



## PLANNING COMMITTEE

**DATE:** Tuesday, 26 October 2021

**TIME:** 6.00 pm

**VENUE:** Council Chamber - Council Offices,  
Thorpe Road, Weeley, 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. The space for the public and press will be made available on a first come first served basis. The meeting will normally be live streamed and the link to this is available at [www.tendringdc.gov.uk/livemeetings](http://www.tendringdc.gov.uk/livemeetings). Those attending the meeting may therefore be filmed. After the meeting the recording of the live stream will normally be available using the same link.

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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 01255 686007.

DATE OF PUBLICATION: Monday, 18 October 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 - 32)**

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Tuesday 28 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 PLANNING APPLICATION 21/00197/DETAIL - LAND TO THE SOUTH OF LONG ROAD AND TO WEST OF CLACTON ROAD MISTLEY CO11 2HN (Pages 33 - 90)**

The current application is seeking consent with regard to the reserved matters of landscaping, layout, appearance and scale. Importantly, the application relates only to the residential aspect of the development approximately 85% of the site, not the Employment Land in the south east corner (the remaining 15%) that is expected under a separate Reserved Matters application in the future.

The application was requested to be referred to Committee for a decision by Cllr. Coley.

### 6 **A.2 PLANNING APPLICATION 21/01104/FUL - 4 - 8 EDITH ROAD CLACTON ON SEA CO15 1JU (Pages 91 - 124)**

The application is before Members at the request of the Assistant Director of Planning and because there are minor conflict with policies and guidance relating to what is expected on standards for residential accommodation.

### 7 **A.3 PLANNING APPLICATION 21/00208/FUL - LAND REAR OF STRANGERS WAY CHURCH ROAD BRIGHTLINGSEA CO7 0QT (Pages 125 - 160)**

This application has been called to Planning Committee at the request of Councillor Steady and Councillor Barry for the following reasons:

- The proposal is contrary to the Development Plan
- Highway and Traffic Impact
- Adverse impact on ancient woodland
- Is outside the development area
- The proposal could impact on highway safety at a difficult location and where school children are regularly walking.

This application seeks planning permission for the erection of 5 no. self-contained residential bungalows with associated parking, landscaping and amenity space at land to the rear of Strangers Way, Church Road, Brightlingsea.

**8 A.4 PLANNING APPLICATION 21/00282/FUL - LAND TO THE REAR OF 5 AND 6 SHOP ROAD LITTLE BROMLEY MANNINGTREE CO11 2PZ (Pages 161 - 180)**

The application is referred to the Planning Committee at the Ward Members request. The application involves the erection of a two-bedroom dwelling together with parking and associated landscaping.

**9 A.5 PLANNING APPLICATION 21/00376/DETAIL - LAND TO THE SOUTH OF RAMSEY ROAD AND EAST OF MAYES LANE RAMSEY CO12 5EW (Pages 181 - 204)**

This application seeks approved of the Reserved Matters associated with the granting of planning permission 19/00917/OUT for the construction of 31 dwellings and 10 almshouse type bungalows for older persons and associated open space.

Members of the Planning Committee resolved to approve the outline planning permission at the Planning Committee meeting held on 19 May 2020 and requested that the 'Reserved Matters' application is referred back to the Committee.

**10 A.6 PLANNING APPLICATION 21/01395/LBC - THE HARWICH TREADWHEEL CRANE ST HELENS GREEN HARWICH CO12 3NH (Pages 205 - 212)**

This application is referred to the Planning Committee as the applicant is Tendring District Council. This application seeks Listed Building Consent for repair works, including underpinning, weatherboard and roof covering replacement, and timber and ironwork repairs.

**11 A.7 PLANNING APPLICATION 21/01450/FUL - THE NAZE PENINSULAR OLD HALL LANE WALTON ON THE NAZE (Pages 213 - 238)**

The application has been referred to the Planning Committee as the development is proposed by Tendring District Council on a section of coastline that is owned by Tendring District Council. The site is located outside the Development Boundary within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

# 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](mailto: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](mailto:planningservices@tendringdc.gov.uk) Web: [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk)

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

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

# **Information for Visitors**

## **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.

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**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,  
HELD ON TUESDAY, 28TH SEPTEMBER, 2021 AT 6.00 PM  
IN THE COUNCIL CHAMBER - COUNCIL OFFICES, THORPE ROAD, WEELEY,  
CO16 9AJ**

<b>Present:</b>	Councillors White (Chairman), Alexander, Baker, Casey, Codling, Fowler, Harris and Placey
<b>Also Present:</b>	Councillors Coley and Cawthron
<b>In Attendance:</b>	Graham Nourse (Assistant Director (Planning)), Trevor Faulkner (Planning Manager), Joanne Fisher (Planning Solicitor), Jacob Jaarsmar (Planning Team Leader), Emma Haward (Leadership Support Assistant) and Matt Cattermole (Communications Assistant)

**145. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies were received from Councillor Bray, the Vice-Chairman of the Committee. At his request, Councillor Fowler assisted the Chairman in conducting the meeting by acting as an “unofficial” Vice-Chairman.

**146. MINUTES OF THE LAST MEETING**

It was moved by Councillor Alexander and seconded by Councillor Baker and **RESOLVED** that the minutes of the last meeting of the Committee held on 1 September 2021 be approved as a correct record.

**147. DECLARATIONS OF INTEREST**

The Chairman also advised the Committee and members of the public that Councillors Harris and Placey would not participate in the Committee’s decision for application **20/01798/FUL** due to not formerly participating in previous discussions and deliberations.

There were no declarations of interest on this occasion.

**148. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38**

There were none on this occasion.

**149. A.1 20/00547/OUT - HAMILTON LODGE PARSONS HILL GREAT BROMLEY COLCHESTER ESSEX**

The Committee recalled that, at its meeting held on 3 August 2021, it had decided to approve this application subject to the proposed planning conditions and the Heads of Terms of the related Legal Agreement being submitted to the Committee for approval.

The recommended Conditions and Heads of Terms, were before Members and reflected the comments received from all consultees and the hybrid nature of the planning

application. The Heads of Terms and Conditions had been also reviewed by the applicant and they had confirmed their agreement.

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

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

The Chairman declared that there would be no public speaking for this Planning Application as it had previously been considered by the Committee.

<b>Matters raised by Members of the Committee:-</b>	<b>Planning Officers’ response thereto:-</b>
A member of the Committee previously asked Planning officers for confirmation that the plaques on the memorial will be moved.	The Planning Officer confirmed that the plaques will be relocated to the village green.
A member of the Committee requested that any reserved matters application be brought to the Committee.	Agreed.
A member of the Committee suggested a pedestrian crossing.	The proposal includes two bus stops, all aspects of safety have been substantially covered. The Planning Officer referred to ECC’s recommendations in section 2 of the report.

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

- 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) 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 Aboricultural 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.

28) One minor addition to the heritage method statement to include the words in caps below:

- Heritage - Written scheme and method statement to **INCLUDE ALL THE MEMORIAL PLAQUES ON SITE** and 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.

**150. A.2 20-01798-FUL - LAND REAR OF UNA ROAD PARKESTON ESSEX CO12 4PS**

Members recalled that this application had been originally brought before the Planning Committee on 1 September 2021 when it had been decided to defer consideration. Updates to the Officers' report were shown in bold text throughout the report.

The Committee was reminded that this application had been referred to it at the request of Councillor Davidson due to his concerns relating to: the design and street scene impact, impact on the neighbours, highway safety, and 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.

