matters application (details of appearance, landscaping, layout and scale) for approval 16/02128/OUT. | Approved | 22.07.2020 |
| 20/01798/FUL | Proposed construction of thirty houses and associated parking, access and landscaping. This application seeks to modify the existing planning consent (19/00406/DETAIL) in terms of layout to comply with Essex Highways Technical Standards. | Current | |
| 21/00696/DISCON | Discharge of condition 10 (Construction Method Statement) of Planning Permission ref: 19/00406/DETAIL | Approved | 15.06.2021 |
| 21/00697/DISCON | Discharge of conditions 5 (Materials), 6 (Hard and Soft Landscaping), and 8 (Details of Siting, Design and Materials of Screen Walls and Fences), 12 (Flood Response Plan), 13 (Construction Method Statement), 14 (Details of Roads, Footways and Vehicular Access), 15 (Site Characterisation, Remediation Scheme, Implementation of Approved Remediation Scheme & Reporting of Unexpected Contamination), 17 (Bicycle Storage) and 18 (Construction Traffic Management Plan) of Planning Permission ref: 15/01792/OUT | | 09.06.2021 |
| 21/00808/DISCON | Discharge of conditions 20, (Surface Water Drainage), 21 (Minimize the risk of off-site flooding) and condition 22 (Maintenance Plan) of approved planning application 15/01792/OUT. | Current | |
| 21/00818/DISCON | Discharge of conditions 9 (Site Levels) of approved planning application 15/01792/OUT | Current | |

4. Consultations

ECC Highways Dept
13.08.2021

All housing developments in Essex which would result in the creation of a new street (more than five dwelling units)

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

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

- Prior to the occupation of any of the proposed development the internal road site access and footway layout shall be provided in principle and accord with Drawing Number: 5195/1/100 Rev. P-1 Amended site layout.

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

- Prior to occupation of the development a 1.5 metre x 1.5 metre clear visibility above a height of 600mm, as measured from and along the boundary, shall be provided on both sides of the vehicular accesses. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety in accordance with policy DM1.

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

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

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

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

- The development shall not be occupied until such time as a car parking and turning areas has been provided in accord

with current Parking Standards. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

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

- Each tandem vehicular parking space shall have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles.

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

- Each vehicular parking space which is bounded by walls or other construction shall have minimum dimensions of 3.4 metres x 5.5 metres.

Reason: To encourage the use of off-street parking and to ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

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

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

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

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

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

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

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

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

Informative:

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

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

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

- There should be a 'no build zone' of 0.5 metres from the back of the proposed/ future high boundary.

- The proposed internal estate road will form part of a 20 MPH speed limit zone and will require supporting measures at regular intervals to ensure drivers adhere to the speed limit.

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

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

An additional Planning Condition is recommended

Prior to the commencement of development, a comprehensive traffic calming scheme (including the type, number, layout, levels, gradient, surfacing and means of surface water drainage of these traffic calming features) shall be submitted to the Local Planning Authority. The Local Planning Authority shall, in

conjunction with Essex County Council Highways Department, formally approve these details. The approved traffic calming measures shall be fully implemented before first occupation of any of the dwellings hereby approved and retained in the agreed form at all times unless otherwise agreed with by the Local Planning Authority.

Reason: To ensure that traffic in the development is kept to a speed of no greater than 20mph. In the interests of highway Safety.

ECC Highways

31.08.2021

Health and
Executive
18.01.2021

Safety HSE is a statutory consultee on relevant developments within the consultation distance of a hazardous installation or a major accident hazard pipeline. Planning Authorities should use HSE's Planning Advice Web App to consult HSE on such applications and produce a letter confirming HSE's advice. This service replaces PADHI+ HSE's on-line software decision support tool.

The Web App can be found here;

<http://www.hsl.gov.uk/planningadvice>

All planning authorities were contacted prior to the launch of the Web App with log in details to set up an administrator. This administrator will be able to set up other users within the organisation. If you require details of the administrator for your organisation please contact us.

Planning Authorities should use the Web App to consult HSE on certain developments including any which meet the following criteria, and which lie within the consultation distance (CD) of a major hazard site or major hazard pipeline.

- residential accommodation;
- more than 250m² of retail floor space;
- more than 500m² of office floor space;
- more than 750m² of floor space to be used for an industrial process;
- transport links;
- or which is otherwise likely to result in a material increase in the number of persons working within or visiting the notified area.

There are additional areas where HSE is a statutory consultee. For full details, please refer to annex 2 of HSE's Land Use Planning Methodology:
www.hse.gov.uk/landuseplanning/methodology.htm

There is also further information on HSE's land use planning here: www.hse.gov.uk/landuseplanning/

Updated Comment - 23
June 2021

HSE have had a look at the updated report and can confirm that the advice you have now received is correct for planning application 20/01798/FUL - HSE does not advise against this proposal.

Officer Comment: The consultation distance (CD) for a proposed residential development from a major hazard site or major hazard pipeline is 260 metres. There has not any objection from the HSE to this application or any other historic application on this site.

Updated Comment – HSE
16/09/2021

The proposed development in planning application 20/01798/FUL - Land at Una Road, Parkeston, falls within the inner and middle HSE consultation zone for the major hazard site Haltermann Carless UK Ltd (HSE Ref: H0309). I have attached a pdf showing the 3-zone map for the site. Within HSE's Land Use Planning Methodology, when the site area of a proposed development type lies across a zone boundary the Straddling Rule (1a) is applied to determine the zone which the planning application is deemed to fall within. The development type (i.e. housing in this case) will normally be considered as being in the innermost zone to the major hazard unless less than 10% of the area marked is inside that boundary, or it is only car parking, landscaping (including gardens of housing), parks and open spaces or access roads etc associated with that development, that are in the inner of the zone. Therefore, for this proposal it is only gardens that are proposed within the inner zone, so the whole development is deemed to be in the middle zone.

The planning application is for 30 dwellings with a proposed housing density of less than 40 dwellings per hectare (30 houses in 1.1ha = 27dph).

Within HSE's Land Use Planning Methodology, HSE would not advise against a planning application for up to and including 30 dwellings units and at a density of no more than 40 dwelling units per hectare located within the middle HSE consultation zone.

HSE's Land Use Planning methodology can be found on HSE's Land Use Planning web pages - <https://www.hse.gov.uk/landuseplanning/methodology.htm>

UU Open Spaces
10.02.2021

Response from Public Realm Open Space & Play

Site Address: Land rear of Una Road Parkeston Harwich Essex

Current Position

There is currently a deficit of -2.70 hectares of equipped play in Ramsey and Parkeston and -0.93 hectares of formal open space.

Recommendation

Due to the current deficit a contribution towards play and formal open space is justified and relevant to the planning application, and all previous applications relating to this site. There is only one play area in Parkeston located in Garland Road, this is a well-used play area by the residents of Parkeston and the wider community, should there be further development in Parkeston these facilities will need to be increased.

TDC Tree & Landscape
Officer
22.01.2021

The site is overgrown with rank and ruderal vegetation and brambles are rapidly colonising the whole site. Some recent site clearance has been carried out

The site contains thickets of Myrobalan Plum and Blackthorn as well individual scrubby trees and bushes comprising Hawthorn, Elder, Goat Willow and Buddleia. Some larger trees have become established comprising Sycamore, Ash and Oak.

The applicant has provided a Tree Survey and Report in order to show the extent to which the trees on the site and immediately adjacent land are a constraint on the development of the land.

The report is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction: Recommendations and accurately describes the health and condition of the trees on the land.

It identifies those trees to be felled in order to facilitate the development proposal and contains both a Tree Constraints Plan (TCP) and Tree Protection Plan (TPP). These plans show how retained trees will be physically protected for the duration of the construction phase of any approved planning permission. This information is sufficient to secure the protection of retained trees.

None of the trees in the main body of the land merit protection by means of a tree preservation order. The largest trees with the greatest visual amenity value are those on, or close to, the southern boundary and will not be affected by the development proposal.

It should be noted that whilst the information contained in the tree report is accurate and acceptable in terms of the details relating to trees; the Tree Protection Plan (TPP) shows a different site layout to that on both the Block Plan and the

Planting Plan. The TPP shows additional dwellings on what is public open space on the other plans.

New tree, shrub and hedgerow planting will be a key element in the design and layout of the site and will be required to soften and enhance the appearance of the development including the open space to the north.

The information provided on the Planting Plan showing new soft landscaping is acceptable.

Officer Comment: Updated Plans have been received, the tree layout is the same, the drafting error has been corrected. No change to the landscaping was made.

Anglian Water Services Ltd ASSETS
19.01.2021

Section 1 - Assets Affected

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

WASTEWATER SERVICES

Section 2 - Wastewater Treatment

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

Section 3 - Used Water Network

This response has been based on the following submitted documents: Flood Risk Assessment. The sewerage system at present has available capacity for these flows. 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. (1) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087. (2) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087. (3) INFORMATIVE - Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water. (4) INFORMATIVE -

Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087. (5) INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

Section 4 - Surface Water Disposal

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

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

Anglican Water have confirmed the site contains no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary. This includes surrounding dwelling 75 Una Road in the south west corner, neighbouring the host site. A map of where the Anglican Water public sewers are located has been provided, as below.

The suggested informatives associated with Anglican Water's response dated 19th January 2021 are written to the effect of ensuring future 'planned' sewers are designed in accordance with their adoptable standards.

01.09.2021

Informative 3 that Anglian Water has confirmed in an email dated 1st September 2021 is not relevant in this case.

No objection subject to securing biodiversity mitigation and enhancement measures

Summary

We have reviewed the Ecological Statement (Abrehart Ecology, November 2020) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats. We have also reviewed the Extended Phase 1 Habitat Survey (SES, 2015), the Phase 2 Ecological Surveys & Assessment (SES, 2015) and the Ecological Mitigation Strategy (SES, 2016) submitted in support of 15/01792/OUT, the Outline application for this site.

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

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

ECC Ecology
26/07/2021

We note that this application is for the revision of the layout approved under 19/00406/DETAIL, and the amended proposals will not further functionally affect the ecological value of the site. The Ecological Statement (Abrehart Ecology, November 2020) details that the ecological mitigation detailed in the Ecological Mitigation Strategy (SES, 2016) is being implemented, and that appropriate licences have already been sought and a translocation exercise has already been completed. The Ecological Statement (Abrehart Ecology, November 2020) also states that Natural England licences for badgers and hazel dormice have been sought for the development.

The mitigation measures identified in the Ecological Statement (Abrehart Ecology, November 2020) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority Species.

We note that Tendring DC have prepared a project level HRA Appropriate Assessment which identifies that the development is approximately 800m from the Stour and Orwell Estuary SPA and Ramsar site. Therefore, this site lies within the Zone of Influence (ZOI) for the Essex Coast RAMS and delivery of mitigation measures in perpetuity will therefore be necessary to ensure that this proposal will not have an adverse effect on the integrity of the above Habitats sites from recreational disturbance, when considered 'in combination' with other plans and projects. We also note that Tendring DC will secure the Essex Coast RAMS contribution per dwelling under a legal agreement.

We also recommend that, to secure measurable net gains for biodiversity, as outlined in the National Planning Policy

Framework, reasonable biodiversity enhancement measures will need to be provided. A Biodiversity Enhancement Strategy for protected and Priority Species should be secured as a condition of any consent. This should include details of the compensatory and enhancement measures for protected and Priority species.

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

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

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

Recommended conditions:

1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

“All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Statement (Abrehart Ecology, November 2020) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

Reason: To conserve and enhance Protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as

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

2. PRIOR TO SLAB LEVEL: BIODIVERSITY ENHANCEMENT STRATEGY

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

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

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;

- e) persons responsible for implementing the enhancement measures;
- f) details of initial aftercare and long-term maintenance (where relevant).

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

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

3. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

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

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

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

Essex Ecology have supplemented their supporting comments with the following statement:

The Ecological Statement (Abrehart Ecology, November 2020) states that they took over the site from an ecological perspective in 2018.

• They confirmed that the badger sett onsite has already been closed under licence, following further surveys, and no badger setts are likely to be present onsite. • The previously secured mitigation is sufficient for bats, and can be secured for this development as well.

• A reptile translocation exercise was completed in 2020, and no reptiles should be present onsite currently. • Updated hazel dormice survey work has been undertaken in 2019 and 2020. A Hazel Dormice Licence will be required for the works.

- **Standard pre-commencement nesting bird checks are required.**

The Ecological Statement (Abrehart Ecology, November 2020) validates the findings of the previous suite of surveys onsite, and details that the ecological mitigation has already started. Updated surveys have been completed (where necessary for the licence applications- Natural England won't accept survey results over two years old for licences) and no additional surveys are necessary. The works should be undertaken following the mitigation measures detailed in the Ecological Statement (Abrehart Ecology, November 2020) and the Ecological Mitigation Strategy (SES, 2016).

No further Planning Conditions are recommended.

ECC Ecology

26/07/2021

ECC SuDS Consultee

08.02.2021

As the Lead Local Flood Authority (LLFA) this Council provides advice on SuDS schemes for major developments. We have been statutory consultee on surface water since the 15th April 2015.

In providing advice this Council looks to ensure sustainable drainage proposals comply with the required standards as set out in the following documents:

- Non-statutory technical standards for sustainable drainage systems
- Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide
- The CIRIA SuDS Manual (C753)
- BS8582 Code of practice for surface water management for development sites.

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:

As this application is adopting the same principles as the drainage strategy approved as part of application 19/00381/DISCON we would recommend the following conditions:

Condition 1

No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological

context of the development, has been submitted to and approved in writing by the local planning authority.

Reason

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

Condition 2

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

Reason

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

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

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

Condition 3

Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has

been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason

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

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

Condition 4

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

Reason

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

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

Summary of Flood Risk Responsibilities for your Council

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

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

- Sustainability of the development. In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the 3 emergency planning and rescue implications of new development in making their decisions.

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

INFORMATIVES:

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

Appendix 1 - Flood Risk responsibilities for your Council

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

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

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

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

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

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

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

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

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

- Sustainability of the development

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

TDC Housing Services
22.02.2021

Have previously advised that whilst this application would trigger a requirement for on-site affordable housing, they have always had issues in letting or nominating to housing in the Parkeston area of Harwich and as such, their preference was for an off-site financial contribution. This remains the case. They understand that a viability assessment was examined as part of the reserved matters application 19/00406/DETAIL and concluded that the development was not viable if a contribution was required towards affordable housing.

In light of this, they would advise that their position remains to seek an off-site contribution in lieu of on-site provision. If it is shown not to be viable to make a contribution then they will have to accept the assessment.

TDC Environmental
Protection
19.01.2021

Environmental Protection have no comments to make relating to changes to the layout, however we will refer to our previous comments associated with this proposal, as specified in the 2015 Outline planning permission for this development (15/01792/OUT), and conditions 13 and 15 respectively, relating to the need for a Construction Method Statement, and requirements for further investigation into Contaminated Land; on the approved decision notice, dated 13th June 2016.

TDC Building Control and
Access Officer
15.01.2021

No adverse comments at this time.

TDC Waste Management
18.01.2021

All access roads to be constructed to suitable standard to allow full access to 26 tonne waste collection vehicles (2.5 metres wide) and to withstand weight of vehicles.

Bin storage compartments for all properties to be constructed to allow storage and free movement of a standard dimension 180L wheeled bin for fortnightly residual waste collections, alternate weekly collection of dry recycling from 55L boxes and weekly collection of food waste from 23L food caddy.