It was reported that in 2013 planning permission (11/01172/OUT) had been refused for the construction of 30 houses and associated parking, access and landscaping works. The reasons for that refusal were due to the site's proximity to Carless Refinery and the increase in vehicular traffic along both Edward Street and Una Road. That decision had been appealed. The appeal had then been allowed and planning permission granted by the Planning Inspector. However, that approval had never been implemented.

Members were made aware that in 2015 the application site had obtained a further outline planning approval for 30 dwellings, via application 15/01792/OUT. The associated Reserve Matters approval had been obtained via application 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 planning application 16/02128/OUT and approved Reserve Matters via application 20/00460/DETAIL.

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

For the reasons outlined in their 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 policies in section 2 of the emerging Local Plan, and was on a site that had recent planning history approval for a similar number of dwellings.

Members were also reminded that a legal agreement was required for this application in order to secure a financial contribution towards Essex Coast Recreational Disturbance and Avoidance and Mitigation Strategy (RAMS).

In conclusion, Officers felt that the proposed development would not result in any harmful impact upon visual amenity or neighbouring amenities and provided 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.

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

The Chairman declared that there would be no public speaking on this Planning Application as it had previously been considered by the Committee.

The Chairman also reminded the Committee and members of the public that Councillors Harris and Placey would not participate in the Committee's deliberations of this application as they had not formerly participated in the previous discussions and deliberations on this application.

<b>Matters raised by Members of the Committee:-</b>	<b>Planning Officers' response thereto:-</b>
A member of the Committee asked if the financial contribution was towards affordable housing or if it included RAMS.	The financial contribution was towards affordable housing.
Concerns were raised regarding the width of the road.	It was highlighted in the report that the width of the road was greater than the recommended width.

Following discussion by the Committee, it was moved by Councillor Fowler, seconded by Councillor Alexander and unanimously **RESOLVED** that the Assistant Director (Planning) (or equivalent authorised officer) 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) the following Planning 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:

- i. the parking of vehicles of site operatives and visitors;
- ii. the loading and unloading of plant and materials;
- iii. storage of plant and materials used in constructing the development;
- iv. details of noise, dust, emission and lighting control measures;
- v. wheel and under-body washing facilities;
- vi. hours of construction
- vii. 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

- viii. 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.
- ix. 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.

- x. 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

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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 superfast (i.e. will provide speeds greater than 24mbps) wireless service will be considered acceptable.

Reason - To ensure the development is able to be equipped with high speed broadband

**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.**

**151. A.3 21/01145/FUL - LAND TO THE SOUTH OF HIGH STREET DOVERCOURT ESSEX CO12 3AT**

It was reported that the application site comprised of approximately 0.22 hectares of vacant, derelict land. The site was 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 was also situated within the Dovercourt Conservation Area. The application had been placed before the Planning Committee as the applicant was Tendring District Council.

Members were informed that the application related 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 envisaged 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 via the northern side of the site from Orwell Road.

Members were further informed that the proposed development was considered to respond directly to the objectives of both national and local planning policy for delivering sustainable development, utilising land effectively, and supporting development that would contribute to regeneration and the vitality of town centres.

The proposals sought to utilise the vacant, previously developed site to deliver improvements in the quality of the environment and people’s quality of life, and contributed to each of the three dimensions of sustainable development namely the economic, social and environmental strands.

The Committee was reminded that site had been 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).

Members were informed that the application and supporting documents/surveys demonstrated that there would be no overriding harm which could not be mitigated in respect of heritage impacts, landscaping, land contamination or highways considerations.

Subject to the recommended conditions within section 8.2 of this report, the proposal was considered by Officers to be acceptable with no material harm to visual or residential amenity, heritage interests or highway safety, and the application was therefore recommended by them for approval.

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

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

An update sheet had been circulated to the Committee prior to the meeting with details of an additional representation received from the Harwich Society, as follows:-

*“The Harwich Society supports the proposed development of this cleared site as a public car park with toilet facilities and open space. It will be a welcome investment in the Dovercourt Town Centre.”*

Tom Gardiner, Head of Economic Growth, spoke on behalf of Tendring District Council, in support of the application.

<b>Matters raised by Members of the Committee:-</b>	<b>Planning Officers’ response thereto:-</b>
A member of the Committee referred to the site plan, was the one-way system going to have an effect on the entry and exit of the plan?	In terms of the Highway infrastructure, manoeuvring is suitable. Enforcement would be the responsibility of ECC Highways.
Would electricity be accessible from within the proposed car park for event purposes?	This infrastructure would be available to facilitate electricity use along with fire hydrants.

What are the current circumstances in relation to Milton Road car park?	An update was issued in terms of the removal of Milton Road car park for development currently accommodating 60 parking spaces.
A member of the Committee referred to the buildings, would they remain in situ?	The Planning Officer confirmed that planting would screen some of the unsightly buildings, the adjacent owners were contacted to participate in this.
Would there be disabled toilet facilities within the toilet block?	The Planning Officer confirmed that the toilet block would be accessible.
Did Highways visit the site entrance in particular? Would TDC monitor and control access to the car park?	Planning Officers confirmed that Highways visited the site. The Planning Officer referred members of the Committee to condition 14 regarding the car park operation and the nature of the barrier.
Could there be infrastructure for a fully electric car park?	The Planning Officer confirmed that the infrastructure would be in place for future proposals if they arose. The Planning Officer confirmed that external consultants had reviewed the requirements and 4 charging points were required for the outset of the plan, this could potentially be increased to 8. Further charging points would be cost-dependent.
Would there be a point in which certain permissions would be sought for long-standing events?	The period of 28 consecutive days for events has been extended during the pandemic to 56 days.
Would the maintenance of the trees and hedges be the responsibility of the Council?	The Planning Officer confirmed that Tendring District Council would maintain the condition of the trees and hedges.
Members of the Committee referred to the current fence situated at the entrance.	The Planning Officer suggested advising ECC of these concerns.

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

**152. A.4 21/00040/FUL - TOPSL HOUSE HIGH STREET MISTLEY MANNINGTREE ESSEX**

Members were informed that this application had been referred to Planning Committee at the request of Councillor Coley due to his concerns with the building being both listed and situated in a Conservation Area, the introduction of a stairway access to the first floor, change of use of the first floor to residential, and that the building is located on the edge of a busy working dock and parking issues.

This application sought 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.

It was reported that the application site was 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 was located within the Conservation Area and adjacent to a Grade II Listed Building.

Members were advised that ECC Heritage had been consulted and had no objections subject to conditions relating to the details of the handrail and further details of the windows and doors.

The proposals were not considered by Officers to cause any impact upon the neighbouring amenities.

The Committee was made aware that Mistley Parish Council had recommended this application for refusal and that one letter of objection had been received.

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

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

An update sheet had been circulated to the Committee prior to the meeting whereby the Recommendation in section 8 of the report should read as follows:

*“That the Head of Planning be authorised to grant planning permission for the development subject to the conditions stated in section 8.1.”*

Guy Williamson, the agent on behalf of the applicant, spoke in support of the application.

Derek Bell, a local resident, spoke against the application.