ECC Schools Service
05.03.2021

Thank you for providing details of the above detailed planning application for up to 30 new homes. From the information I have received, I have assessed the application on the basis that they will all be 2+ bed houses. A development of this size can be

expected to generate the need for up to 2.7 Early Years and Childcare (EY&C) places; 9 primary school, and 6 secondary school places.

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

Early Years and Childcare

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

According to the latest available data, although provision in the area is limited, a developers' contribution towards new childcare places will not be requested at this time as it falls below the threshold for contributions.

Primary Education

It is considered that there will be sufficient school places within Harwich to meet the additional demand; therefore a contribution toward primary education will not be sought at this time.

Secondary Education

It is considered that there will be sufficient school places within Harwich to meet the demand; therefore a contribution toward secondary education will not be sought at this time.

School Transport

Essex County Council will not be seeking a school transport contribution at this time. However, the developer should ensure that safe direct walking and cycling routes to local primary and secondary schools are available

Libraries

ECC may seek contributions to support the expansion of the library service to meet customer needs generated by residential developments of 20+ homes. The provision of a Library Service is a statutory duty under the 1964 Public Libraries and Museums Act and it's increasingly become a shared gateway for other services such as for accessing digital information and communications.

In this case the suggested population increase brought about by the proposed development is expected to create additional usage of Harwich library. In accordance with the Essex County Council Developers' Guide to Infrastructure Contribution (Revised 2020), a contribution is therefore considered necessary to improve the services provided, at a cost of £322.72 per unit. Improvements could include, but is not limited to, refurbishment of existing facilities, additional furniture, provision

of learning equipment / play equipment for younger children, additional stock, improved access, external works such as parking and bike racks and IT.

Taking the above into account, it is calculated that a contribution of £9,681.60 is requested and should be included in any Section 106 Agreement should the Council be minded to grant permission.

In view of the above, I request on behalf of Essex County Council that if planning permission for this development is granted it should be subject to a section 106 agreement to mitigate its impact on libraries.

The contributions requested have been considered in connection with the CIL Regulations 2010 (as Amended) and are CIL compliant. Our standard formula s106 agreement clauses that ensure the contribution would be necessary and fairly and reasonably related in scale and kind to the development are available from Essex Legal Services.

If your council were minded to turn down the application, I would be grateful if the lack of surplus library provision in the area to accommodate the proposed new homes can be noted as an additional reason for refusal, and that we are automatically consulted on any appeal or further application relating to the site.

Thank you for consulting this authority in respect of this application.

Essex Wildlife Trust

No response

Natural England
09.02.2021

Thank you for your consultation on the above dated 01 February 2021 which was received by Natural England on 01 February 2021

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

SUMMARY OF NATURAL ENGLAND'S ADVICE - European designated sites¹

It has been identified that this development falls within the 'Zone of Influence' (ZoI) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS); see our recent advice to your authority on this issue (our ref: 244199, dated 16th August 2018) for further information.

In the context of your duty as competent authority under the provisions of the Habitats Regulations², it is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive

interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Tendring District Council, working together to mitigate the effects arising from new residential development.

Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions.

We therefore advise that you consider, in line with our recent advice, whether this proposal falls within scope of the RAMS as 'relevant development'. Where it does, this scale of development would fall below that at which Natural England would offer bespoke advice on this issue. However, in such cases we advise that you must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation; you should not grant permission until such time as the HRA has been undertaken and the conclusions confirmed.

Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the data.gov.uk website

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

Environment Agency

No response

Regeneration

No response

**Valuation Office Agency
08/09/2021**

During the course of planning discussions it was agreed that 2 of the three bed house would be changed to 2 bed houses by the removal of an internal wall and the area of each house would stay at 87.8 m². A request for confirmation as to whether the changes to the unit type would materially change the viability assessment has been made. VOA are writing in the first instance to clarify the situation.

In respect of the Gross Development Value (GDV), although 2 of the three bed houses have now been changed into two bed houses, as the gross internal area (GIA) of these two houses remains 87.8 m² (each) the value would remain the same. Thus the overall GDV will be unchanged £6,421,000.

TDC Housing Services
10/09/2021

Similarly, the build costs are calculated based on the GIA of the proposed development. As the 2 houses that have changed from 3 to 2 beds will have the same floor area, the overall GIA remains the same and therefore the build costs will not change.

Following from this, the assessment of viability will be unchanged from that concluded in the addendum dated 21 July 2021.

Housing Services approach is to seek an affordable housing contribution based on 10% of the OMV (Open Market Value) for each individual property that they would seek if it was viable to deliver affordable housing on site. This application proposes 30 dwellings in total with a proposed mix of 6 x 2 bed houses and 24 x 3 bed houses. If it was viable to deliver affordable housing on site, they would be seeking 9 dwellings in total for affordable housing, and given the mix of dwellings on the site, the affordable mix we would seek would be 2 x 2 bed houses and 7 x 3 bed houses.

Assuming a OMV of £210k for a 2 bed house and £240k for a 3 bed house, the contribution would be calculated as follows:

2 x £21,000 = £ 42,000

7 x £24,000 = £168,000

Total = £210,000

5. Representations

60 letters of objection have been received which raise the following concerns;

- Exacerbate existing parking problems.
- Noise and fumes from increased traffic.
- Crime is a problem in the area
- The Land is contaminated
- Noise, disturbance, obstruction and fumes from construction traffic.
- Access for emergency and refuse vehicles will be worsened.
- No disabled parking bays.
- Detrimental to residential amenities
- The road is too narrow for emergency vehicles
- Overdevelopment of the site.
- Drains/Sewage would not cope with the demands of further flats.
- Existing garages too small.
- Leaseholders not notified of proposed development.
- Overlooking and harm to privacy.
- Too high and out of character.
- Loss of light.
- Access to new spaces blocked by existing garages and parked vehicles.
- Loss of property values.
- Existing amenities will not cope with the increase of housing in this area.
- Area cannot cope with the additional traffic

- Noise Pollution during construction
- Lack of Infrastructure (School Places, GP Surgeries ect)
- To close to the nearby Carless Oil Refinery with a risk to life
- Loss of wildlife habitat
- The land is unstable

The Parish Council have made the following comments on the application

- 5.1 The view of the Ramsey and Parkeston Parish Council is to strongly object and to re-iterate comments previously submitted in relation to this site with concerns of feeder roads not being able to support the development.

6. Assessment

- 6.1 The Assessment section of this report is divided into the follow sub headings:

- Site Context;
- Proposal;
- Principle of Residential Development;
- Housing Mix
- Design and Appearance;
- Layout;
- Scale;
- Highways Safety and Parking;
- Residential Amenity;
- Landscaping;
- Proximity to Carless Refinery;
- Biodiversity and Ecology;
- Highway Safety and Parking Provision;
- Legal Agreement;
- Financial Contribution – Recreational Impact;
- Flood Risk;
- Contamination and
- Other Issues

Site Context

- 6.2 The application site is situated on the western side of the village of Parkeston, within the defined Settlement Development Boundary of the existing and emerging local plans. The site measures 1.16 hectares in size; it was previously used as a brickworks but now does not contain any buildings and has become overgrown.
- 6.3 The site slopes downwards from north to south. The boundaries of the site are for the most part delineated by hedging. Access to the site is gained from Una Road which lies to the east of the application site. Una Road is a residential street with dwellings fronting the full length; the dwellings are predominately two storey in height and semi-detached or terraced properties. Most of these properties do not have off-street parking; therefore on-street parking occurs. To the south-west of the application site is an isolated detached single storey dwelling; this is accessed through the application site. To the north-east of the site are the residential properties in Edward Street, which are a mixture of two storey, semi-detached dwellings and bungalows. Edward Street slopes steeply upwards from south to north, meaning that the dwellings to the north of Edward Street are at a significantly higher level than the application site. To the west of the application site is Ramsey Ray Local Wildlife Site. The host site is within flood zone 1. The site is not in a conservation area and does not contain listed buildings. Finally, there are no tree TPOs on the site.

- 6.4 There is a detailed planning history to the site, the most relevant and recent cases are as follows. In 2013 Planning permission (11/01172/OUT) was refused for the construction of 30 houses and associated parking, access and landscaping works. The reasons for refusal were due to the proximity to Carless Refinery and the increase in vehicular traffic along both Edward Street and Una Road. This decision was appealed; the appeal was allowed and planning permission granted. However, this approval was never implemented.
- 6.5 In 2015 the application site obtained a further planning permission approval for 30 dwellings, via application (Ref: 15/01792/OUT), the associated Reserve Matters approval was issued via application (Ref: 19/00406/DETAIL). Further to this, the site to the immediate north, for which the applicant is also the freeholder, has planning permission for 12 dwellings via (Ref: 16/02128/OUT) and approved Reserve Matters via (Ref 20/00460/DETAIL).

Proposal

- 6.6 The proposal involves the construction of thirty houses and associated parking, access and landscaping. This application seeks to modify the existing planning consent (19/00406/DETAIL) in terms of layout to comply with Essex Highways Technical Standards.
- 6.7 Effectively, the road layout and houses have been rearranged from the extant consent in order to comply with the Essex Highways Technical Manual while at the same time conserve the number of houses on the site and leave sufficient open space.
- 6.8 The proposal site is slightly larger than assessed under application 19/00406/DETAIL as the proposed site includes a narrow strip of land within 20/00460/DETAIL approval. However, the space is used as open public land in this proposal as it was in the 20/00460/DETAIL approval. Nevertheless, this explains why the site area is 1.14 ha on the 15/01792/OUT application and the site area is 1.16 ha on this application.
- 6.9 The overall housing mix is based on a mix of two- and three-bedroom houses, all are semi-detached. The site will accommodate 6 x 2-bedroom semi-detached houses and 24 x 3-bedroom semi-detached houses of five different yet similar styles. The density of the development is 26 dwellings per hectare.

Principle of Development

- 6.10 The principle of residential development on this site has been established by the granting of the outline application 15/01792/OUT and associated reserve matters approval 19/00406/DETAIL (albeit these approvals relate to a slightly smaller site than the current application site – see paragraphs above). Furthermore, the site is within both the adopted and emerging settlement boundary locations.
- 6.11 The previous approval on site (Ref: 15/0192/OUT) did not include any contribution towards affordable housing. On that application, the applicant demonstrated that the development was not viable by the submission of a Viability Report. This report was independently assessed and concluded that even based on no affordable housing being provided, the development would return a deficit. On this basis no legal agreement was previously sought.
- 6.12 With the current application, the applicant has concluded the same circumstances remain on site with an updated vitality report and supplementary addendum that has concluded the same. The applicant is committed to paying the RAMS payment however the viability report demonstrates that no extra contributions can be requested.
- 6.13 Officers accept these findings and request no additional financial mitigation.

6.14 In view of the above, officers raise no objection to the proposals on principle grounds.

Housing mix

6.15 The overall housing mix is based on a mix of two- and three-bedroom houses.

The site will accommodate:

- 6 x 2-bedroom semi-detached houses of three different types.
- 24 x 3-bedroom semi-detached houses of two different types

6.16 The previous application approved 18 x 2 bedroom houses, 11 x 3 bedroom houses and 1 x 4 bed houses. In total 18 were semi detached, 5 detached and 1 block of 3 in a terrace.

6.17 **The planning application is for 30 dwellings with a proposed housing density of 27 dwellings per hectare.** Although the mix is different to the previous (recent) approval, it is considered that the latest proposed mix is broadly consistent with the requirements of the Strategic Housing Market Assessment Update 2015 that requires 42.2% of new owner-occupied dwellings to be three bedroom properties, with 32.4% containing two bedrooms. As such, having regard to the scale of the development proposal (30 dwellings) Officers have no objection to this housing mix.

Design and Appearance

6.18 The design and appearance of the dwellings are very similar to the previously approved house types via reserved matters approval (19/00406/DETAIL). The proposed dwellings have a modern appearance, with varied roof forms, timber cladding, double soldier brick courses over the windows and external brick patterning. There are no porches proposed however, that was the case in the recently approved reserved matters application on the site. The elevational details indicate the proposed houses as being of two storeys in height with pitched roofs and no rooms in the roof space.

6.19 There is a combination of Red Burn Multi Stock bricks and Sandstone Weathered Buff Bricks on the elevations. The roof tiles are either Marley Modern Concrete Red tiles or Marley Modern Gray (Anthracite) tiles. With elements of vertical pre-treated redwood cladding.

6.20 Most of the proposed dwellings have two ground floor windows and one first floor window on the front elevation with a decorative element (cladding or brick patterning) in the space where the second window would be. This is due to there being a single habitable room on the front, often with an en-suite to the side. These decorative brick features are either protruding detailing in Flemish bond or recessed detailing in stretcher bond. Bin storage areas are incorporated to the front of the dwellings.

6.21 The surrounding area comprises of mainly semi-detached and terrace dwellings, most of them rendered, all fairly typical of an inter war building style. Officers consider that the design of the proposed dwellings are in keeping with the character of the area, indeed the more modern appearance provides an interesting modern twist within the streetscape.

6.22 Overall, the proposed dwellings are largely indistinguishable from what is approved and can be built out. Officers raise no objection to the proposed design or appearance of the dwellings proposed.

Layout

- 6.23 Paragraph 130 of the National Planning Policy Framework 2021 states that planning should involve good architecture, layout and landscaping. Policy H7 of the adopted Tendring District Local Plan (2007) states that development should be designed so as to incorporate suitable outdoor amenity space, so as to have no unduly adverse impact on the character of the area or neighbouring residential amenity. Emerging Policies SPL3 and LP3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) supports these objectives.
- 6.24 Each of the proposed dwellings have their own private amenity space. Policy HG9 of the Saved Local Plan requires 75sqm for 2 bedroom dwellings and 100sqm for dwellings with 3 or more bedrooms. **All the dwellings are provided with garden areas which meet or exceed these standards.**
- 6.25 All of the proposed dwellings respond positively to the newly created streetscene and create an active street frontage. In relation to the gaps between dwellings (side by side), no objection is raised. There is a positive spacious feel between dwellings. This is helped by the semi-detached nature of the designs.
- 6.26 **Modified Policy LP3 of the Emerging Plan which is currently out to public consultation states that 'on housing developments of 10 or more dwellings, 10% of market housing should be to Building Regulations Part M4(2) 'adaptable and accessible' standard. For affordable homes, 10% should be to Building Regulations Part M4(2) and 5% should be to Part M4(3) 'wheelchair-user' standards'.**
- 6.27 **Approved Document M, and in particular Part M4(2) and the requirements for adaptable and accessible homes. The agent has confirmed that each of the house types are of sufficient size and have all the necessary provisions (primarily a downstairs WC and adequate separation within the kitchens) to cover all the Document M requirements - in terms of adaptable downstairs, widths of corridors and door openings, bedroom & kitchen sizes.**
- 6.28 **The level access can be achieved at the top of the site any of houses 15, 17, 19, 20, 21, 22, 23 & 25 would fit the requirements with level access and wider adjacent parking bays. However, given there are no affordable houses on site the requirement for Part M4(3) type housing cannot be insisted on in this case.**
- 6.29 Parking is provided mostly to the sides of the dwellings meaning parked cars do not dominate the proposed development. Adequate visitor parking is also included.
- 6.30 In conclusion there is no objection to the layout of the proposed development.

Scale

- 6.31 The proposed dwellings have a ridge height and eaves level every similar that of the approved scheme. Typically, the eaves level is 5.6m and the ridge 9.6m. This is commensurate with the neighbouring residential dwellings to the north and east on Una Road and Edward Road. Equally, the depth of the proposed dwellings is similar to those on the neighbouring roads. No objection is raised to the scale of the dwellings proposed.