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

<b>Matters raised by Members of the Committee:-</b>	<b>Planning Officers’ response thereto:-</b>
A member of the Committee asked if the Committee could challenge the permitted development rights.	The Planning Officer confirmed that the Committee cannot challenge these rights.
A member of the committee raised flooding issues, expressing a duty to prevent flood risk. If they were approving changes, should there have been a flood risk assessment? If there is no such assessment, could the Committee request so?	The Planning Officer asked the Committee to consider the operational use and if it were to be considered, there are different levels of risk to be considered.
Another member of the Committee raised concerns regarding fire risks. The use of the building increases the risk. Had a fire risk assessment been undertaken?	The Planning Officer confirmed that there had not been a consultation with the Essex Fire Service. Internal works are being undertaken as part of building

	regulations and a fire risk would form part of these regulations.
The 'emergency egress' doorway was raised as an issue. Could a condition be put before the Committee to clarify the entrance and exit points for safety and disabled purposes?	The Planning Officer confirmed that it was suspected that the emergency exit was accessed from the High Street. A condition can be put before the Committee.
6.5/6.10 – A member of the Committee referred to the Heritage Assessment whereby no objections were received.	The Planning Officer confirmed no objections had been received.
The Chairman of the Committee asked if the use may change, and would the applicant specify the particular use of the premises?	The Planning Officer confirmed that the application stated café-use on ground floor at Class E with potential for an alternative use.

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

- 4. Subject to addition of a further planning condition to require that new door to front/high street elevation is used for emergency purposes only and that rear/riverside door forms principal access to ground floor unit.**

**153. A.5 21/00046/FUL - TOPSL HOUSE HIGH STREET MISTLEY MANNINGTREE ESSEX**

Members were informed that this application had also been referred to Planning Committee at the request of Councillor Coley due to his concerns with the building being listed and situated in a Conservation Area, the introduction of a stairway access to the first floor, change of use of the first floor to residential, and that the building is located on the edge of a busy working dock and parking issues.

This application sought planning permission for the external staircase, balcony, window to a door to the quay elevation and a window to a door to the northwest elevation.

Members were aware that the application site was 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 was located within the Conservation Area and adjacent to a Grade II Listed Building.

It was reported that ECC Heritage had been consulted and had an objection to the proposed balcony but had no objections to the other elements subject to conditions relating to the staircase details and further details of the windows and doors.

The proposals were not considered by Officers to cause any impact upon the neighbouring amenities.

The Committee was informed that Mistley Parish Council had recommended this application for refusal and that 7 letters of objection had been received (with two from the same address).

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

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

An update sheet had been circulated to the Committee prior to the meeting whereby the Recommendation in section 8 of the report should read as follows:-

*"That the Head of Planning be authorised to grant planning permission for the development subject to the conditions stated in section 8.1."*

The update sheet also reported that three additional letters of representation had been received (with two from the same address) together with the officers' response thereto.

Guy Williamson, the agent on behalf of the applicant, spoke in support of the application.

Derek Bell, a local resident, spoke against the application.

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

<b>Matters raised by Members of the Committee:-</b>	<b>Planning Officers' response thereto:-</b>
A member of the Committee referred Members to 4.2-4.3 regarding the balcony. If the balcony was omitted, there were elements in principle that were acceptable.	Separate Planning Applications had been and could be submitted to the Committee according to Planning Policies.
A Councillor raised various concerns regarding the foliage, the staircase and the bin storage areas.	The Planning Officer confirmed that in terms of the outside alterations, the impact as a result of the staircase can be recognised as an acceptable material consideration.
A member of the committee referred to 6.15 regarding the character of the building not contending with the bay window.	No response.
It was raised by a member of the Committee concerns regarding the detrimental effect of the staircase. Could the staircase be moved to an alternate position?	The Planning Officer confirmed that in terms of where the staircase has been sited, this depends on the applicant's request. The application should be taken as it stands.
4.3 - Can a Planning Officer clarify the effects of the balcony?	The Planning Officer clarified point 4.3 regarding the acceptable balcony features from the Heritage Society's perspective.

The Chairman requested approval from members of the Committee to continue the meeting past the allowed period of 3 hours as required by Council Procedure Rule 35.1. It was moved by Councillor Alexander, seconded by Councillor Harris and **RESOLVED** that the Committee continued its deliberations.

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

"To allow for further negotiations by Officers with the applicants on the application in relation to the following:-

- *omission/amendment of balcony detail to rear/river side elevation to address ECC Heritage objections; and*
- *consideration of appropriate screening to external staircase to address overlooking/private amenity issues with neighbouring property."*

The meeting was declared closed at 10.00 pm

**Chairman**

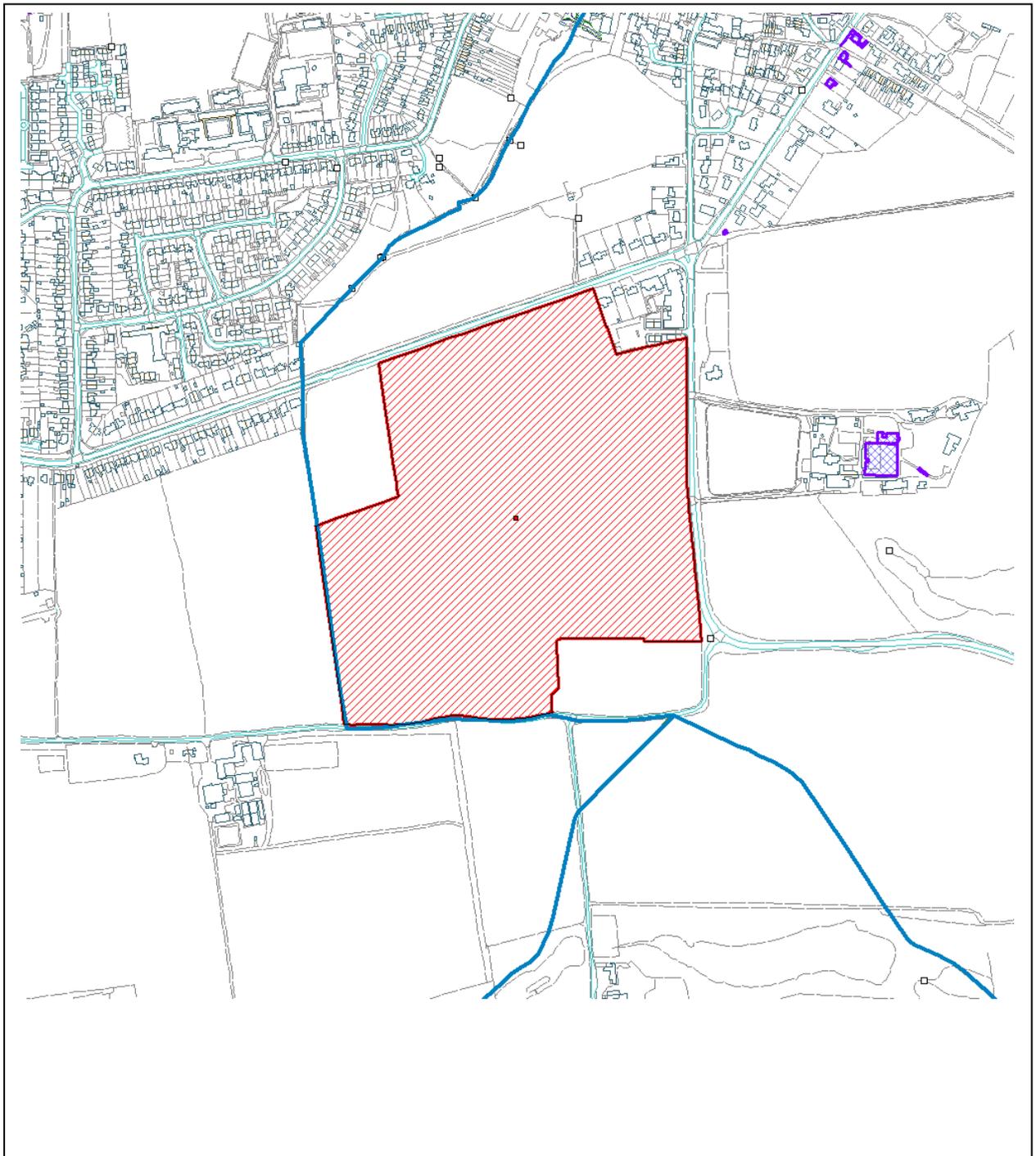
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## PLANNING COMMITTEE