Highway Safety/Parking

- 6.32 There have been a number of objections raised with regards to highways issues and the narrow nature of Una Road that provides access to the site. However, the previous permission which also allowed for 30 dwellings (albeit in a different layout), but nevertheless all accessed via Una Road could be implemented at any time. Also, the earlier application

approved at appeal, 11/01172/OUT for construction of thirty houses with associated parking, access and landscaping works, granted permission for 22 dwellings to be accessed from Una Road and 8 to be accessed via Edward Street. In the appeal decision the Inspector considered that 'although equally heavily parked Una Road is straight and level. As a result there is good forward visibility of oncoming traffic. With opportunities at the junction with Parkeston Road and Edward Street for vehicles to pull over there would be comparatively few instances of cars generated by the development using Una Road that would come into conflict with other vehicles'.

- 6.33 In addition, the Inspector on the 11/01172/OUT decision also considered that 'the provision of a turning head within the appeal site at the end of Una Road would improve safety by removing the need for larger vehicles to reverse along its length'. The Inspector noted the highway authority and emergency services did not object to the proposal and that planning permission was granted for the same number of houses in 2008 (04/02096/DETAIL). Overall, it was concluded that the proposed development would be acceptable in terms of its effect on highway safety.
- 6.34 Since the time of the earlier decisions there has been no significant change in the character of the area. Una Road remains straight and level and continues to be heavily parked. The proposed development has a circular layout allowing vehicles to leave Una Road in a forward gear. This a public benefit to the proposal. Ultimately all 30 dwellings will still use Una Road to access Station Road to the east. It is therefore considered that there has been no significant change in circumstances insofar as general highways conditions and parking on Una Road are concerned.
- 6.35 **The development within the Red line boundary is built to the 'Type E Access' standard from the Essex Design Guide. The carriageway widths are 5.5m, cycle and pedestrian footpaths are on both sides of the road and 2m wide. The Kerb radii also comply with the Type E Access road requirements.**
- 6.36 **In terms of the width of Una Road to the east of the host site (outside the red line boundary). From kerb to kerb, where the road ends adjacent to the host site, the road measures 6.8M. The width at the opposite, far, end of Una Road, by the main road and Edward Street, this measures 6.7M. Both are considerably in excess of the 5.5M width as required by Essex Highways. There significant on street parking on this road, this makes the road width appear much narrower.**
- 6.37 Essex County Council Highways have been consulted on the application and raise no objection to the proposals subject to the imposition of the following conditions to cover the following:
- timings of internal road and footways;
 - details of the estate roads and footways;
 - provision and retention of car parking and turning areas;
 - sizes of parking spaces and garages and provision of cycle parking in accordance with the Essex Parking Standards.
 - Residential travel packs
 - visibility splays
 - location of boundary planting
 - **Details of the Speed calming measures in the development prior to commencement**
- 6.38 In terms of parking, and in acknowledgement that this is one of the key issues raised by nearby residents, Essex County Council Parking Standards state that for one bedroom dwellings 1 off-street parking space is provided and for dwellings with 2 or more bedrooms a minimum of 2 off-street parking spaces are provided. Furthermore, 0.25 space per dwelling

should be provided for visitor parking. Each parking space should measure 5.5 metres by 2.9 metres and if a garage is to be relied on it should measure 7 metres by 3 metres internally. The plans show that the proposal provides parking in accordance with the adopted standards.

- 6.39 Provision for cycle storage has not been shown on the plans. However, the gardens are of a sufficient size to provide cycle parking in sheds to the rear. Therefore, it is considered that adequate cycle parking can be provided, this will be conditioned as part of the planning recommendation.
- 6.40 The proposal is therefore acceptable in terms of highway safety and parking provision.

Impact on Residential Amenity

- 6.41 The Essex Design Guide states that 'with rear-facing habitable rooms, the rear faces of opposite houses approximately parallel and an intervening fence or other visual barrier which is above eye level from the potential vantage point, a minimum of 25 metres between the backs of houses may be acceptable'.
- 6.42 This distance has been achieved and surpassed internally within the proposed layout.
- 6.43 The closest existing residential properties (62, 69 and 75 Una Road) have been carefully considered in the proposed layout. Parking spaces have been provided to the sides of proposed plot 1 and 30, this increases the separation between existing dwellings 62 and 69 Una Road. Officers consider obscured glazing to the first floor side facing windows facing these existing dwellings is not necessary as views are very oblique.
- 6.44 Equally, the distance and orientation of proposed plot 12 from the existing dwelling 75 Una Road in the south west corner of the site is sufficient to mitigate against any significant loss of residential amenity. To the north and east of the site, there is sufficient distance between the proposed dwellings and 1 to 29 Edward Street to conclude no significant impact on residential amenity.
- 6.45 Overall, no existing or future residents are likely to suffer any significant loss of light, privacy or residential amenity as a result of the proposals.

Landscaping

- 6.46 The land subject to this application does not contain any significant trees other than those on the southern boundary. The trees, hedgerows and hedges are associated with the adjacent residential area and do not merit formal legal protection. As part of the application detailed landscaping plans have been submitted; the soft landscaping proposals are comprehensive and sufficiently detailed to enhance the appearance of the development.
- 6.47 There is an area of open space in the north east corner that helps break up the built form and lessen any perceived loss of residential amenity. Also there is a significant strip of Open Space to the west of the site both respecting 75 Una Road and provide an excellent level of natural visual amenity.
- 6.48 The Landscape Officer concludes the information provided on the Planting Plan showing new soft landscaping is acceptable in this this instance. Officers agree with this verdict.

Proximity to Carless Refinery

6.49 The site is located within the middle zone of the catchment area for the Carless Refinery, although 400 metres from the nearest operational locations. Officers would also highlight the appeal decision APP/P1560/A/13/2196059 for the Construction of 30 Houses on the site within via application 11/01172/OUT. The appeal was allowed, and the Inspector said:

'...the appeal site boundary is approximately 400m from the nearest operational part of the Carless Refinery...the quantity of development and its density falls within the category of sensitivity level 2. On this basis the HSE have confirmed in writing that it does not advise against the proposed development on safety grounds.'

Nothing has changed in this regard to the present application.

6.50 The Health and Safety Executive (HSE) has developed a software version of the methodology used in providing land use planning advice, which is available on-line to planning authorities, to enable them to consult HSE directly for advice on developments around major hazard sites and major hazard pipelines. HSE's Planning Advice Web App uses the following information to determine HSE's advice:

- The proximity of the proposed development to the major hazard site or major hazard pipeline, in terms of three zones (inner, middle and outer) around the site or pipeline, and
- the type of development (eg workplace, housing, shops, school, etc.), its size and intensity.

6.51 HSE, through the Web App, will either advise against, or not advise against, the granting of planning permission. When HSE advises against the granting of planning permission, it will, on request, explain the reasons for this advice to the local planning authority.

6.52 In the host application's case, the HSE does not advise against the granting of planning permission. Officers have contacted the HSE directly to confirm this position, the HSE Officer responded on the 23rd June 2021:

'...the advice you have now received is correct for planning application 20/01798/FUL - HSE does not advise against this proposal'.

6.53 The HSE have not objected to this or any other historic application on site. However, Officers consider an Emergency Evacuation Plan as a Planning Condition is appropriate in this case. Such a plan should be given to all future occupiers of the site, so residents know what to do in times of emergency. On this basis the development it considered acceptable.

6.54 In terms of the historic appeal on the site for the same number of dwellings, Ref: APP/P1560/A/13/2196059. The Local Authority was also ordered to pay full costs to the applicant for refusing the development 11/01172/OUT on grounds of proximity to the Oil Refinery, contrary to the guidance from the HSE. The Inspector noted in the costs claim that in relation to the first main issue, on the basis of the results of the PADHI+ (Planning Advice for Developments near Hazardous Installations; the planning advice software tool used by HSE to give land use planning advice). The Health and Safety Executive (HSE) confirmed in writing that it did not advise against the proposed development on safety grounds. The Inspector went on to say:

'...the Council has not produced relevant evidence to support its decision for taking a decision on the issue of Carless Refinery and safety that was contrary to the advice of the HSE. The Council therefore acted unreasonably.'

A full award of costs was given to the applicant.

6.55 The HSE has recently updated their comments saying:

'The proposed development in planning application 20/01798/FUL - Land at Una Road, Parkeston, falls within the inner and middle HSE consultation zone for the major hazard site Haltermann Carless UK Ltd (HSE Ref: H0309). I have attached a pdf showing the 3-zone map for the site. Within HSE's Land Use Planning Methodology, when the site area of a proposed development type lies across a zone boundary the Straddling Rule (1a) is applied to determine the zone which the planning application is deemed to fall within. The development type (i.e. housing in this case) will normally be considered as being in the innermost zone to the major hazard unless less than 10% of the area marked is inside that boundary, or it is only car parking, landscaping (including gardens of housing), parks and open spaces or access roads etc associated with that development, that are in the inner of the zone. Therefore, for this proposal it is only gardens that are proposed within the inner zone, so the whole development is deemed to be in the middle zone.'

The planning application is for 30 dwellings with a proposed housing density of less than 40 dwellings per hectare (30 houses in 1.1ha = 27dph).

Within HSE's Land Use Planning Methodology, HSE would not advise against a planning application for up to and including 30 dwellings units and at a density of no more than 40 dwelling units per hectare located within the middle HSE consultation zone.'

Again, the HSE have clearly expressed their no objections to the scheme.

Biodiversity and Ecology

6.56 The approval of the Reserve Matters application in 2019 (Ref: 19/00406/DETAIL) effectively means that the approved development can be built out. That application involved an initial a Phase 1 Habitat Survey and a further Phase 2 survey undertaken from SES (Southern ecological Solutions) used for the Natural England mitigation licence application which recommended the following works:

- Bat activity survey
- Badger survey
- Dormouse survey (presence or likely absence) and;
- Reptile survey (presence or likely absence)

6.57 In response to this an Ecological Mitigation Strategy was submitted, which sets out the appropriate mitigation to protect the long term conservation status of the ecological features on site, through habitat creation, sensitive management and appropriate timings of works. These include measures such as habitat creation for badgers, closing of the sett under Natural England licence; enhancement of habitat for reptiles, bats and dormice and translocation of reptiles.

6.58 There has been an additional Ecological Update submitted with this application from Abrehart Ecology who confirm the mitigation measures of the previous and current approval remain in place. In summary:

Badgers – A subsidiary outlier sett has been closed under Natural England Licence (2020 – 47617 – SPM-WLM) after the completion of surveys

Bats – As per recommendations within the ecological mitigation strategy by SES

Reptiles – Semi – permanent reptile fencing has been installed in the south section of the site and translocation of reptiles has been carried out over the last year. Semi – permanent reptile fencing is to be installed for the top section across the site and animals are to be translocated to an enhanced habitat in neighbouring land

Hazel Dormouse – An enhanced green wildlife area and new hedge has been planted. In addition, the enhance of areas of adjacent land (woodland) has been carried out. Dormouse nesting boxes will be put out under Natural England Licence.

Nesting Bird – Survey Areas before works are carried out.

6.59 **ECC Ecology has reviewed this information and said the following:**

‘Ecological Statement (Abrehart Ecology, November 2020) validates the findings of the previous suite of surveys onsite, and details that the ecological mitigation has already started. Updated surveys have been completed where necessary for the licence applications. As Natural England won’t accept survey results over two years old for licences and no additional surveys are necessary. The works should be undertaken following the mitigation measures detailed in the Ecological Statement (Abrehart Ecology, November 2020) and the Ecological Mitigation Strategy (SES, 2016).’

6.60 **ECC Ecology has concluded no objection subject to securing biodiversity mitigation and enhancement measures via planning condition.**

6.61 Officers therefore consider that the proposal, subject to planning conditions, would not result in any significant adverse impact on protected species.

Legal Agreement

6.62 The National Planning Policy Guidance states in Paragraph 58, that all viability assessments, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.

6.63 The NPPG says the weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case.

6.64 In this case the applicant has sought to demonstrate that the development is not viable by the submission of a Viability Report. **This report has been independently assessed by a company called DVS (District Valuer Services) who have published two reports. The initial report findings were questioned by the agent as the smaller sample size ‘Adopted Rate’ from the BCIS (Building Cost Information Service) from the Royal Institution of Chartered Surveyors (RICS) build cost was used. The second addendum from DVS assessed Build Costs via a more widely used BCIS default rate. The key difference between the two methods of assessment is that the BCIS default rate reflects the widely accepted increase in building materials costs.**

6.65 In the initial viability review the BCIS 5 year **adopted rate** for two-storey semi-detached housing was adopted at the rate of £1,178 /m² (size of sample 35) based on advice of the VOA (Valuation Office Agency) Quantity Surveyor. However, since the onset of the Covid-19 pandemic sample sizes have reduced resulting in the 5 year rate being less reflective of current build costs. So, the **BCIS default** rate for two-storey semi-detached housing was used. As of 19 July 2021 that figure was £1,253 /m² (size of sample 273), this has increased the overall build costs from £4,410,040 to £4,671,246.

6.66 **The updated DVS appraisal, taking into account the updated building costs, results in the Residual Land Value of now £359,919, showing a deficit of £32,887 on the Benchmark Land Value*. This update shows that the current scheme of wholly private housing does not produce a surplus in order to provide an affordable contribution. This has been confirmed in the Viability Addendum dated 21st July 2021.**

*** If the Residual Land Value (RLV) is less than the Benchmark Land Value (BLV) then deducting RLV from BLV will show the deficit. In this instance showing that a wholly private housing scheme providing a return to the developer of 17.5%, shows a deficit of £32,887 on the BLV.**

6.67 **DVS have recently updated their findings via an email dated 8th October 2021, confirming that they accept during the course of planning discussions it was agreed that 2 of the three bed house would be changed to 2 bed houses by the removal of an internal wall and the area of each house would stay at 87.8 m².**

6.68 **Furthermore, in respect of the Gross Development Value (GDV), although 2 of the three bed houses have now been changed into two bed houses, as the Gross Internal Area (GIA) of these two houses remains 87.8 m² (each) the value would remain the same.**

6.69 **Similarly, the build costs are calculated based on the GIA of the proposed development. As the 2 houses that have changed from 3 to 2 beds will have the same floor area, the overall GIA remains the same and therefore the build costs will not change.**

6.70 **Following from this, the assessment of viability will be unchanged from that concluded in the addendum dated 21 July 2021.**

6.71 **On this basis no legal agreement is being sought to secure any financial contribution other than the RAMS payments. This same conclusion was reached during the 2015 application. Therefore, no contributions are being sought for Affordable Housing, Public Open Space, Health or Education facilities (libraries) on this occasion on the basis that it has been demonstrated that such contributions will make the scheme unviable.**

6.72 **If the site was viable to deliver affordable housing on site, Housing Services would seek 9 dwellings in total for affordable housing, and given the mix of dwellings on the site, the affordable mix would be 2 x 2 bed houses and 7 x 3 bed houses. In terms of a possible financial contribution towards affordable housing, Housing Services have confirmed that if a financial contribution was requested the amount would be £210,000.**

6.73 **However, it is established the site is not viable and therefore no on-site affordable housing or financial contribution towards affordable housing can be made. Nevertheless, the agent has agreed to a Review Mechanism being built into a Section 106 Agreement so that the matter can be given further scrutiny should the financial position change. There shall be a clause written into the Section 106 document that if development has not commenced within 2 years a further viability study shall be undertaken to confirm the development remains unviable for additional contributions towards affordable housing.**

Financial Contribution – RAMS

6.74 **Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation); within Zones of Influences (which the site falls within) Natural England are**

requesting financial contributions to mitigate against any recreational impact from new dwellings. **The total RAMS fee payable is £3,819, based on £127.30 per dwelling.**

- 6.75 Legal advice has been sought in relation to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) which supports the view that Tendring District Council can seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). A Habitat Regulations Assessment has therefore been undertaken to confirm that the mitigation will be a proportionate financial contribution as recommended by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any adverse impact the proposal may have on European Designated Sites.
- 6.76 A unilateral undertaking (or in this case a S106 Agreement) can secure this legal obligation to ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Flood Risk

- 6.77 The site is Flood Zone one, and no sequential test is required. The Lead Local Flood Authority has reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, they do not object to the granting of planning permission as this application is adopting the same principles as the drainage strategy approved as part of application 19/00381/DISCON. (related to the 19/00406/DETAIL approval). They recommend a series of Conditions aimed at providing an updated Surface Water Drainage Strategy. Officers agree with this approach and have included the suggested conditions in the decision notice.
- 6.78 Although the site is located in Flood Zone 1 and no consultee has recommended a Flood Response Plan as a Planning Condition. The site is surrounded by Flood zones 2 and 3. Therefore, Officers recommend that the following Planning Condition is added to the decision notice to reduce the possible risk to resident wellbeing during times of flood.**

Site Contamination

- 6.79 Historical records indicate that this land had a former contaminative land use, as a brickworks with associated workshops, pits, kilns etc. The Council's Environmental Health Officer has been consulted on the application and is satisfied that contamination issues can be dealt with by the imposition of a condition. This is the approach that has previously been taken by appeal Inspectors.

Other Issues

- 6.80 The issue of lack of GP facilities has been raised; NHS England have advised that they only wish to be consulted on application for 50 or more dwellings. Therefore, no comments have been received with regard to the health facilities and no financial contribution has been requested.
- 6.81 Concerns have been raised regarding the loss of views; this is not a material planning consideration. Matters relating to Construction Traffic can be carefully controlled via a Construction Management Plan. There are some heavily sloping areas to the site. The detailed finished levels achieved on the site is something that will be considered at planning condition stage. An associated planning condition has been added to the decision notice.

- 6.82 **Anglian Water have confirmed the site contains no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary. This includes surrounding dwelling 75 Una Road in the south west corner, neighbouring the host site. A map of where the Anglian Water public sewers are located has been provided.**
- 6.83 **The suggested informatives associated with Anglian Water’s response dated 19th January 2021 are written to the effect of ensuring future ‘planned’ sewers are designed in accordance with their adoptable standards.**
- 6.84 **The informatives are therefore recommended to be added to the decision recommendation, with the exception of Informative 3 that Anglian Water has confirmed is not relevant in this case.**
- 6.85 **All the required pre commencement conditions have been discharged prior to commencement of the works on site. The works on site represent the implementation of Planning Permission ref: 15/01792/OUT, which was subsequently validated by the Approval of Reserved Matters ref: 19/00406/DETAIL.**
- 6.86 All the other issues raised by third parties that are material the consideration of this development proposal have been covered in this report in the paragraphs above.

7 Conclusion

- 7.1 In conclusion, the site is inside the built up area with the benefit of an extant permission therefore policy compliant in terms of adopted policies SP1 and SP3, and emerging policies SPL1 and SPL2.
- 7.2 The proposal is considered a good design and would not result in any harmful impact upon visual amenity or neighbouring amenities and provides a site layout and sufficient additional parking spaces to serve the proposed units, the development is also considered acceptable in terms of biodiversity and landscape matters.
- 7.3 All other material planning considerations taken into account and subject to conditions, the scheme is overall policy compliant and therefore comprise sustainable development.

8 Recommendation

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following recommended 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 and to include (but not necessarily limited to) the following:

| CATEGORY | TERMS |
|----------------------------|--|
| RAMS | <ul style="list-style-type: none"> • £127.30 per dwelling (£3,819.00 in total) • Viability Review Mechanism, |
| Viability Review Mechanism | <ul style="list-style-type: none"> • for a further viability to be undertaken if development has not commenced in 2 years. |

9. Conditions and Reasons

1 The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason - The time limit condition is imposed in order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

| | |
|----------------|--|
| 5195/01/100 p1 | Amended block plan |
| 5195/01/102 p2 | Amended proposed block plan (coloured) |
| 5195/01/101 | Proposed block plan (materials) |
| 5195/01/103 | Proposed block plan (technical) |
| 201014/a | Amended tree protection plan |
| 210730 | Amended road layout plan |
| 5195/01/228 p1 | House type 4 (2b special) - proposed ground floor plan |
| 5195/01/229 p1 | House type 4 (2b special) - proposed first floor plan |

| | |
|--------------|------------------------------------|
| 5195/0/102/a | Existing site plan with topography |
| 5195/0/101/a | Existing site plan |
| 5195/0/100/a | Site location plan |

| | |
|----------------|--|
| 5195/1/222 | Semi detached house type 3abc - roof plan |
| 5195/1/223a | Semi detached house type 3a - front elevation |
| 5195/1/105-106 | Material palettes |
| 5195/1/202 | Semi detached house type 1 - first floor plan |
| 5195/1/205 | Semi detached house type 1 - rear elevation |
| 5195/1/211 | Semi detached house type 2a |
| 5195/1/215 | Semi detached house type 2a - side elevation |
| 5195/1/223b | Semi detached house type 3b - front elevation |
| 5195/1/225 | Semi detached house type 3ab - side elevation |
| 5195/1/301 | External finishes schedule |
| 5195/1/201 | Semi detached house type 1 - ground floor plan |
| 5195/1/203 | Semi detached house type 1 - roof plan |
| 5195/1/212 | Semi detached house type 2a |
| 5195/1/214 | Semi detached house type 2a |
| 5195/1/215b | Semi detached house type 2b - side elevation |

| | |
|-------------|---|
| 5195/1/216 | Semi detached house type 2a |
| 5195/1/217 | Semi detached house type 2a |
| 5195/1/220 | Semi detached house type 3abc - ground floor plan |
| 5195/1/226 | Semi detached house type 3abc - section a-a |
| 201014/01 a | Tree constraint plan |
| P03 | Planting plan |
| 5195/1/204 | Semi detached house type 1 - front elevation |
| 5195/1/206 | Semi detached house type 1 - side elevation |
| 5195/1/207 | Semi detached house type 1 - section a-a |
| 5195/1/210 | Semi detached house type 2a |
| 5195/1/213b | Semi detached house type 2b - front elevation |
| 5195/1/208 | Semi detached house type 1 - section b-b |
| 5195/1/213 | Semi detached house type 2a - front elevation |
| 5195/1/221 | Semi detached house type 3abc - first floor plan |
| 5195/1/223c | Semi detached house type 3c - front elevation |

| | |
|-------------|--|
| 5195/1/224 | Semi detached house type 3abc - rear elevation |
| 5195/1/225c | Semi detached house type 3c - side elevation |
| 5195/1/227 | Semi detached house type 3abc - section b-b |

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

3. Prior to the occupation of any of the proposed development the internal road site access and footway layout shall be provided in principle and accord with Drawing Number:

5195/1/100 Rev. P-1 Amended site layout.

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

4. Prior to occupation of the development a 1.5 metre x 1.5 metre clear visibility above a height of 600mm, as measured from and along the boundary, shall be provided on both sides of the vehicular accesses. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety.

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

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety.

6. The proposed boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

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

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

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

8. Each tandem vehicular parking space shall have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles.

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

9. Each vehicular parking space which is bounded by walls or other construction shall have minimum dimensions of 3.4 metres x 5.5 metres.

Reason: To encourage the use of off-street parking and to ensure adequate space for parking off the highway is provided in the interest of highway safety.

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

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

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

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

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

- the parking of vehicles of site operatives and visitors;
- i. the loading and unloading of plant and materials;
- ii. storage of plant and materials used in constructing the development;
- iii. details of noise, dust, emission and lighting control measures;
- iv. wheel and under-body washing facilities;
- v. hours of construction
- vi. prior to the commencement of any work on the site, a joint inspection of the route to be used by construction vehicles should be carried out by the Applicant and the Highway Authority, including photographic evidence.

Emission Control

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

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

13. No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority.

Reason:

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

14. 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: To ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

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

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

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

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

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

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

16. 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.

17. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Statement (Abrehart Ecology, November 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).

18. A Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority.
The content of the Biodiversity Enhancement Strategy shall include the following:
a) Purpose and conservation objectives for the proposed enhancement measures;
b) detailed designs to achieve stated objectives;
c) locations of proposed enhancement measures by appropriate maps and plans;
d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
e) persons responsible for implementing the enhancement measures;
f) details of initial aftercare and long-term maintenance (where relevant).
The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

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

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

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

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

20. No development shall commence until details of existing and proposed levels of the site, finished floor levels and identifying all areas of cut or fill, have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the agreed scheme before any dwelling is first occupied.

Reason - Due to the change in site levels over the site, in relation to residential amenity and impact on neighbouring properties.

21. No building hereby permitted shall be occupied until a landscape management plan setting out how the communal open space and landscaping will be carried out and by whom, has been prepared, submitted to and approved in writing by the Local Planning Authority. The measures shall thereafter be implemented in accordance with the approved landscape management plan for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure appropriate landscaping of the communal areas is provided by the development.

22. No development shall commence until precise details of lighting and refuse storage/collection points have been submitted to and approved, in writing, by the Local Planning Authority. Such lighting, refuse points and materials so approved shall be those used in the development.

Reason: To ensure a satisfactory development in relation to external appearance and in the interests of residential amenity.

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

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

24. Each dedicated parking space shall be provided with an electric vehicle charging point. The charging point shall be provided prior to occupation of each such dwelling.

Reason: To enhance the sustainability of the proposed development.

25. No development shall commence until a foul water strategy has been submitted to and approved in writing by the local planning authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved.

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

26. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions A to D have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition D has been complied with in relation to that contamination.

A. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwater's and surface waters, ecological systems, archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

B. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

C. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

D. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition A, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition B, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition C.

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

27. The development shall be carried out in accordance with the Tree Survey and Tree Constraints Plan dated 11th November 2020 and the Tree Constraints Plan 201014/01 a, unless otherwise agreed in writing by the Local Planning Authority.

Reason - To enable existing landscaping to be protected and retained in the interests of visual amenity.

28. Prior to the commencement of the development a Emergency Evacuation Plan (EEP) shall be submitted to and approved, in writing, by the Local Planning Authority. The approved details shall be incorporated into the development and retained thereafter. All residential dwellings within the development hereby approved shall be provided with a copy of the approved details.

Reason - Due to the siting of the residential development in close proximity to a major hazard site / major hazard pipeline, namely the Haltermann Carless Oil refinery. The plan is required to show how end users would evacuate the site during times of emergencies at the nearby oil refinery.

29. Prior to commencement of the proposed development, details of the provision for the storage of bicycles for each dwelling, shall be submitted to and approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted and shall be maintained free from obstruction at all times for that sole purpose in perpetuity.

Reason - To promote the use of sustainable means of transport.

30. There shall be no use of Edward Street for any construction traffic whatsoever.

Reason - To ensure the continued safe passage of all highway users, in the interests of highway safety

31. The hereby permitted development shall not be occupied until a fibre optic broadband connection installed on an open access basis and directly accessed from the nearest British Telecom exchange, incorporating the use of resistant tubing, has been installed at the site, in accordance with details that shall be submitted and approved, in writing, by the Local Planning Authority.

If the applicant is unable to achieve this standard of connection, and can evidence through consultation with British Telecom, that this would not be possible, practical or economically viable an alternative super fast (i.e. will provide speeds greater than 24mbps) wireless service will be considered acceptable.

Reason - To ensure the development is able to be equipped with high speed broadband

- 32. Prior to the commencement of development, a comprehensive traffic calming scheme (including the type, number, layout, levels, gradient, surfacing and means of surface water drainage of these traffic calming features) shall be submitted to the Local Planning Authority. The Local Planning Authority shall, in conjunction with Essex County Council Highways Department, formally approve these details. The approved traffic calming measures shall be fully implemented before first occupation of any of the dwellings hereby approved and retained in the agreed form at all times unless otherwise agreed with by the Local Planning Authority.**

Reason: To ensure that traffic in the development is kept to a speed of no greater than 20mph. In the interests of highway Safety.

33. **Prior to the commencement of the occupation of the site, a flood response plan shall be submitted to, and agreed in writing with, the Local Planning Authority. This response plan, including information regarding the availability of the Environment Agency's 'Floodline' flood warning scheme, shall be made available to future occupiers of the site by means of a fixed notice within each house prior to its first use.**

Reason - To minimise the risk to the occupants of the building in the event of flooding.

Informatives

Positive and Proactive Statement

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

2. The applicant is reminded, where the Local Planning Authority has removed Permitted Development Rights as detailed in the Planning Conditions above. There shall be no planning fee (zero fee) incurred if future homeowners submit applications for such works that would have fallen within the Permitted Development allowance criteria of that removed.

Highways Informative:

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

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

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

There should be a 'no build zone' of 0.5 metres from the back of the proposed/ future high boundary.

2. The proposed internal estate road will form part of a 20 MPH speed limit zone and will require supporting measures at regular intervals to ensure drivers adhere to the speed limit.
3. On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.
4. The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act

1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

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

Suds Informative

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

Refuse Collection Informative

1. All access roads to be constructed to suitable standard to allow full access to 26 tonne waste collection vehicles (2.5 metres wide) and to withstand weight of vehicles.
2. Bin storage compartments for all properties to be constructed to allow storage and free movement of a standard dimension 180L wheeled bin for fortnightly residual waste collections, alternate weekly collection of dry recycling from 55L boxes and weekly collection of food waste from 23L food caddy.