26<sup>th</sup> October 2021

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### **A.1 PLANNING APPLICATION – 21/00197/DETAIL – LAND TO THE SOUTH OF LONG ROAD AND TO WEST OF CLACTON ROAD MISTLEY CO11 2HN**



DO NOT SCALE

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**Application:** 21/00197/DETAIL

**Town / Parish:** Mistley Parish Council

**Applicant:** Tendring Farms Ltd

**Address:** Land to The South of Long Road and to West of Clacton Road Mistley  
CO11 2HN

**Development:** Reserved matters application with details of appearance, landscaping, layout and scale pursuant to the residential element of outline permission (17/01181/OUT - Approved under appeal APP/P1560/W/19/3220201) including up to 485 dwellings, up to 2 hectares of employment land (A2/A3/B1/B2; B8; D1 uses), with associated public open space and infrastructure

## 1. Executive Summary

- 1.1 The host site obtained outline approval on appeal for the erection of up to 485 dwellings, up to 2 hectares of employment land (A2/A3/B1/B2; B8; D1 uses), with associated public open space and infrastructure on the 23 December 2019. The outline approval was for all matters reserved, other than strategic access points onto the public highway.
- 1.2 The current application is seeking consent with regard to the reserved matters of landscaping, layout, appearance and scale. Importantly, the application relates only to the residential aspect of the development approximately 85% of the site, not the Employment Land in the south east corner (the remaining 15%) that is expected under a separate Reserved Matters application in the future.
- 1.3 The application was requested to be referred to Committee for a decision by Cllr. Coley for the following reasons:
  - The identification of which dwellings are considered as Affordable Housing & the status of those dwellings;
  - The developer's commitment to Renewable Energy Facilities;
  - There is no information at all regarding the Employment Land, although the application title includes this area for consideration. It is blank on the maps;
  - We also have concerns regarding the number of flats proposed (46) and no provision for private amenity space; and
  - The Design and Access Statement was limited in its content

All of these concerns are addressed in the report and updated reports and plans submitted.

- 1.4 The site lies outside the defined settlement boundary of the saved Local Plan but within the settlement boundary of the emerging Local Plan. The principle of residential development has been accepted by the granting of outline planning permission, which also established the position of the accesses.
- 1.5 It is considered that in respect of Access, Appearance, Layout, Scale and Landscaping, the application has demonstrated that the development would be of high quality, would respond to its surroundings and would be sustainable. The detailed plans comply with the outline requirements, and the usual design

parameters (garden sizes, distance between dwellings and level of parking). The reserved matters are considered acceptable with no material harm to visual or residential amenity, or highway safety.

- 1.6 As such, the Reserved Matters can be agreed subject to: the completion of a Deed of Variation of the original Section 106 Legal Agreement to secure the extension of the perimeter walking trail all the way round the outside of the site and signposts to the public footpaths beyond. Also, a series of Planning conditions outlined in section 8.2 of this report. The reason the Deed of Variation is offered is that this would cover the whole site rather than just the red line area of the host application, ensuring the landscape buffer is continued around the whole site.
- 1.7 If the Committee endorses this recommendation, conditions would be imposed relating directly to the reserved matters under consideration, while conditions attached to the outline approval would still apply. The legal agreement for the original application which secures affordable housing, education, health and off-site highway contributions, public open space and RAMS would also still apply to the outline approval and the site as a whole.

**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):**
  - perimeter walking trail all the way round the boundaries of the entire original site
  - signposts to the public footpaths beyond
- 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*  
*NPPG*     *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
QL12	Planning Obligations
HG1	Housing Provision
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
COM8A	Proposed New Recreational Open Space
COM21	Light Pollution
COM22	Noise Pollution
COM23	General Pollution
COM26	Contributions to Education Provision
COM29	Utilities
COM31A	Sewerage and Sewage Disposal
EN1	Landscape Character
EN2	Local Green Gaps
EN4	Protection of the Best and Most Versatile Agricultural Land
EN6	Biodiversity
EN6A	Protected Species
EN6B	Habitat Creation
EN12	Design and Access Statements
EN13	Sustainable Drainage Systems
EN17	Conservation Areas
EN23	Development within the Proximity of a Listed Building
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

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
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
PPL8	Conservation Areas
PPL9	Listed Buildings
PPL10	Renewable Energy Generation
CP1	Sustainable Transport and Accessibility
CP2	Improving the Transport Network

### *Local Planning Guidance*

#### *Essex Design Guide*

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

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

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).

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 26<sup>th</sup> 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.

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 29<sup>th</sup> June 2021. The Council is holding a six week public consultation on the Main Modifications and associated documents, which began on 16<sup>th</sup> July 2021. The consultation will run for just over 6 weeks, closing at 5pm on 31<sup>st</sup> 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.

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.

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

14/30366/PREAPP	Outline proposal for approximately 300 dwellings, public open space, commercial floor space (B1), highways works and local amenities.		10.12.2014
15/00761/OUT	Outline application with all matters reserved, other than strategic access points onto the public highway, for the erection of up to 300 dwellings, up to 2 hectares of employment land (A2/A3/B1/D1 uses), with associated public open space and infrastructure.	Approved	18.07.2016
16/00818/OUT	Resubmission of outline application with all matters reserved, other than strategic access points onto the public highway, for the erection of up to 300 dwellings, up to 2 hectares of employment land (A2/A3/B1/D1 uses), with associated public open space and infrastructure.	Approved	
17/00534/OUT	Variation of condition 4 of 15/00761/OUT to change parameter plans.	Refused	10.08.2017
17/00535/DETAIL	Application for Phase 1 Reserved Matters for Access, Appearance, Landscaping and Scale for 96 Residential following	Approved	16.08.2018

	Outline Planning Permission 15/00761/OUT (as subsequently amended by 17/01537/OUT).		
17/01181/OUT	Outline application with all matters reserved, other than strategic access points onto the public highway, for the erection of up to 485 dwellings, up to 2 hectares of employment land (A2/A3/B1/B2; B8; D1 uses), with associated public open space and infrastructure. *	Refused	29.11.2018
	*This application was approved at appeal Reference		
	<b>APP/P1506/W/19/3220201</b>	Approved	23/12/2021
17/01537/OUT	Variation of condition 4 of application 15/00761/OUT to change the description of the condition to 'The reserved matters shall be in general conformity with the following indicative drawings: Building Heights Plan - Drawing No: 001, Illustrative Masterplan - Drawing No: PL17006/04 and Landscape Plan - Drawing No: 003'.	Approved	14.06.2018
18/01190/OUT	Variation of Conditions 1, 11, 12, 13, 14, 15, and 16 of 17/01537/OUT to allow work to commence prior to the submission of remaining reserved matters (reserved matters for 96 units already submitted).	Approved	19.09.2019
19/00336/OUT	Variation of condition 4 of application 17/01537/OUT to change the description of the condition to 'The reserved matters shall be in general conformity with the following indicative drawings: Building Heights Plan - Drawing No: 001A, Illustrative Masterplan - Drawing No: PL17006/04A and Landscape Plan - Drawing No: 003A'.	Refused	21.11.2019