Anglian Water Informative

- 1. Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.**
- 2. Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.**
- 3. Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.**
- 4. The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.**

10 Background Papers

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/>

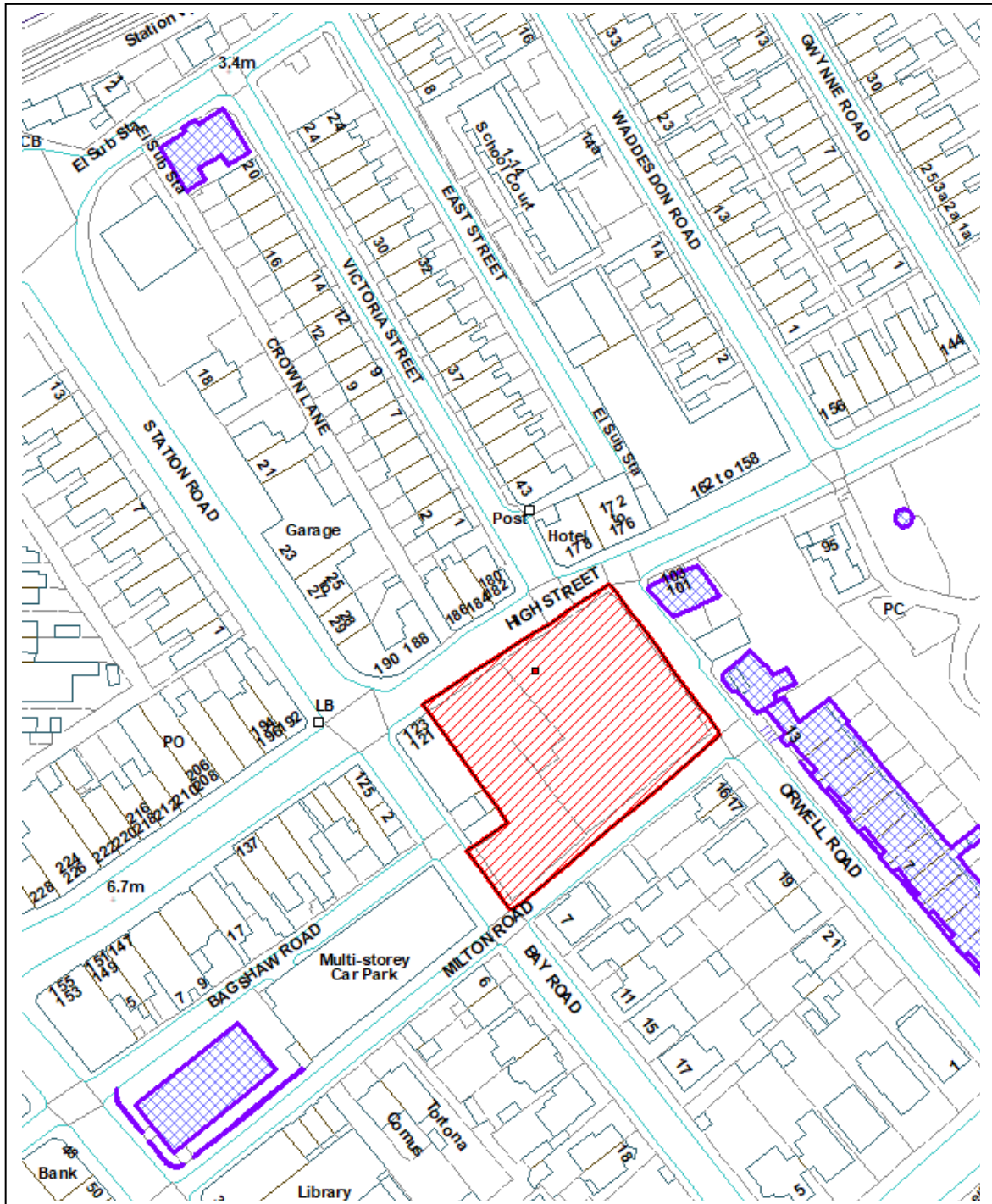
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PLANNING COMMITTEE

28th September 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.3 PLANNING APPLICATION – 21/01145/FUL – LAND TO THE SOUTH OF HIGH STREET DOVERCOURT ESSEX CO12 3AT



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Application: 21/01145/FUL

Town / Parish: Harwich Town Council

Applicant: Mr Tom Gardener - Tendring District Council

Address: Land to The South of High Street Dovercourt Essex CO12 3AT

Development: Proposed development of a surface-level public car park, public toilet facilities, landscaped public open space and associated works.

1. **Executive Summary**

- 1.1 The application site comprises approximately 0.22 hectares of vacant, derelict land. The site is located within the defined Town Centre and the 'Dovercourt Town Centre Regeneration Area' as designated by the saved Local Plan (2007) and emerging Local Plan (2013-2033). The site is also situated within the Dovercourt Conservation Area. The application is placed before members of the Planning Committee as the applicant is Tendring District Council.
- 1.2 The application relates to the development of a surfaced car park comprising of 51 spaces, public toilet facilities, public open space, landscaping and associated works. The proposals also envisage the site being utilised as a multi-purpose space for various public events and activities on designated days throughout the year under permitted development rights. Access to the car park would be on the northern side of the site from Orwell Road.
- 1.3 The proposed development is considered to respond directly to the objectives of national and local planning policy for delivering sustainable development, utilising land effectively, and supporting development that will contribute to regeneration and the vitality of town centres.
- 1.4 The proposals seek to utilise the vacant, previously developed site to deliver improvements in the quality of the environment and peoples' quality of life, and contributes to each of the three dimensions of sustainable development namely the economic, social and environmental strands.
- 1.5 The site is identified in the Dovercourt Masterplan Revisited (April 2019) as a 'high priority' regeneration project for the Council that would enhance the character of this section of the Dovercourt High Street/Conservation Area and would assist in improving pedestrian footfall within the Town Centre by promoting better connectivity with wider areas (Dovercourt Beach/Cliff Park).
- 1.6 The application and supporting documents/surveys demonstrate that there will be no overriding harm which cannot be mitigated in respect of heritage impacts, landscaping, land contamination or highways considerations.
- 1.7 Subject to the recommended conditions within section 8.2 of this report, the proposal is considered to be acceptable with no material harm to visual or residential amenity, heritage interests or highway safety, and the application is therefore recommended for approval.

Recommendation:

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

- a) Subject to the conditions stated in section 8.1

2. Planning Policy

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

NPPF National Planning Policy Framework (2021)
National Planning Practice Guidance

Adopted Tendring District Local Plan 2007 (part superseded)

| | |
|--------|---|
| QL2 | Promoting Transport Choice |
| QL3 | Minimising and Managing Flood Risk |
| QL6 | Urban Regeneration Areas |
| QL11 | Environmental Impacts and Compatibility of Uses |
| ER7 | Business, Industrial and Warehouse Proposals |
| ER16 | Tourism and Leisure Uses |
| ER31 | Town Centre Hierarchy and Uses |
| COM1 | Access for All |
| COM2 | Community Safety |
| COM4 | New Community Facilities (Including Built Sports and Recreation Facilities) |
| COM19 | Contaminated Land |
| COM23 | General Pollution |
| COM31A | Sewerage and Sewage Disposal |
| EN1 | Landscape Character |
| EN13A | Renewable Energy |
| EN17 | Conservation Areas |
| EN23 | Development within the Proximity of a Listed Building |
| TR1A | Development Affecting Highways |
| TR3A | Provision for Walking |
| TR5 | Provision for Cycling |
| TR6 | Provision for Public Transport Use |
| TR7 | Vehicle Parking at New Development |
| TR8 | Public Car Parking |
| HAR4a | Harwich Masterplan |
| HAR12 | Dovercourt Town Centre Regeneration |
| HAR13 | Environmental Improvements within Dovercourt Town Centre |

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

Section 1: North Essex Authorities' Shared Strategic Section 1 Plan, adopted January 2021

| | |
|-----|--|
| SP1 | Presumption in Favour of Sustainable Development |
| SP6 | Infrastructure & Connectivity |
| SP7 | Place Shaping Principles |

Section 2: Emerging

| | |
|-------|---|
| SPL1 | Managing Growth |
| SPL2 | Settlement Development Boundaries |
| SPL3 | Sustainable Design |
| HP1 | Improving Health and Wellbeing |
| HP2 | Community Facilities |
| PP8 | Tourism |
| PP14 | Priority Areas for Regeneration |
| PPL1 | Development and Flood Risk |
| PPL5 | Water Conservation, Drainage and Sewerage |
| PPL8 | Conservation Areas |
| PPL9 | Listed Buildings |
| PPL10 | Renewable Energy Generation |
| CP1 | Sustainable Transport and Accessibility |
| CP2 | Improving the Transport Network |
| DI1 | Infrastructure Delivery and Impact Mitigation |

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Dovercourt Masterplan Revisited Report (2019)

Status of the Local Plan

- 2.1 Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).
- 2.2 The 'development plan' for Tendring comprises, in part, the 'saved' policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 26th January 2021 Section 1 of the 2013-2033 Local Plan was adopted and now also forms part of the 'development plan' for Tendring, superseding some of the more strategic policies in the 2007 Local Plan. Notably, the housing and employment targets were found sound and have been fixed, including the housing requirement of 550 dwellings per annum.
- 2.3 Paragraph 48 of the Framework 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 the policies of the Framework. In this regard 'Proposed Modifications' to the emerging Section 2 of the 2013-33 Local Plan, which contains more specific policies and proposals for Tendring, has been examined and hearing sessions have now closed. The main modifications recommended to make the plan legally compliant and sound were considered at the Council's Planning Policy and Local Plan Committee on 29th June 2021. The Council held a six-week public consultation on the Main Modifications and associated documents which began on 16th July 2021. The consultation closed at 5pm on 31st August 2021 and adoption is expected later this year. Section 2 will then join Section 1 as part of the development plan, superseding in full the 2007 Local Plan. Section 2 of the 2013-33 Local Plan is therefore at a very advanced stage of preparation and should be afforded considerable weight.

3. Relevant Planning History

| | | | |
|-----------------|---|---------------|------------|
| 12/00478/CON | Demolition of buildings leaving site clear for possible development. | Approved | 05.07.2012 |
| 21/01145/FUL | Proposed development of a surface-level public car park, public toilet facilities, landscaped public open space and associated works. | Current | |
| 12/00615/DEMCON | Demolition of garage buildings. | Determination | 26.06.2012 |

4. Consultations

ECC Highways Dept
27.08.2021

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

1. There should be no obstruction above ground level within a 2.4 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway (between the junction with the High Street and the car park exit). Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of obstruction above 600mm at all times.

Reason: To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety in accordance with policy DM1.

2. Prior to occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety in accordance with policy DM1.

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

- 60498/C/0001 A Private external works - general arrangement

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

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

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

5. The opening of the development shall not take place until the following have been provided or completed:

a) A priority junction off Orwell Road to provide access to the proposal site, the access road shall have a minimum width of 6.0 metres for the first 6 metres, with a 2 metre wide footway provide around the north kerb radii with Orwell Road and extended northwards to its junction with the High Street and provided with appropriate drop kerb/ tactile paving either side of the junction to the car park.

b) The introduction of a narrowing to the north of the car park exit to deter left turn movements out of the car park (it must consider any large vehicles turning into to Orwell Road coming from the east in the High Street to ensure the narrowing does not impede these movements) to be agreed with the Planning Authority in conjunction with the Highway Authority.

c) Improvements to the footway to an affective width of 1.5 metres south of the car park access with Orwell Road to its junction with Milton Road.

6. The proposed boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

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

7. The proposed development shall not be occupied until such time as the vehicle parking areas indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are

related to the use of the development unless otherwise agreed with the Local Planning Authority.

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

8. The powered two-wheeler/cycle parking facilities as shown on the approved plan are to be provided prior to the first occupation of the development and retained at all times.

Reason: To ensure appropriate powered two-wheeler and bicycle parking is provided in accordance with Policy DM8.

9. Prior to the first use of any external lighting / floodlighting within the development site, the light source shall be so positioned and shielded, in perpetuity, to ensure that users of the highway are not affected by dazzle and/or glare, in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that users of the highway are not subjected to glare and dazzle from lighting within the development in the interest of highway safety in accordance with Policy DM1.

10. The boundary between the site and the highway to be clearly marked on the ground, in a material to be agreed with the Highway Authority.

Reason: To clearly show the extent of highway along the site frontage.

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

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

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

TDC Tree & Landscape Officer
19.08.2021

The application site does not contain any trees or other significant vegetation, therefore no significant vegetation will be adversely affected by the development proposal.

The applicant has provided an Illustrative masterplan which shows the nature and extent of soft landscaping associated with the development of the land; it includes a palette of species that is acceptable and that will satisfactorily enhance the appearance of the area.

If planning permission is likely to be granted then a condition should be attached to secure further details of proposed soft landscaping that will need to include a full list of species and a specification for all trees shrubs and hedges to be planted.

TDC Tree & Landscape Officer
01.09.2021

The soft landscaping proposals that have now been provided are comprehensive and sufficient to secure a satisfactory level of new tree, shrub and herbaceous planting. The proposed planting will soften and enhance the appearance of the proposed development and will make a positive contribution to the public realm.

Essex County Council Heritage
13.08.2021

The development site is in proximity to the Grade II listed 101 and 103, Main Road (List UID: 1187917), the Grade II listed The Convent (List UID: 1298462), and is partially located within Dovercourt Conservation Area.

The proposals would not detrimentally impact the listed buildings identified above. The proposals in principle would not result in a detrimental impact to on the character and appearance of the Conservation Area, however it is unfortunate that an enhanced, more generous offering to the High Street has not been proposed here. Furthermore, the proposed engineering brick retaining wall in Flemish bond could not be more generic in its specification. This specification is unfortunate given the site's partial location within a Conservation Area characterised by its high quality dark red brickwork. This element of the scheme would fail to make a positive contribution to local character and distinctiveness in its generic specification, making paragraph 197(c) of the NPPF relevant here.

The proposals indicate narrow strips of grass and planting at the boundaries of the car parking areas. Consolidation of areas of planting requiring high maintenance should be consolidated and deployed only where their maintenance to a high quality can be guaranteed.

Were this application to be approved, it is recommended that a condition be imposed (notwithstanding the proposed generic brick and bond style), that requires the submission of a specification for the brickwork boundary.

Environment Agency

No comments

TDC Environmental Protection
25.08.2021

Environmental Protection recommend the following comments:

Contaminated Land

A validation report must be submitted to the local authority demonstrating that the requirements of the remediation method statement have been met and must include all recommendations stated in Section 8 of the Remediation Method Statement.

Remediation

As stated within the Remediation Method Statement, remediation of the proposed soft landscaped areas at the site is required. The placement of 'clean cover' (as defined in Section 6.6) must be undertaken and then evidenced to the local authority.

Soil Contamination

The reports conclude that no concentrations of contaminants in the soil exceeded the tier one screening values for the protection of human health within a commercial setting.

It is considered that the degree of contamination poses a moderate risk to site workers and the general public. In order to reduce the risk to site workers during the redevelopment, appropriate safety measures must be adhered to on site.

All site staff and site contractors will be briefed on the potential for soil contamination to be encountered prior to commencing work on site

Workers should avoid contact with the soils by the use of protective boots, overalls and gloves, and should wash before eating, drinking and using the toilet

To prevent inhalation of contaminants by site works and the wind-blown transfer of contaminants off site, the generation of dust should be avoided. This can be achieved by spraying the materials with water if necessary. Measures should be taken to ensure that contaminated material are not transferred off site, for example on vehicle tyres.

Reference should be made to CIRIA Report No.132 'A Guide for Safe Working on Contaminated Sites' (1996) and Health and Safety Guidance Documents, Protections of Workers and the General Public during the Development of Contaminated Land (1991)

Asbestos

The presence of asbestos poses a potential risk to construction workers, neighbours, visitors and the general public during the redevelopment, reference should be made to Section 6.2.1 and Section 6.2.2 with respect to mitigating this risk. All asbestos must be removed safely by a suitably trained and licensed contractor.

Gas Monitoring

The results of the gas monitoring record carbon-dioxide concentrations of up to 3.1%v/v, methane concentrations momentarily peaking at 6.6%v/v and depleted oxygen concentrations 10.2%v/v.

A CS-2 classification is required and the adoption of protective measures, in order to mitigate the risk posed by ground gases at the proposed site, must be adhered to. Protective measures for a CS-2 will include:

- The installation of a 2000g gas membrane
- All joints and penetrations to be sealed
- The provision of underfloor venting

It is recommended that CIRA Report No. C735 (2014), 'Good Practice on the Testing and verification of Protective Systems for Buildings Against Hazardous Ground Gases' is consulted for guidance on testing and verification of gas protection measures which are to be installed.

Furthermore, it should be noted that depleted oxygen concentrations as low as 10.2% were recorded at the site. Excavations should therefore be monitored for the presence of anoxic/explosive gases prior to entry by operatives during the development works, to ensure that safe working conditions are maintained throughout.

Contamination to Water Supply

The recorded concentrations of some TPH and BTEX compounds are considered to pose a risk to water supply service. The applicant should contact the water supply company to see if barrier pipes should be installed within the proposed scheme.

Waste Disposal

The results of the solid soil analysis (Appendix C - Ground Investigation Report) should be forwarded to the receiver/haulier to assist in the off-site disposal of waste soils.

A copy of all waste transfer notes should be included validation report.

Watching Brief

A watching brief is recommended in order to monitor the ground conditions during the redevelopment of the site. The applicant should follow the recommendations detailed in Section 6.4 of the Remediation Method Statement Report.

Lighting

I have reviewed the Street lighting plan and have no adverse comments.

Construction Method Statement

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

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

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.

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).

5. Representations

5.1 Harwich Town Council raises no objection to this application on the basis that it meets the information provided during the consultation.

5.2 1 letter of representation has been received outlining the following comments;

- Car park should maximise opportunities for EV infrastructure and parking bays should be EV ready for conversion in the future when demand for charging points increases.

(Officer Response - A specialist EV Charging Consultant was employed to advise on the provision of EV Infrastructure. Currently there is provision for 4 No 22Kw EV Charging points which are shown on the plan drawing and with plans for an expansion to 8 No 22KW which was the provision recommended by the EV Consultant. So EV Charging has been carefully considered and specialist advice taken and provision made).

6. Assessment

Site Description

6.1 The application relates to an 'L-shaped' parcel land to the south of High Street, Dovercourt. The site is known locally as 'The Starlings Site' and is bound by Orwell Road to the northeast, Milton Road to the southeast, and Bay Road along part of the south-western side. The remaining section of the western boundary is adjoined by the single-storey retail/business unit and associated structures of No. 121-123 High Street. The site slopes down from south to north.

6.2 The site was previous occupied by The Queen's Hotel at Nos. 119-121 High Street, commercial properties of Stour Place (Nos. 105 – 117 High Street) and Starlings Garage to the east, between the hotel and Orwell Road.

6.3 The Queen's Head Hotel was demolished following a fire in 2011 that rendered the building unsafe. Conservation Area Consent was granted for the demolition of the adjoining properties, Nos. 105 – 117 High Street, in 2012, which were vacant, boarded up and in a poor state of repair.

- 6.4 The site is currently secured by site hoarding to all sides which has been in place since the buildings were demolished and the site was cleared.
- 6.5 The north-western side of the application site, fronting High Street, falls within the Dovercourt Conservation Area. Immediately to the north-east and east of the site are nos.101-103 Main Road Dovercourt and 1-13 Orwell Road Dovercourt which are all Grade II Listed Buildings.
- 6.6 The site is located within the defined Town Centre and the 'Dovercourt Town Centre Regeneration Area' as designated by the adopted Local Plan (2007). This aspiration and policy provision has been continued through the emerging Section 2 Local Plan (2013-2033), which also looks to identify Dovercourt Town Centre as a 'priority area for regeneration'

Proposal

- 6.7 Full planning permission is sought for the redevelopment of land at nos.105-119 High Street, Dovercourt, to provide a surface-level car park, public toilet facilities, public open space, landscaping and associated works.
- 6.8 The car park will accommodate 51 car parking spaces, of which 4 spaces will be allocated for disabled parking. Facilities for electric vehicle charging will also be provided at four spaces within the site.
- 6.9 Vehicular access and egress to the car park will be via Orwell Road. Orwell Road currently operates a one-way system and all vehicle users will turn right when exiting the site. A barrier/height restriction system will be erected at the entrance.
- 6.10 The proposal will create an area of active open space to the High Street frontage of the site. The frontage has been designed with hard and soft landscaping, ornamental street tree planting, seating and benches, and will be lit by new street lighting. To the western end of the site frontage, a new public toilet facility will be provided, in proximity to the pedestrian access to the car park from High Street. The public toilet facility will be finished with cedar cladding and fascia to the elevations and simulated lead to the roof. The doors to the facility will be faced in aluminium. All rain water goods will be black.
- 6.11 In terms of landscaping, to the eastern end of the High Street frontage, a Turkish Hazel will be planted to provide a landscape feature on the corner of the site. Further ornamental tree planting will be provided along the frontage, with four ornamental pear trees (*Pyrus Caleryana* Chanticleer) interspersed by public benches and cycle parking stands. Due to level differences across the site, a retaining wall with metal fence and a 750mm buffer strip of soft landscape planting will separate the area of open space to the site frontage and the car park. Further pockets of landscaped areas are proposed around the perimeter of the site.
- 6.12 The flexible format of the car park provides an opportunity for the space to be multi-purpose and used by the community as a local event space to accommodate a street market, festivals and events under permitted development rights.

Principle of Development/Policy Considerations

- 6.13 The NPPF, at paragraph 86, emphasises the role new development can play in ensuring the vitality of town centres. New development should support the role that town centres play at the heart of local communities, and to this end, planning decisions should take a positive approach to their growth, management and adaptation.
- 6.14 Moreover the NPPF also encourages planning decisions to promote effective use of land (paragraph 119) and states that appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land should be supported (paragraph 120c).

- 6.15 In this instance, the application relates to the regeneration of a large vacant site between High Street and Milton Road, Dovercourt. The site is located within the defined Town Centre and the 'Dovercourt Town Centre Regeneration Area' as designated by the adopted Local Plan (2007) and within the emerging Section 2 Local Plan, which also looks to identify Dovercourt Town Centre as a 'priority area for regeneration' under emerging Policy PP14. These areas are identified to be the focus of investment in social, economic and physical infrastructure and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety, accessibility and green infrastructure.
- 6.16 The Dovercourt Masterplan Revisited (2019) document, which was commissioned by the Council to develop a strategy for the revitalisation of Dovercourt town centre, is also relevant to the site. The application site, referred to as 'the Starling Block' within the Masterplan, was a particular focus for the study and forms one of the high priority corporate projects for the Council as the transformation and enhancement of this area will significantly enhance the quality and appearance of the town centre.
- 6.17 The development will significantly contribute to the regeneration and renewal of the area through enhancements to its function, character and appearance. As such, the development proposed accords with the objectives of national and local planning policy for delivering sustainable development, utilising land effectively, and supporting development that will contribute to regeneration and the vitality of town centres. The proposal is, therefore, considered to be acceptable 'in principle'. Accordingly, matters now turn to the detailed design aspects of the proposal including the impacts upon highway safety, heritage assets and residential amenities.

Layout/Design

- 6.18 The ethos of the development design is to provide a new public space and car parking area within the centre of Dovercourt Town Centre to replace the current derelict site. Further to the proposed car park, the proposals will also provide a linear public space along High Street with hard and soft landscaping, public seating and feature tree planting. A public toilet facility will be located at the western end, in proximity to the pedestrian access to the car park from High Street.
- 6.19 The proposed toilet building would take on a contemporary appearance with a mono-pitch roof and a cedar cladding finish. The design and finish of the building is acceptable in this location and would enhance the character of this section of the High Street. The landscaped linear public space to the High Street frontage would incorporate public seating areas, cycle stands and pockets of planting including ornamental trees. The use of a block paving finish to this area fronting the High Street will also assist in enhancing the overall appearance of the development and delineate between the public space and adjacent highway infrastructure.
- 6.20 Further pockets of planting are also proposed at the corners of the development, with a larger area proposed at the Bay Road/Milton Road junction, which will incorporate a small garden area with public seating and ornamental tree planting.
- 6.21 Consideration has also been given to the boundary with the adjoining property (or future development) abutting the site to the east, which would be treated with hedgerows and climbing vegetation to the retaining walls.
- 6.22 Overall, the development would successfully follow the place shaping principles of Policy SP7 of the adopted Section 1 Plan (2021) by responding positively to local character and context to enhance the quality of Dovercourt High Street, and provide a good standard of urban and architectural design. The development would therefore accord with national and local planning policies in design terms, including Local Plan Policies QL9 (Design of New Development), and Place Shaping Principles set out within Policy SP 7 of the adopted Section 1 Plan (2021).

Heritage Impacts

- 6.23 Government policies relating to planning are given in the National Planning Policy Framework (NPPF). Section 16 (paragraphs 189 – 208) of the NPPF (Conserving and enhancing the historic environment) outlines policies relating to the historic environment and the key role it plays in the Government's definition of sustainable development, the principle which underpins the document.
- 6.24 The NPPF requires that local planning authorities '*should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment*', recognising that '*heritage assets are an irreplaceable resource*' and should be conserved '*in a manner appropriate to their significance*'.
- 6.25 The NPPF requires that planning applicants should '*describe the significance of any heritage assets affected*' by their application, '*including any contribution made by their setting*'. Specifically, the NPPF states the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 6.26 To the north east of the application site are two Grade II listed buildings, nos.101-103 Main Road Dovercourt. The Grade II listed buildings of nos.1-13 Orwell Terrace (also known as The Convent) are located to the east, and extend away from the site to the south-east.
- 6.27 In terms of the Dovercourt Conservation Area, the Conservation Area Review (2006) makes reference to buildings located on the south side of the High Street, particularly the Starlings Garage and the Queens Hotel, which are no longer on site.
- 6.28 The site currently comprises of vacant land enclosed by hoardings and can be considered as a negative impact upon the Conservation Area setting. As such, there are a number of notable heritage benefits brought about by the scheme, not least of all the considerable improvement to the current "eyesore" that the site creates on High Street, and the notably enhanced experience of the town centre public realm.
- 6.29 To this end, ECC Heritage have no objections and state within their comments that the proposals would not detrimentally impact the listed buildings identified above and in principle would not result in a detrimental impact to on the character and appearance of the Conservation Area. They have requested that a revised brick type is proposed for the retaining wall to ensure a more sympathetic approach to the Conservation Area setting. As a result, revised plans have been provided to show the use of a dark red brick, which is more in keeping with the character of the local vernacular. Precise details of the brickwork and proposed bond type are secured via condition.

Highway Safety/Parking

- 6.30 Paragraph 110 of the NPPF requires Councils, when making decisions to ensure:
- a) appropriate opportunities to promote sustainable transport modes can be, or have been, taken up, given the type of development and its location;
 - b) safe and suitable access to the site can be achieved for all users; and
 - c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 6.31 Saved policy TR1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including

the capacity of the road network. Policy CP1 in the emerging Local Plan states that developments will only be acceptable if the additional vehicular movements likely to result from the development can be accommodated within the capacity of the existing or improved highway network or would not lead to an unacceptable increase in congestion.

- 6.32 Vehicular access and egress for visitors to the car park will be via Orwell Road. Orwell Road currently operates a one-way system and all vehicles will turn right into and upon exiting the site. One way circulation will be signposted within the site.
- 6.33 The proposed 51 parking bays have been laid out in a manner and size that accords with the requirements of the current parking standards. The proposals include four disabled parking bays, which would be located close to the pedestrian access to High Street, and four electric vehicle charging points are also proposed.
- 6.34 Furthermore, the proposals seek to enhance pedestrian connectivity through the site and between Cliff Park/Dovercourt Beach and Dovercourt Town Centre by providing pedestrian accesses from the High Street, Orwell Road and Bay Road.
- 6.35 ECC Highways have reviewed the plans and proposed access arrangements and do not have any objections subject to conditions securing; visibility splays, access specification/compliance with submitted plans, details of footways/drainage, position of planting behind highway boundary, provision of parking bays/cycle storage prior to first use, submission of a Construction Method Statement, proposed lighting direction/implementation of shields and surface finishes to High Street frontage.
- 6.36 These highway requirements, where not already illustrated on the submitted plans, will be secured by way of condition outlined at Section 8.1 of this report.

Impact on Residential Amenity

- 6.37 The NPPF at paragraph 130 states that planning should secure developments with a high standard of amenity for existing and future users. Saved Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.38 Due to the nature, location and scale of the proposed development it is not considered that it would have a materially detrimental impact upon local resident's level amenity. The use of the site as a car park and public events space would not result in noise or disturbance over that currently associated with a town centre location such as this. Furthermore, a condition will be included to secure the installation of a barrier/height restriction system at the site entrance along with a condition to secure the operating hours of the car park. This along with the inclusion of CCTV cameras will reduce the potential for any anti-social behaviour.
- 6.39 The proposed lighting scheme plan demonstrates that the proposed lighting columns will be positioned and fitted with shields as to minimise any light spillage towards neighbouring dwellings. In addition, the site access has been located to avoid any impacts upon residential uses along Orwell Road.
- 6.40 Overall, the proposed development will not have a materially damaging impact on air, land, water (including ground water), amenity, health or safety through noise, smell, dust, light, heat, vibration, fumes or other forms of pollution or nuisance.

Drainage

- 6.41 Given the nature of the underlying natural soils, infiltration drainage at the site is unlikely to be a viable option. As such, an alternative method of surface water disposal has been proposed which demonstrates the use of ACO Channels and the provision of an attenuation tank which allows controlled drainage to the mains sewer network.

Land Contamination Matters

- 6.42 A Phase 1 Desk Study Contamination Report for the subject site has been undertaken and found the following potential contaminates present on site;

- The site's former use as a garage and fly tipped asbestos containing materials were identified as potential on-site sources of contamination. Off-site, made ground, infilled brickfields, industrial development and a landfill were identified as potential sources of contamination.

- A moderate/low risk from soil contamination was considered to be presented to the identified sensitive receptors together with a high risk considered to be presented from ground gases.

- 6.43 Further intrusive ground investigations were then undertaken at the site to confirm the prevailing ground conditions, establish the presence and extent of made ground and to assess the contamination status of the site. As a result, a Remediation Report has been provided which outlines the various forms of mitigation required to off-set any potential harm from land contaminates.
- 6.44 The Report outlines the provisions set in place for the removal of the potential receptors of contamination; the removal of the contaminant source or removal/management of the contaminant pathways. The mitigation is in relation to; asbestos impacted soils, remediation to areas of soft landscaping to provide to comprise a clean cover system (increase in levels or excavation), liaison with water supply companies, details kept of waste soils, gas mitigation measures within the proposed public toilets and the submission of Verification/Validation Reports to demonstrate that the site specific objectives relating to contamination have been met and the measures outlined in the Remediation Report have been carried out.
- 6.45 The Council's Environmental Protection Team have reviewed the information provided and concur with the findings and confirm the need to adhere to mitigation measures outlined in the Remediation Report. These requirements, along with the need for the submission of a Verification/Validation Report will be secured via condition.

7. Conclusion

- 7.1 The proposed development will transform a vacant town centre site that has remained derelict for a number of years, and will significantly enhance the quality and appearance of the area, particularly along the High Street frontage. The new surfaced car park landscaped pocket spaces will create a positive space in the town centre. In addition, the flexible format of the new car park provides an opportunity for the space to be multi-purpose and used by the community as a local event space to accommodate a street market, festivals and other events.
- 7.2 Overall, the development will regenerate this section of the Dovercourt High Street and assist in stimulating economic growth through greater pedestrian footfall and connective links. The development is, therefore recommended for approval subject to the conditions outlined below.

8. Recommendation

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions as set out below:

- 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:

- Drawing no. 171 A (Masterplan)
- Drawing no. 101 (Street Scenes)
- Drawing no. 500 (Toilet Block)
- Drawing no. 60498/C/0001 A (Private External Works – General Arrangements)
- Drawing no. WLC481-1300-001 (Car Park Lighting Layout)
- Drawing no. 60498/C/0002 (Drainage Plan)
- Document Reference - WLC481-LC-AC-001 (Lighting Report)
- Mer EV Charging Proposal Report (July 2021)

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

- 3). All hard landscaping, planting, seeding or turfing shown the approved landscaping details drawing no. 257-000 (Structure Planting), 257-001 (Toilet Block), 257-002 (North), 257-003 (South) and 257-004 (Community Garden) and the associated documents 257-D-001 (Softworks Specifications) and 257-D-002 (Planting Schedule) shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure the implementation of the approved scheme and adequate maintenance of the landscaping for a period of five years in the interests of visual amenity.

- 4). There should be no obstruction above ground level within a 2.4 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway (between the junction with the High Street and the car park exit). Such vehicular visibility splays shall be provided before the road junction and access is first used by vehicular traffic and retained free of obstruction above 600mm at all times.

Reason - To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety.