19/00539/DETAIL	Reserved matters application pursuant to outline planning permission 17/01537/OUT for the creation of phase 2 - 204 dwellings and four commercial buildings, plus associated roads, driveways, parking, footpaths, landscaping and ancillary works.	Approved	07.01.2020
20/30058/PREAPP	Submission of the reserved matters, other than strategic access points onto the public highway, for the erection of up to 485 dwellings, up to 2 hectares of employment land (A2/A3/B1/B2; B8; D1 uses), with associated public open space and infrastructure.	Withdrawn	26.10.2020
20/01421/DISCON	Discharge of condition 8 (archaeology) of application 17/01181/OUT (approved on appeal APP/P1506/W/19/3220201).	Approved	07.12.2020
20/01484/OUT	Construction of medical centre and car parking.	Refused	01.02.2021
21/00213/OUT	Variation of condition 3 (Approved Plans) and 12 (highway proposal drawings) of approved planning application 17/01181/OUT (Approved under appeal APP/P1560/W/19/3220201).	Current	
21/00451/DISCON	Discharge of conditions 9a (Surface Water Drainage), 9b (Drainage Maintenance Arrangements), 10 (Foul Water Strategy) and 11 (Off-Site Flooding Scheme) of application 17/01181/OUT (approved on appeal APP/P1506/W/19/3220201).	Current	
21/00494/DISCON	Discharge of conditions 6 (Phasing Plan), 7 (Construction Management Plan) and 16 (Broadband Strategy) of approved application 17/01181/OUT (Granted under Appeal ref: APP/P1506/W/19/3220201)	Part Discharged.	Condition 6 discharged 01/10/2021

21/30179/PREAPP	Proposed erection of a 4,000 sqft local convenience store. It will be accessed directly from the approved Lawford Green spine road. It will be two storeys high, comprising the store at ground floor and potentially a small number of flats above. The new building will be immediately south of the Green Gap.	07.07.2021
21/01170/DISCON	Discharge of condition 8A (Archaeology) of approved application 17/01181/OUT.	Approved 25.08.2021

#### 4. Consultations

Anglian Water Services Ltd  
20.04.2021

There is no drainage strategy documents submitted therefore we are unable to make comments to this application.

TDC  
Environmental  
Protection  
16.04.2021

In order to minimise potential nuisance to nearby existing residents caused by construction works, Pollution and Environmental Control ask that the following are conditioned;

Prior to the commencement of any site clearance, demolition 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. The method statement (Demolition/Construction Management Plan) should include the following;

##### Noise Control

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

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

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

- 4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- 5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Local 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) A scheme of measures for the control and suppression of dust emissions shall be submitted to and approved in writing by the Local Planning Authority. Such agreed works shall be implemented in the approved form prior to the commencement of any development of the site and shall be maintained in the approved form until the development is completed and ready to be signed off as complete for the permitted purpose
- 2) 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.
- 3) 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.
- 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.

#### Site Lighting Control

- 1) Page 42  
Lighting of the site under 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.

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).

#### Contaminated Land

Prior to the commencement of the permitted development, the applicant is advised to undertake a suitable and sufficient site investigation and any necessary risk assessment to ensure the land is free from significant levels of contamination.

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.

Reason: to protect workers and end users of the site

#### Control of 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 Engineers, 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 commencement of beneficial use and thereafter be

retained and maintained to the agreed specification and working order.

Reason: To protect the amenity of and to minimise potential nuisance to nearby existing residents.

ECC Urban Design  
18.06.2021

Overall, it is considered that the scheme has moved forwards since the previous consultation response, and it is clear how comments have been taken on board in regard to the overall layout and connectivity of the scheme. There are more detailed elements that still require some further review in order to create a development that is suitable from an urban design perspective. These points will be outlined in further detail below.

### Layout & Masterplanning

Firstly, it is clear through the amended plans as to how previous comments have been taken on board in regard to the layout and connectivity aspects of this development. There is a much clearer hierarchy of roads, with alternative widths and material treatments to signify key routes, secondary routes and mews courts, as well as the reduction of the entrance road into a single avenue which creates a more suitable 'parkland edge' character.

It is understood that there are now pedestrian routes linking people through the woodland edges of the site leading towards the attenuation and open areas at the Northern boundary, as well as two new access points to the south-eastern commercial zone for greater inclusivity within the development. Furthermore, it is understood that links have been proposed towards the Rose Builders development located to the West of this site, and it will be important to ensure these connections can be delivered to encourage no physical boundaries exist along this edge.

It is clear that previous comments raised surrounding the alternative road and density treatments to the development edge have been applied to this masterplan, with a series of private drives now serving a smaller number dwellings, as opposed to the singular loop road layout that was restricting the scheme in previous design iterations. It was stated during the meeting over the possibility of maximising the number of units to the North-eastern private drive (Plots 88, 89 and 90) corridors, and it is recommended to explore this opportunity in order to minimise the impact of

the number of dwellings located to ensure reliance of access for the east was to a minimal.

There are still concerns regarding the density of parking located to the rears of the terraced units developed along the main street leading towards the Village Green. As stated within previous comments, whilst the notion of concealing parking to the rear of the properties is accepted, it is still considered that greater thought should be given towards creating a more user-friendly space to act as the primary entrance to dwellings, given the acceptance that travel will be largely car reliant and residents will be using this space frequently. It will be important to consider the walking experience for residents between where they park their cars in this courtyard space, and the journey they will go on to their front doors. It is recommended to a more detailed plan focusing in on one of the areas to demonstrate the requirements that will be offered. We would expect to see a path leading from the rear garden access point to the rear of the dwelling, a more permanent gated access opposed to a simple rear gate detail, information on how EV will be connected to the parking courts, suitable lighting and how surveillance will be approached. The approach to hard landscaping will also be important to demonstrate a more of a home zone character. Use of paving or block work, brick wall boundaries and enhanced landscaping is encouraged.

### Boundary Treatments

Points have been raised in regard to the proposed boundary treatments for this scheme, where there are concerns over the use of close board fencing, due to the perceived lack of longevity and lower quality. It is recommended to review the following identified plots in terms of their boundary treatments, where it is considered that an alteration of the material choice to brick walls, as opposed to fencing, would increase the quality and long-term feel of the development fronting public areas:

- West of Plot 88
- South and West Plot 143
- South Plot 161
- West Plot 147
- South Plots 100 and 101
- West Plot 105
- West Plot 149
- North Plot 155
- North Plot 160

- South Plot 168
- North Plot 169
- East Plot 346
- East Plot 355
- East Plot 358
- West Plot 333
- West Plot 326 + 325
- East Plot 379
- East Plots 357 and 320
- West Plot 319
- East Plot 94
- West Plot 155

Additionally, these concerns are also relevant for the boundary treatments towards the rear parking courts, where parking bays are meeting boundaries with no soft landscaping to separate the two.

It is recommended to review this matter in addition to the above, any areas where fence lines meet with the parking bays, the boundary should be amended to either a brick wall detail or where space allows, at least a 1m depth planting bed. This will ensure that any conflicts between boundaries and vehicles will not damage or compromise the quality of space. Areas for consideration include:

- West of plots 54/55/56
- East of plots 45/44/43/42/41/40/39/38 etc
- Parking bays to the south of Block D and Block B

Lastly, it will also be important to consider the boundary treatment given to any front gardens that exist within this development, to ensure that the materials and design integrate into the overall architectural approach of the dwellings.