- 5). Prior to occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason - To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety.

- 6). Prior to the occupation of any of the proposed development the internal road and footway layouts shall be provided in principal and accord with Drawing Number:

- 60498/C/0001 A Private external works - general arrangement

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

- 7). The development shall not come into use until the following have been provided or completed:

- a) A priority junction off Orwell Road to provide access to the proposal site, the access road shall have a minimum width of 6.0 metres for the first 6 metres, with a 2 metre wide footway provide around the north kerb radii with Orwell Road and extended northwards to its junction with the High Street and provided with appropriate drop kerb/ tactile paving either side of the junction to the car park.
- b) The introduction of a narrowing to the north of the car park exit to deter left turn movements out of the car park to be agreed/approved with the Planning Authority (in writing) in conjunction with the Highway Authority.
- c) Improvements to the footway to an affective width of 1.5 metres south of the car park access with Orwell Road to its junction with Milton Road.

Reason – In the interests of highway safety.

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

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

- 9). Prior to the first use of any external lighting within the development site, the light source shall be so positioned and shielded, in perpetuity, to ensure that users of the highway are not affected by dazzle and/or glare, in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason - To ensure that users of the highway are not subjected to glare and dazzle from lighting within the development in the interest of highway safety.

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

- the parking of vehicles of site operatives and visitors
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- wheel and underbody washing facilities
- dust, noise and emission suppression methods
- hours of construction
- piling method statement (if needed).

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

- 11). The development shall be carried out in full accordance with the recommendations and conclusions contained within the submitted 'Remediation Method Statement' (as prepared by Richard Jackson Engineering Consultants).

Prior to the development being brought into operational use a Validation Report must be submitted to and approved in writing by the Local Planning Authority. The Validation Report must demonstrate that the requirements of the Remediation Method Statement have been met and must include all recommendations stated in Section 8 of the Remediation Method Statement.

Reason –To safeguard against potential contaminates on site.

- 12). The powered two-wheeler/cycle parking facilities as shown on the approved plan are to be provided prior to the first occupation of the development and retained at all times.

Reason - To ensure appropriate powered two-wheeler and bicycle parking is provided.

- 13). The proposed development shall not be first used until such time as the vehicle parking areas indicated on the approved plans, including any parking spaces for the mobility impaired and the electric charging point bays, have been hard surfaced, sealed and marked out in parking bays. The vehicle parking area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

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

- 14). Prior to first use of the car park details of the proposed barrier/height restriction system and car park operating hours shall be submitted to and approved, in writing, by the Local Planning Authority. The approved barrier/height restriction system shall be installed prior to the first use of the car park and retained in perpetuity.

Reason – In the interests of residential amenity.

- 15). Prior to the construction of the proposed retaining wall precise details of the manufacturer and type of dark red brickwork (including the proposed bond details) shall be submitted to and approved in writing by the Local Planning Authority.

The retaining wall shall be construction in full accordance with the approved plans.

Reason – In the interests of visual amenity and preserve the character of the conservation area setting.

8.2 **Informatives**

Positive and Proactive Statement

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

The recorded concentrations of some TPH and BTEX compounds are considered to pose a risk to water supply service. The applicant should contact the water supply company to see if barrier pipes should be installed within the proposed scheme.

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

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

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

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

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

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging

participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and

- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

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

Finance Implications

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

10. Background Papers

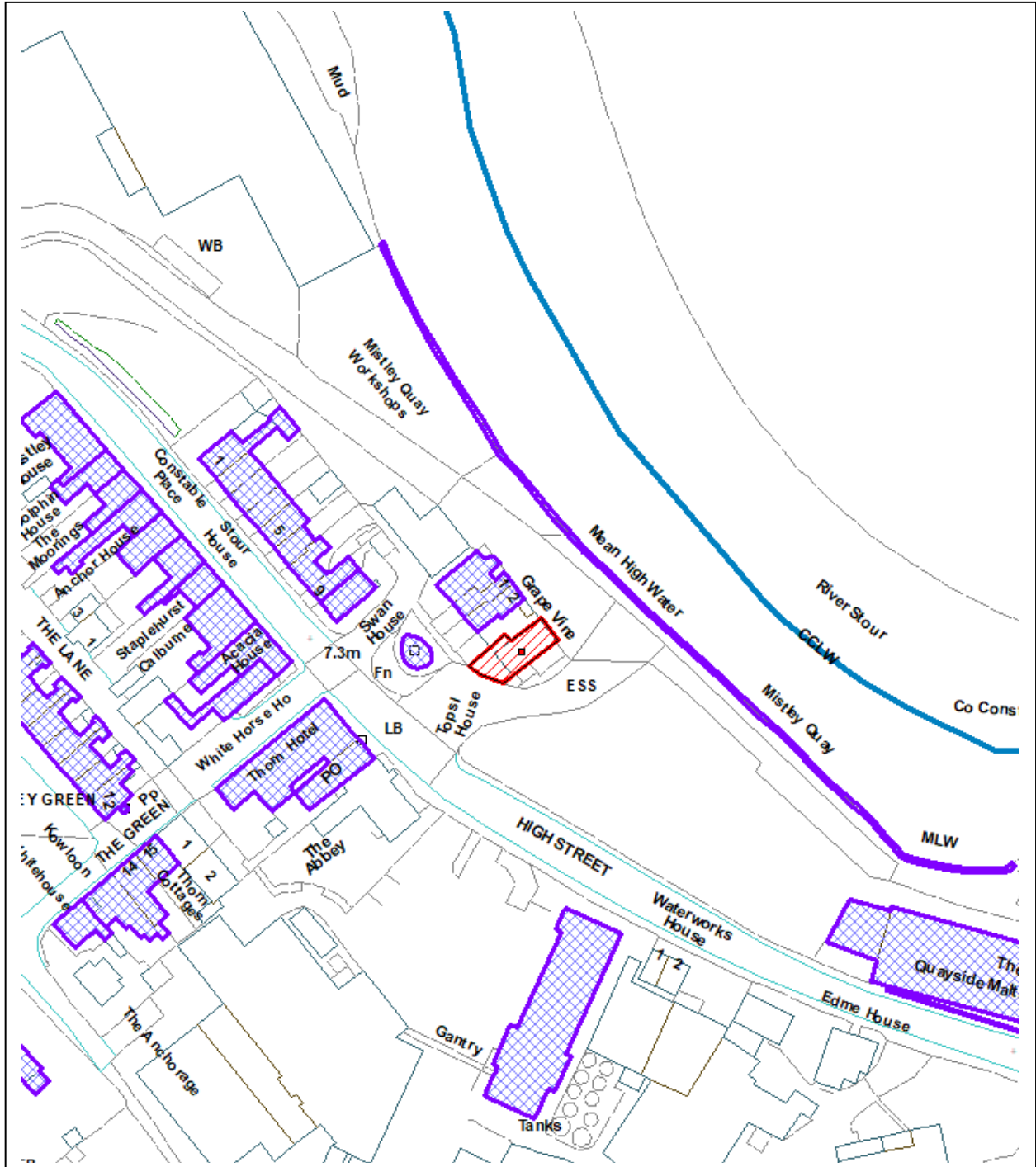
- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

PLANNING COMMITTEE

28TH SEPTEMBER 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.4 PLANNING APPLICATION – 21/00040/FUL – TOPSL HOUSE HIGH STREET MISTLEY MANNINGTREE ESSEX



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Application: 21/00040/FUL

Town / Parish: Mistley Parish Council

Applicant: Sarah Misra & Julia Hegelstad

Address: Topsl House High Street Mistley Manningtree Essex CO11 1HB

Development: Proposed external changes to fenestration including; the change of a window to a door to the front elevation, a change of a window to a door to the Quay elevation, a change from a door to a window to the side elevation and erection of a safety hand rail.

1. **Executive Summary**

- 1.1 This application has been referred to Planning Committee at the request of Councillor Coley due to concerns with the building being listed and being in a Conservation Area, the introduction of a stairway access to the first floor, change of use of the first floor to residential, the building is located on the edge of a busy working dock and parking issues.
- 1.2 This application seeks planning permission for external changes to the fenestration including; the change of a window to a door to the front elevation, a change of a window to a door to the Quay elevation, a change from a door to a window to the side elevation and erection of a safety hand rail.
- 1.3 The application site is located within the 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 application is located within the Conservation Area and adjacent to a Grade II Listed Building.
- 1.4 ECC Heritage have been consulted and have no objections subject to conditions relating to the details of the handrail and further details of the windows and doors.
- 1.5 The proposals are not considered to cause any impact upon the neighbouring amenities.
- 1.6 Mistley Parish Council recommends this application for refusal and one letter of objection has been received.

Recommendation:

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

- a) Subject to the conditions stated in section 8.2

2. **Planning Policy**

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

This planning application was first submitted when the NPPF - National Planning Policy Framework February 2019 was in place. During the LPA assessment phase of the development proposals, a

revised version of the National Planning Policy Framework (NPPF 2021) was published by the Ministry of Housing, Communities and Local Government (MHCLG) with revisions to both the NPPF and National Model Design Guide (NMDG), following consultation in January 2021. Among the key changes to the NPPF are updated policies aiming to improve the design of new developments, in response to the findings of the government's Building Better, Building Beautiful Commission. Due regard is given to both the NPPF 2019 as well as the NPPF 2021 (collectively referred to as the 'NPPF' in the remainder of this report) and as part of the assessment of this planning application.

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Adopted Tendring District Local Plan 2007 (part superseded)

QL11 Environmental Impacts and Compatibility of Uses (part superseded)

EN17 Conservation Areas

EN23 Development Within the Proximity of a Listed Building

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) (Section 1 adopted on 26th January 2021)

Relevant Section 2 Policies (emerging)

PPL8 Conservation Areas

PPL9 Listed Buildings

SPL1 Managing Growth

Status of the Local Plan

- 2.1 Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).
- 2.2 The 'development plan' for Tendring comprises, in part, the 'saved' policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 26th January 2021 Section 1 of the 2013-2033 Local Plan was adopted and now also forms part of the 'development plan' for Tendring, superseding some of the more strategic policies in the 2007 Local Plan. Notably, the housing and employment targets were found sound and have been fixed, including the housing requirement of 550 dwellings per annum.
- 2.3 Paragraph 48 of the Framework 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 the policies of the Framework. In this regard 'Proposed Modifications' to emerging Section 2 of the 2013-33 Local Plan which contains more specific policies and proposals for Tendring has been examined and hearing sessions have now closed. The main modifications recommended to make the plan legally compliant and sound were considered at the Council's Planning Policy and Local Plan Committee on 29th June 2021. The Council is holding a six week public consultation on the Main Modifications and associated

documents, which began on 16th July 2021. The consultation will run for just over 6 weeks, closing at 5pm on 31st August 2021, following which adoption is expected later this year. Section 2 will join Section 1 as part of the development plan, superseding in full the 2007 Local Plan. Section 2 of the 2013-33 Local Plan is therefore at a very advanced stage of preparation and should be afforded considerable weight.

3. **Relevant Planning History**

| | | | |
|--------------|---|----------|------------|
| 94/00764/FUL | (4 Grape Vine, Mistley Quay, Mistley) Alterations to existing offices | Approved | 16.09.1994 |
| 21/00046/FUL | Proposed external staircase, balcony, window to a door to the quay elevation and a window to a door to the north west elevation. | Current | |

4. **Consultations**

Essex County Council Heritage

- 4.1 The application is for external changes to fenestration including; the change of a window to a door to the front elevation and a change of a window to a door to the Quay elevation.
- 4.2 The building is situated within Manningtree and Mistley Conservation Area in Character Area 4 - The planned town along the High Street. Concerns were outlined within the first response regarding the potential impact to the significance of the Conservation Area and nearby listed buildings. Further information and clarification were requested to understand this potential impact and this has been provided.
- 4.3 There are elements within the application that are acceptable in principle, but further detail is required to ensure that they will be in keeping with the character and appearance of the Conservation Area and do not impact the surrounding listed buildings. As such the following conditions should be applied:
 - Details of the types and colours of all external materials, including the handrail, shall be submitted to and approved by the Local Planning Authority in writing prior to their first use on site.
 - Additional drawings that show details of any new windows and doors by section and elevation at scales between 1:20 and 1:1 as appropriate, shall be submitted to and approved by the Local Planning Authority in writing prior to their first construction or installation on site.
- 4.4 Subject to the conditions, there is no objection to these works as the proposals are considered to be compliant with Section 16 of the NPPF.

5. **Representations**

- 5.1 Mistley Parish Council have commented on this application and have stated that this application be refused on the grounds of this being an inappropriate development in this area, the proposal would change the structure of the building significantly and adversely affect the character in the Conservation Area - which is near to many listed buildings, the loss of residential amenity to neighbours, no parking provision and non-viability of a business in this area.

1 letter of objection has been received raising the following concerns:

- Concern raised in regards to the proposal to change a window to a door on the ground floor to allow flood water to escape – it should be noted in 2013 there was a storm surge. Topsl House did not flood due to the water coming up to the bottom of the 3 existing windows. If a door had been there the water would have breached the door and flooded the building. This meant water did not egress into our adjoining property - 3 Grapevine Cottage.

5.2 *This comment has been noted; such a change does not amount to operational development under S55 of the Town and County Planning Act 1990 as it would not materially affect the external appearance of the building*

- Concerns raised that it should be noted that in April 2011 Tendring District Council brought in Article 4 Direction to cover Mistley Quay and this goes right up to the properties along the quay - this may remove permitted development – such as changes to doors and windows and even the change of use of a building (for example to a café).

5.3 *In response to the concern raised, the article 4 direction relates to Part 2, Schedule 2, Class A which is for the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.*

- The change from a door to a window on the quay will lead to an increase of noise and disturbance to neighbouring cottages, including our house -3 Grapevine Cottage – this will be particularly relevant should the building be a café because it adjoins a residential dwelling.

5.4 *This application is to assess the external changes only and the proposal has been addressed within the report. The use of the building is not being assessed within this application.*

6. Assessment

Site Context

6.1 The application site relates to Topsl House, which is a two storey building located within the settlement boundary of Manningtree and located within the Conservation Area.

The building is located to the end of the row of buildings with views over the Quay and adjacent Grade II Listed Building.

Proposal

6.2 This application seeks planning permission for external changes to fenestration including; the change of a window to a door to the front elevation, a change of a window to a door to the Quay elevation, a change from a door to a window to the side elevation and erection of a safety hand rail.

6.3 This application originally was for the change of use from an office (Class E (g) (i) to sale of food and consumption mostly on premises (Class E (b)). Due to recent changes to the use class order introduced by the Government, this change of use no longer requires planning permission and is considered permitted development. Therefore, this is not being assessed within this application.

This application is to assess external changes only.

Principle of Development

- 6.4 The site is located within the Development Boundary therefore there is no 'in principle' objection to the proposal, subject to the detailed considerations discussed below.

Design and Appearance (including Heritage Assessment)

- 6.5 Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context. Emerging Policies SPL3 and LP4 of Section 2 of the 2013-33 Local Plan also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout, create a unique sense of place - avoiding the use of ubiquitous standard house types. Paragraph 130 of the Framework requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.
- 6.6 Policy EN17 of the Tendring District Local Plan 2007 and Policy PPL8 of the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016) state that development within a Conservation Area must preserve or enhance the special character or appearance of the Conservation Area.
- 6.7 Policy EN23 of the Tendring District Local Plan 2007 states that proposals for development that would adversely affect the setting of a Listed Building, including group value and long distance views will not be permitted, emerging Policy PPL9 reflects these considerations.
- 6.8 The proposed works comprise of the following: the change of a window to a door to the front elevation, a change of a window to a door to the Quay elevation, a change from a door to a window to the side elevation and erection of a safety hand rail will all be visible to the streetscene of High Street and along the Quay.
- 6.9 The fenestration changes are considered to be a neutral change to the existing building and the introduction of a hand rail is considered a minor addition which is not considered to cause any harm to the visual amenity and character of the area or streetscene.
- 6.10 As the application relates to the Conservation Area and is adjacent to a Grade II Listed Building, ECC Heritage have been consulted on this application and raise no objection to the application subject to the imposition of a planning conditions to seek details of the types and colours of all external materials, including the handrail. These details are to be submitted prior to their first use on the site. Furthermore, additional drawings that show details of any new windows and doors by section and elevation at scales between 1:20 and 1:1 as appropriate, are to be submitted to and approved by the Local Planning Authority in writing prior to their first construction or installation on site.

Impact upon neighbouring amenities

- 6.11 The NPPF, at paragraph 130 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Adopted Policy SP7 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) requires that all new development protects the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking.
- 6.12 Due to the external changes being to the ground floor, it is considered that the changes to the fenestration as well as the erection of the handrail, will not cause any significant impact upon the neighbouring amenities.

7 Conclusion

- 7.1 The proposed works are considered acceptable subject to conditions relating to the details of the handrail as well as the details of the windows and doors. The proposed works will not result in any harm to neighbouring amenities.

8 Recommendation

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

Conditions and Reasons

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

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

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

- Drawing No. TH04 REV 7

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

- 3 Before any work is commenced drawings to a scale of not less than 1:20 fully detailing the new windows and doors and their surrounds to be used and indicating: materials; cross sections for glazing bars, cills, heads etc at a scale of 1:20; and method of glazing shall be submitted to and approved in writing by the Local Planning Authority. The approved works shall be installed/carried out in complete accordance with the approved details.

Reason - The application relates to a building in the Conservation area and adjacent to a Grade II Listed building and therefore such details are necessary in order to preserve and enhance the historic character.

- 4 No development shall be commenced until a schedule of external finish materials including the handrail shall be submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development and permanently maintained as such.

Reason - To ensure materials are of a very high quality to respect the building and its setting.

Informatives

Positive and Proactive Statement

- 8.2 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.

9 Additional Considerations

Public Sector Equality Duty (PSED)

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

Human Rights

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

Finance Implications

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

10 Background Papers

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

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Application: 21/00046/FUL

Town / Parish: Mistley Parish Council

Applicant: Sarah Misra & Julia Hegelstad

Address: Topsl House High Street Mistley Manningtree Essex CO11 1HB

Development: Proposed external staircase, balcony, window to a door to the quay elevation and a window to a door to the north west elevation.

1. **Executive Summary**

- 1.1 This application has been referred to Planning Committee at the request of Councillor Coley due to concerns with the building being listed and being in a Conservation Area, the introduction of a stairway access to the first floor, change of use of the first floor to residential, the building is located on the edge of a busy working dock and parking issues.
- 1.2 This application seeks planning permission for the external staircase, balcony, window to a door to the quay elevation and a window to a door to the north west elevation.
- 1.3 The application site is located within the 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 application is located within the Conservation Area and adjacent to a Grade II Listed Building.
- 1.4 ECC Heritage have been consulted and have an objection to the proposed balcony however no objections to the other elements subject to conditions relating to the staircase details and further details of the windows and doors.
- 1.5 The proposals are not considered to cause any impact upon the neighbouring amenities.

Mistley Parish Council recommends this application for refusal and 7 letters of objection have been received (two from the same address).

Recommendation:

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

- a) Subject to the conditions stated in section 8.2

2. **Planning Policy**

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

This planning application was first submitted when the NPPF - National Planning Policy Framework February 2019 was in place. During the LPA assessment phase of the development proposals, a revised version of the National Planning Policy Framework (NPPF 2021) was published by the Ministry of Housing, Communities and Local Government (MHCLG) with revisions to both the NPPF and National Model Design Guide (NMDG), following consultation in January 2021. Among the key changes to the NPPF are updated policies aiming to improve the design of new developments, in

response to the findings of the government's Building Better, Building Beautiful Commission. Due regard is given to both the NPPF 2019 as well as the NPPF 2021 (collectively referred to as the 'NPPF' in the remainder of this report) and as part of the assessment of this planning application.

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Adopted Tendring District Local Plan 2007 (part superseded)

QL11 Environmental Impacts and Compatibility of Uses (part superseded)

EN17 Conservation Areas

EN23 Development Within the Proximity of a Listed Building

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) (Section 1 adopted on 26th January 2021)

Relevant Section 2 Policies (emerging)

PPL8 Conservation Areas

PPL9 Listed Buildings

SPL1 Managing Growth

Status of the Local Plan

- 2.1 Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).
- 2.2 The 'development plan' for Tendring comprises, in part, the 'saved' policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 26th January 2021 Section 1 of the 2013-2033 Local Plan was adopted and now also forms part of the 'development plan' for Tendring, superseding some of the more strategic policies in the 2007 Local Plan. Notably, the housing and employment targets were found sound and have been fixed, including the housing requirement of 550 dwellings per annum.
- 2.3 Paragraph 48 of the Framework 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 the policies of the Framework. In this regard 'Proposed Modifications' to emerging Section 2 of the 2013-33 Local Plan which contains more specific policies and proposals for Tendring has been examined and hearing sessions have now closed. The main modifications recommended to make the plan legally compliant and sound were considered at the Council's Planning Policy and Local Plan Committee on 29th June 2021. The Council is holding a six week public consultation on the Main Modifications and associated documents, which began on 16th July 2021. The consultation will run for just over 6 weeks, closing at 5pm on 31st August 2021, following which adoption is expected later this year. Section 2 will join Section 1 as part of the development plan, superseding in full the 2007 Local Plan.

Section 2 of the 2013-33 Local Plan is therefore at a very advanced stage of preparation and should be afforded considerable weight.

3. Relevant Planning History

| | | | |
|--------------|--|----------|------------|
| 94/00764/FUL | (4 Grape Vine, Mistley Quay, Mistley) Alterations to existing offices | Approved | 16.09.1994 |
| 21/00040/FUL | Proposed external changes to fenestration including; the change of a window to a door to the front elevation and a change of a window to a door to the Quay elevation. | Current | |

4. Consultations

Essex County Council Heritage

- 4.1 The building is situated within Manningtree and Mistley Conservation Area in Character Area 4 - The planned town along the High Street. Concerns were outlined within the first response regarding the potential impact to the significance of the Conservation Area and nearby listed buildings. Further information and clarification were requested to understand this potential impact and has been provided.
- 4.2 The balcony is not considered acceptable and unsympathetically interjects with the bay window and should be omitted from the application to preserve the character of the building. The detailing is not considered in keeping with the character of the building or to the character and appearance of the Conservation Area, contrary to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The harm to the significance of the Conservation Area is a small level of 'less than substantial' and paragraph 202 of the NPPF is relevant. Regard should also be given to paragraph 199 which affords great weight to the conservation of heritage assets.
- 4.3 However, if the balcony is omitted from the proposals, there are elements within the application that are acceptable in principle, but further detail is required to ensure that they will be in keeping with the character and appearance of the Conservation Area and do not impact the surrounding listed buildings. As such the following conditions should be applied:
- Details of the types and colours of all external materials, including the external stair, shall be submitted to and approved by the Local Planning Authority in writing prior to their first use on site.
 - Additional drawings that show details of any new windows and doors by section and elevation at scales between 1:20 and 1:1 as appropriate, shall be submitted to and approved by the Local Planning Authority in writing prior to their first construction or installation on site.

5. Representations

- 5.1 Mistley Parish Council have commented on this application and have stated that the Parish Council's Planning Committee recommended that this application be refused on the grounds of this being an inappropriate development in this area, the proposal would change the structure of the building significantly and adversely affect the character in the Conservation Area - which is near to many listed buildings, the loss of residential amenity to neighbours, no parking provision and non-viability of a business in this area.
- 5.2 7 letters of objection (two letters from the same address) have been received raising the following concerns:

- A concern has been raised in regards to the proposed alternations and additions to Topsl House which seem to undermine the character of the three dwellings next door. The stairs and railings going up the exterior appears to join number three takes away what the Council have fought hard to preserve which is that the unique row of cottages stand apart from the buildings around it. I cannot see the benefit or the need for this staircase to be external.

5.3 *ECC Heritage have been consulted on this application and have provided their comments within the report.*

- A concern that the proposal impacts negatively on the Swan Basin and the environs. Proposed external staircase would be extremely detrimental to the delicately balanced Georgian characteristics of this focal point of the village.

Concerns of the impact the proposed development will have upon the neighbours.

The impact upon the neighbours has also been addressed within the report.

- Concerns that the proposed staircase and balcony would increase human traffic and therefore noise, as would a change of use from office to a cafe or flat.

The Café/flat is not being considered within this application, this application is assessing the external changes only.

- Concerns that the staircase will obstruct the right to ancient light of a 1st floor Georgian window on the the east side of Grape Vine Cottages.

The impact of the staircase has been addressed within the report.

- Concerns raised why the stairs cannot be build inside the building and to reduce the number of bedrooms to accommodate.

The application is determined based on the plans submitted. Please note the application is for external changes only.

- Concerns that no information has been given of the construction of the screen/wall or how it will be attached.

The agent has confirmed that the current front door will be relocated to the screen. The screen will be rendered and painted to match the existing render. The screen will also not be attached to the neighbouring property.

- Concerns that the existing passage to the office entrance is south facing and has sunlight all day. A screen will create an enclosed yard and would limit light and create damp.

The proposed screen will allow for light above and to the side it will reduce the light from south west only and therefore is not considered to cause any significant impact.

- Concerns in regards to the conversion of the first floor to the flat including the existing velux window and loss of privacy.

This application is to assess the external changes and not a change of use application and therefore this has not been taken into consideration when determining this application.

- Concern raised in regards to a letter dated 1995 which states: 'The property in question is presently used as offices. It's location, overlooking the quay is a sensitive one. Consent is sought to substantially reconstruct it for residential use. The proposal is acceptable in

principle. I would ask only that the proposed entrance lobby be omitted or altered so as not to form a link with the listed houses which, although somewhat altered, have a formal, symmetrical elevation.

The letter provided has been taken into consideration however as stated within the report Place Services who work for Essex County Council have been consulted on this application and have provided their comments.

6. Assessment

Site Context

- 6.1 The application site relates to Topsl House which is a two storey building located within the settlement boundary of Manningtree and located within the Conservation Area.

The building is located to the end of the row of buildings with views over the Quay and adjacent Grade II Listed Building

Proposal

- 6.2 The application seeks planning permission for an external staircase, balcony, window to a door to the quay elevation and a window to a door to the north-west elevation.
- 6.3 This application originally was for the change of use from an office (Class E (g) (i) to residential dwelling (C3). Due to recent changes to the use class order introduced by the Government, this change of use no longer requires planning permission and requires a prior notification application. Therefore this is not being assessed within this application.
- 6.4 This application is to assess external changes only.

Principle of Development

- 6.5 The site is located within the Development Boundary therefore there is no in principle objection to the proposal, subject to the detailed considerations discussed below.

Design and Appearance (including Heritage Assessment)

- 6.6 Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context. Emerging Policies SPL3 and LP4 of Section 2 of the 2013-33 Local Plan also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout, create a unique sense of place - avoiding the use of ubiquitous standard house types. Paragraph 130 of the Framework requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.
- 6.7 Policy EN17 of the Tendring District Local Plan 2007 and Policy PPL8 of the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016) state that development within a Conservation Area must preserve or enhance the special character or appearance of the Conservation Area.
- 6.8 Policy EN23 of the Tendring District Local Plan 2007 states that proposals for development that would adversely affect the setting of a Listed Building, including group value and long distance views will not be permitted, emerging Policy PPL9 reflects these considerations.

- 6.9 The proposed works; external staircase, balcony, window to a door to the quay elevation and a window to a door to the North West elevation will all be visible from the street scene of High Street and the Quay.
- 6.10 The fenestration changes are considered to be a neutral change to the existing building and will also serve the proposed staircase and balcony.
- 6.11 As the application relates to the Conservation Area and is adjacent to a Grade II Listed Building, ECC Heritage have been consulted on this application.
- 6.12 ECC Heritage note that the building is situated within Manningtree and Mistley Conservation Area in Character Area 4 - The planned town along the High Street. Concerns were outlined within their first response regarding the potential impact to the significance of the Conservation Area and nearby listed buildings. Further information and clarification were requested to understand this potential impact and this has subsequently been provided.
- 6.13 ECC Heritage have stated that the proposed balcony is not considered acceptable and unsympathetically interjects with the bay window and should be omitted from the application to preserve the character of the building. The detailing is not considered in keeping with the character of the building or to the character and appearance of the Conservation Area, contrary to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The harm to the significance of the Conservation Area is a small level of 'less than substantial' and paragraph 202 of the NPPF is relevant. Regard should also be given to paragraph 199 which affords great weight to the conservation of heritage assets.
- 6.14 However, if the balcony is omitted from the proposals, there are elements within the application that are acceptable in principle, but further detail is required to ensure that they will be in keeping with character and appearance of the Conservation Area and do not impact the surrounding listed buildings. As such, they consider that conditions should be applied, seeking details of the types and colours of all external materials, including the external stair, to be submitted to and approved by the Local Planning Authority in writing prior to their first use on site. Additional drawings that show details of any new windows and doors by section and elevation at scales between 1:20 and 1:1 as appropriate, to be submitted to and approved by the Local Planning Authority in writing prior to their first construction or installation on site.
- 6.15 The comments and concerns raised by ECC Heritage are noted in regards to the balcony; notwithstanding this, planning permission has previously been given and implemented for a variety of balconies along the Quay. The proposed balcony is, therefore deemed to have no greater effect on the character of the Conservation Area than those already 'in situ' and it would be difficult to substantiate a reason for refusal on this ground alone.

Impact upon neighbouring amenities

- 6.16 The NPPF, at paragraph 130 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Adopted Policy SP7 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) requires that all new development protects the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking.
- 6.17 The proposed balcony will be located to the quay elevation and views will be towards the quay and therefore will be away from any neighbouring private amenity space. The change from a window to a door is not considered to cause any impact.
- 6.18 A door is proposed to the North West elevation to replace a window to the first floor, which will be served by the proposed staircase. As shown on the plans the proposed door will be obscure glazed to reduce any impact upon neighbouring amenities. Due to the application site being set

lower than the adjacent neighbour it is considered that the staircase will have limited views to the neighbouring dwelling.

7. Conclusion

- 7.1 The proposed works are considered acceptable subject to conditions relating to the details of the handrail as well as the details of the windows and doors. The proposed works will not result in any harm to neighbouring amenities.

8. Recommendation

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

Conditions and Reasons

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

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

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

- Drawing no. TH05 REV7

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

- 3 Before any work is commenced drawings to a scale of not less than 1:20 fully detailing the new windows and doors and their surrounds to be used and indicating: materials; cross sections for glazing bars, cills, heads etc at a scale of 1:20; and method of glazing shall be submitted to and approved in writing by the Local Planning Authority. The approved works shall be installed/carried out in complete accordance with the approved details.

Reason - The application relates to a building in the Conservation area and adjacent to a Grade II Listed building and therefore such details are necessary in order to preserve and enhance the historic character.

- 4 No development shall be commenced until a schedule of external finish materials including the staircase shall be submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development and permanently maintained as such.

Reason - To ensure materials are of a very high quality to respect the building and its setting.

8.2 Informatives

Positive and Proactive Statement

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

9. Additional Considerations

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