### Landscape & Open Spaces

It is considered that the landscape and open space strategy has developed positively since previous consultations of this design, with greater linkages that captures the qualities of the green spaces that exist in the local area. Initial concerns surrounding the marginalised feel to the woodland edges appear to have been mitigated, with a better response to the built form and increase activity through the pedestrian/cycle links and trim trail play zones located along the Western boundary. Secondly, it is appreciated that the green space located at the end of the main Village Green now has a better relationship with the apartment block directly

to the North, providing more value to local residents by restricting vehicular movement along that particular frontage.

In order to enhance the landscape and open spaces even further, it is recommended to consider further social and play elements that can be integrated into the masterplan, in particular around the Northern attenuation area to encourage residents to use this space as part of their everyday lives. Additionally, as the central Village Green was identified as the key focal point for this development, it is recommended to explore opportunities for the inclusion of street furniture and other nodal spaces where people will be able to socialise. This point is made towards all public squares and open spaces that are located within this scheme.

#### Built Form/Typologies

As stated within the previous consultation response, it is considered that the proposed built forms and house typologies on site are seen as positive additions to this scheme, with a good range of alternative forms and scales to provide continuous architectural interest across the site. Upon review of the submitted drawings and materials detailed within the Design and Access Statement, it is clear how the proposed forms and materials palettes have been derived from the local area, such as the use of red brick and timber weatherboarding on key buildings.

The proposed scale strategy of the buildings are largely supported, and the notion of larger 2.5 storey buildings surrounding the main public squares is welcomed in order to signify these key areas on site. The presentation of the street scene section and visual along Dead Lane (Southern boundary) was very useful in terms of illustrating the relation between the built form and agricultural fields located directly to the South. It is understood that there is a variation in heights, material choices, and orientation of dwellings along this boundary which all help to break up what would be a dominated built-up environment on the natural setting. The proposed mix of 1.5 to 2 storey buildings along this lane would be supported, and it is considered that the inclusion of increased tree planting to further screen these dwellings would be beneficial.

It has been noted that Flat Block A shows access fronting on to the open space to the south, with parking focused to the north. The elevations do not show access between the building and carpark where we question the journey residents will take. Could this be reviewed further. We would promote that access to both the front and rear of the properties is undertaken, where should there be individual access to ground floor apartments, again this is encouraged to promote activity onto the open space to the south.

Lastly, as the success of this scheme lies greatly within the quality of the built form, we would suggest that all building materials are conditioned, with material specifications and samples provided to the LPA for approval before construction takes place on site.

By implementing the points raised within these comments, it is considered that the quality of this scheme will be enhanced greatly.

TDC UU Open Spaces  
16.09.2021

#### Current Position

There is currently a deficit of 3.00 hectares of equipped play/formal open space in Mistley.

#### Recommendation

Public Realm are happy with the design and layout of the open space and play areas. The only concerns relate to trim trail around the perimeter, this currently stops at the proposed commercial unit. We would like some formal reassurance that this will eventually form a complete loop.

Arch. Liaison Off, Essex  
Police  
27/07/2021

Following the submission of amended plans for this development, Essex Police have had a positive planning application consultation with the applicant, that the original matters of concern have been resolved with the amended designs and layout.

It is apparent that the amended designs and layout are compliant with Secured By Design (SBD) accreditation should the applicant wish to pursue that route or should the planners stipulate SBD as a planning condition to ensure the aspiration of a location that is safe and accessible as outlined in the **Page 48** and the Tendring Local Plan policy LP4, which requires developments are safe, secure

places to live. Essex Police would like to view the lighting plan once it has been created and request that this as a planning condition.

Essex Police is able to support the applicant to achieve appropriate consideration of the Secure By Design requirements and invites them to contact Essex Police via [designingoutcrime@essex.police.uk](mailto:designingoutcrime@essex.police.uk).

ECC Ecology  
17.09.2021

No objection subject to securing biodiversity mitigation and enhancement measures

### Summary

ECC Ecology have reviewed the On Site Recreational Disturbance Avoidance And Mitigation Strategy (City and Country, August 2021) and the Preliminary Ecological Appraisal (DF Clark, July 2021) 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 On Site Recreational Disturbance Avoidance And Mitigation Strategy (City and Country, August 2021) and the Preliminary Ecological Appraisal (DF Clark, July 2021) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority Species.

ECC Ecology note Natural England's consultation response ref 366902, dated 9 September 2021. ECC Ecology support the details included within the On Site Recreational Disturbance Avoidance And Mitigation Strategy (City and Country, August 2021) as the development is within the Zone of Influence for the Essex Coast RAMS, approximately 800m south of the Stour and Orwell Estuaries 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 to the Essex Coast RAMS will need to be secured from the applicant under a legal agreement.

ECC Ecology note that the Preliminary Ecological Appraisal (DF Clark, July 2021) identifies that the onsite hedgerows and field margins represent suitable foraging habitat for a range of bird species and that Skylark and Corn Bunting (both Priority species) were identified onsite. ECC Ecology are satisfied that Corn Bunting can be accommodated within the development by securing appropriate management of boundary hedgerows and associated margins and understand that offsite provision will be delivered for Skylarks. We therefore recommend that a Skylark Mitigation Strategy is secured as a condition of any consent and details included in the s106 agreement with the developer.

Additionally, the Preliminary Ecological Appraisal (DF Clark, July 2021) identifies that a licence will be required for the closure of a badger sett within the Zone of Influence of the development. We recommend that a copy of this licence should be provided to the LPA and secured as a condition of any consent. ECC Ecology support the PEA recommend that Appendix 6 Lighting for bats of the PEA informs the lighting strategy for the development and suggest that this is also secured by a condition of any consent.

ECC Ecology also support the proposed reasonable biodiversity enhancements of integrated bird and bat boxes which have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework 2021. We note that no Biodiversity Enhancement Strategy was secured at Outline stage of this development so therefore recommend that these biodiversity enhancement measures are detailed within a Biodiversity Enhancement Layout to be secured as a condition of any consent.

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

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

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

Recommended conditions:

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

"All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the On Site Recreational Disturbance Avoidance And Mitigation Strategy (City and Country, August 2021) and the Preliminary Ecological Appraisal (DF Clark, July 2021) 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. ACTION REQUIRED: SUBMISSION OF A COPY OF THE MITIGATION LICENCE FOR BADGERS

The following sett closure 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 Badger Protection Act 1992 authorizing the specified activity/development to go ahead; or  
b) a statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence."

Reason: To conserve protected species and allow the LPA to discharge its duties under and Badger

Protection Act 1992 and s17 Crime & Disorder Act 1998.

### 3. PRIOR TO OCCUPATION OF ANY DWELLING: SKYLARK MITIGATION STRATEGY

A Skylark Mitigation Strategy shall be submitted to and approved by the local planning authority to compensate the loss or displacement of any Farmland Bird territories identified as lost or displaced. This shall include provision of off-site compensation measures to be secured by legal agreement or a condition of any consent, in nearby agricultural land, prior to commencement.

The content of the Skylark Mitigation Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed compensation measures;  
Detailed methodology for the compensation measures e.g. Skylark plots must follow Agri-Environment Scheme option: 'AB4 Skylark Plots';
- b) Locations of the compensation measures by appropriate maps and/or plans;
- c) Mechanism for implementing & monitoring of delivering the compensation measures.

The Skylark Mitigation Strategy shall be implemented in the first nesting season following occupation of any dwelling accordance with the approved details and all features shall be retained for a minimum period of 10 years.

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

### 4. PRIOR TO OCCUPATION OF ANY DWELLING : BIODIVERSITY ENHANCEMENT LAYOUT

A Biodiversity Enhancement Layout providing the finalised details and locations of the integrated bat and bird boxes, shall be submitted to and approved in writing by the local planning authority.

The enhancement measures shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter."

Reason: To enhance Protected and Priority Sites and allow the LPA to discharge its

duties under the s40 of the NERC Act 2006 (Priority habitats & species).

#### 5. PRIOR TO OCCUPATION OF ANY DWELLING: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

A lighting design scheme based on Appendix 6 of the the Preliminary Ecological Appraisal (DF Clark, July 2021), 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 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)

#### 6. PRIOR TO OCCUPATION OF ANY DWELLING: LANDSCAPE AND ECOLOGICAL MANAGEMENT PLAN

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

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.

- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

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

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

ECC SuDS Consultee  
01.09.2021

Having reviewed the Surface Water Drainage Strategy and associated documents which accompanied the planning application, ECC SuDS do not object to the granting of planning permission 21/00197/DETAIL. It is in line with the approved outline drainage strategy and as such should be subject to the same conditions applied to the outline application (17/01181/OUT).

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

#### INFORMATIVES:

Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to [suds@essex.gov.uk](mailto:suds@essex.gov.uk).

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

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

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

TDC Waste Management  
02.08.2021

Bin storage areas associated with flats to be of sufficient size to accommodate wheeled bins for both refuse and dry recycling in relation to the number of units.

Natural England  
09.09.2021

SUMMARY OF NATURAL ENGLAND'S ADVICE -  
European designated sites<sup>1</sup>

It has been identified that this development site falls within the 'Zone of Influence' (Zoi) of one or more of the European designated sites scoped into the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).

As you will be aware, 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 recreational impacts that may occur on the interest features of the coastal European designated sites in Essex as a result of new residential development within reach of them; the European designated sites scoped into the RAMS are notified for features which are considered sensitive to increased levels of recreation (e.g. walking, dog walking, water sports etc.) which can negatively impact on their condition (e.g. through disturbance birds, trampling of vegetation, erosion of habitats from boat wash etc.). For further information on these sites, please see the Conservation Objectives and Information Sheets on Ramsar Wetlands which explain how each site should be restored and/or maintained

In the **Page 55** of your duty as competent authority under the provisions of the Habitats Regulations<sup>2</sup>,

it is therefore anticipated that, without mitigation, new residential development in this location is 'likely to have a significant effect' on one or more European designated sites, through increased recreational pressure, either when considered 'alone' or 'in combination' with other plans and projects.

**NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED**

Natural England understand that you have screened this proposed development and consider that it falls within scope of the Essex Coast RAMS, and that you have undertaken a Habitats Regulations Assessment (HRA) (Stage 2: Appropriate Assessment) in order to secure any necessary recreational disturbance mitigation, and note that you have recorded this decision within your planning documentation.

Natural England consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of European designated sites within scope of the Essex Coast RAMS

Natural England are satisfied that the mitigation described in the Council's Appropriate Assessment is in line with our strategic-level advice (our ref: 244199, dated 16th August 2018 and summarised at Annex 1). The mitigation should rule out an 'adverse effect on the integrity' (AEOI) of the European designated sites that are included within the Essex Coast RAMS from increased recreational disturbance.

Natural England advise that an appropriate planning condition or obligation is attached to any planning permission to secure the on-site mitigation measures, including links to footpaths in the surrounding area. The financial contribution should be secured through an appropriate and legally binding agreement, in order to ensure no adverse effect on integrity.

ECC Highways Dept  
30.09.2021

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

1. Prior to the occupation of any unit, the associated internal road, footway layout and

parking shall be provided in principle and accord with revised drawing numbers:

- 20-3074-002 Rev. L Amended Site Layout Plan.

- 20-3074-008 Rev. L Amended parking strategy plan.

- 20-3074-006 Rev. M Amended refuse and cycle strategy.

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.

Note: It has been agreed with the developer that the proposed internal road layout, footway layout, surface water drainage or any form of street lighting will not be adopted by the Highway Authority.

2. Prior to the commencement of any phase of the 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 DM1 and DM6.

3. The development of any phase shall not be occupied until such time as a car parking and turning area has been provided in accord with amended parking plan 20-3074-008 Rev. L. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

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

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

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

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

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

6. 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.

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

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

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

#### Informative

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

2: Any tree planting proposed within the highway must be agreed with the Highway Authority. Trees must be sited clear of all underground services and visibility splays and must be sympathetic to the street lighting scheme.

3: 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 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.

4: General note: areas where there is no footway being provided adjacent to the carriageway and the intention is for these areas to be adopted a half a metre 'no build zone' will need to be provided and hard surfaced.

5: Any gates provided at the entrance to the parking courts shall be inward opening only and shall be set back a maximum of 0.5 metres from the back edge of the footway/cycleway or where no provision is present, the carriageway.

Note: The 0.5 metre or less set back should only be used within internal estate roads where dwell time on the carriageway is acceptable.

6: Cycling surface Width Guidelines: to ensure effective width is secured - table below provide guidance on widths. There are a number of variables to achieve an "EFFECTIVE" width.....- e.g., a 3m wide strip of tarmac with a 6ft fence on one side and a 50mph road on the other has an effective width of 2m...as you should be adding extra width for things that are alongside the path

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

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

SMO1 - Development Management Team  
Ardleigh Depot,  
Page 59  
Ardleigh Road,  
Ardleigh,

Colchester,  
CO7 7LT

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

TDC Housing Services  
14/07/2021

Confirm they are happy with the affordable housing mix as proposed.

In terms of the tenure split, they are happy to discuss this further following discussions with RP's. Housing would normally look at a 70/30 split in favour of affordable rent/shared ownership but could allow a little flexibility on this if required.

TDC Tree & Landscape  
Officer  
30.09.2021

In terms of the soft landscaping proposals the applicant has provided comprehensive detailed planting proposals for the land designated as public open space that includes a good mix of tree, shrub and hedgerow species along with ferns and herbaceous species to provide interest and colour.

In this respect the level of detail provided is sufficient for the reserved matter relating to soft landscaping to be discharged.

However, in terms of the level of detail provided in relation to much of the 'built' element of the development, whilst the Amended Landscape Strategy Plan shows indicative planting that is, in principle, acceptable, the level of detail is not sufficient to enable the reserved matter relating to soft landscaping, for this element of the development, to be discharged.

The applicant will need to provide detailed landscaping proposals for the whole site to enable the reserved matter relating to soft landscaping to be fully discharged.

This information should be provided either prior to the determination of the application or secured by way of a further planning condition attached to any planning permission that may be granted.

TDC Waste Management 05.10.2021 All access roads to be suitable for 26 tonne collection vehicles with width of 2.5 metre.

TDC Building Control 29.07.2021 No adverse comments at this time.

## 5. Representations

- 5.1 There have been 5 objections from members of the public and from Mistley Parish Council who have written in against the development.
- 5.2 Mistley Parish Council recommend that there is a reduced density and numbers of flats on the site given the EDME site in a few years time, and other sites coming through. Also, more attention to landscaping and screening to both Long Road and Clacton Road is required which will need to be more mature given this sensitive area near to Mistley Manor. The Committee would wish to see more renewable and electric charging points.
- 5.3 The members of the public have cited the following objections to the project:
- The commercial land is completely un-necessary, there is currently no requirement for additional office space within the local area
  - The tree planting is too close to the existing residents boundary at 10 Long Road
  - There is a lack of infrastructure locally in place. There is a limited police presence, only 2 small doctors surgeries, a very overloaded hospital, the roads are potholed and overcrowded
  - There are no benefits to the community and the local area cannot support the increase in population, traffic and the infrastructure is already struggling to cope

## 6. Assessment

### The Application Site

- 6.1 The site comprises an agricultural enclosure, covering an area of approximately 23 hectares, lying immediately to the south of Long Road, to the west of Clacton Road and to the north of Dead Lane. The site rises gently from its northern boundary towards the south but then falls to a relatively flat plateau over the southern part of the site. With limited boundary hedging and vegetation, the site is very exposed to public view from vantage points within Long Road and Clacton Road. To the west, the parkland landscape, which is within the Manningtree and Mistley Conservation Area, is also home to a Listed Building, Mistley Hall Cottage and Mistley Hall Manor, some 200 metres from the boundary of the host site.
- 6.2 To the west of the site, planning permission has been granted; and is being developed in phases for, a major mixed-use development including up to 360 dwellings in accordance with 15/00876/OUT. The northern part of the site adjoining Long Road together with land to the north of Long Road is designated in the emerging Local Plan as a 'Strategic Green Gap' which passes between the built-up areas of Lawford and Mistley. To the north of Long Road, long distance views can be had over the built-up area towards the Stour Estuary. A small number of dwellings and an assisted living complex are in proximity to the junction of Long Road

with Clacton Road, to the north-east of the site. To the south, and beyond Dead Lane, open countryside predominates.

### Planning History and Background

- 6.3 Outline planning permission (Rev: 17/01181/OUT) on the host site, was granted on the 23 December 2019 at appeal via decision, APP/P1506/W/19/3220201. The approved outline permission was for all matters reserved, other than strategic access points onto the public highway, for the erection of up to 485 dwellings, up to 2 hectares of employment land (A2/A3/B1/B2; B8; D1 uses), with associated public open space and infrastructure.
- 6.4 As part on the original outline approval there were 18 planning conditions attached. These were often pre commencement conditions involving matters such as; a Phasing Schedule, Construction Management details, Drainage and various highway related on-site and off-site improvements. These conditions are outlined below and are mostly associated with each 'phase' of the development. There is an approved application agreeing the 'Phasing Plan' (Condition 6 of the Outline Approval) of the entire development (Ref: 21/00494/DISCON). There are 8 separate 'phases' proposed for the development. The first being Phase 0, this is for all the strategic Public Open Space (Northern, eastern, southern and western boundaries) associated with the development, excluding the two centrally located Green squares within the Residential phases proposed.

<b>OUTLINE APPLICATION CONDITIONS 15/00876/OUT</b>		<b>Timing</b>
1	Time Frame	Two years from the date of approval of the last of the reserved matters to be approved
2	Time Frame For Reserved Matters	By 23/12/2022
3	Access and Highway Details	Reserved Matter
4	Reserved Matters- appearance, landscaping, layout and scale	Reserved Matter
5	Parameter Plan 'general conformity'	No discharge required
6	Phasing Plan	Prior to Commencement
7	Construction Method Statement	Prior to Commencement – each phase
8	Archaeology	Prior to Commencement – each phase
9	Sustainable Drainage	Prior to Commencement – each phase
10	Foul water	Prior to Commencement – each phase
11	Surface Water Runoff	Prior to Commencement – each phase
12	Highway Improvements	Prior to Commencement
13	Travel Packs	Prior to Commencement – each phase
14	Planting Implementation	First planting Season
15	Replace failed Trees within 5 years	First planting season

16	Broadband	Prior to occupation of any dwelling
17	Recreation Disturbance Avoidance and Mitigation	Reserve Matters
18	Vehicle Charging Points	Each Dwelling

6.5 The original outline application was also approved with a signed Section 106 document to secure:

- On-site Affordable Housing (15% of the overall development);
- Health contribution;
- Education contribution (early years learning, childcare, primary and secondary education);
- Contribution towards off-site traffic improvement measures;
- Provision of open space and the need to secure its future management;
- RAMS payments £122.30 per net additional dwelling, index linked. Therefore, any uplift in required payments over time has been factored into the payment.

#### The Proposal

6.6 This is the first Reserve Matters application on the host site, pursuant to the residential element of outline permission only. The elements up for consideration are appearance, layout, landscape and the scale. Access was approved at outline stage. The provision of the employment land in the south east corner of the site, plus associated roads, driveways, parking, footpaths, landscaping and ancillary works is expected at a later date.

6.7 The residential element represents approximately 70% of the site. The proposed dwellings vary in size from 1-bedroom flats to 5-bedroom homes. The vast majority are 2-storey houses, with limited 2.5 storey housing. Separately, there are 6 dwellings at 1.5 storeys and there are 4 flats over garages, or 'FOGS'. Also, there 5 flat blocks of 2.5 storeys in height. The 'housing mix' is explained in the next section.

6.8 With regards to Landscaping, the area to the north of the site adjacent to Long Road that is within the emerging 'Green Gap' measuring some 308 metres wide and 88 metres in depth remains free from and residential development. This is to be a parkland area that includes a dog off the lead area and LEAP (Locally Equipped Area of Play). There is also a drainage feature proposed in this location that is not considered usable Open Space. The other drainage basins are located on the eastern side of the development. Officers have measured the site and calculate that there is approximately 20% of Public open Space. This is backed up via the 'POS Calculation Plan'. This is including if one deducts the attenuation basins, totalling some 2%. With the residential element taking up 88%. Therefore, the proposal excluding the residential element and the Public open Space provides 20% Public Open Space. The ownership and upkeep of this space shall be entirely run by the Local Authority. This was agreed at Outline stage.

6.9 The proposal provides for a 'Green' trail circling the entire site known as a 'trim trail'. This shall enhance green buffer circling the site adding native trees and hedges to the perimeter and a pedestrian walkway. With regards to landscape features, within the site itself there are two 'Garden Squares', the height of the buildings is increased

to 2.5 storeys in these locations. Two retail outlets are proposed in this central location. Both the 'Garden Squares' have separate LAP (Local Areas for Play).

- 6.10 There are two main access points (approved at outline stage) from both Long Road to the north and Clacton Road to the east.

Housing Mix and Affordable Housing Provision

- 6.11 In total there are 483 separate units of accommodation across the site. This is 2 less than the maximum the applicant is permitted to build of 485. In terms of total housing mix across the site, the majority of the units (some 69% are either 2 or 3 bed properties).

	Total	Percentage
1 bed	16	3.3
2 bed	156	32.3
3 bed	223	46.2
4 bed	77	15.9
5 bed	11	2.3

- 6.12 The 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 Officers have no objection to this housing mix.

- 6.13 There are 21 different housing types, most are 2 storeys, there are 25 no. that at 2.5 storey dwellings and 6 dwellings are 1.5 storeys in height. In total, there are 431 dwellinghouses on site varying between 2 and 5 bedrooms in size. There are 5 Flat blocks, these are all 2.5 storeys in height. There are 21 different flat layouts; in total there are 48 flats separate flats provided on site between 1 and 3 beds. There are four FOGS (Flats above Garages) on site these are also 1.5 storeys in height. These details are shown on the submitted Massing Plan.

The total proposed mix of housing (both market and affordable) is as follows:

	Private	Percentage	Affordable	Percentage	Total	Percentage
1 bed	16	3.9	0	0.0	16	3.3
2 bed	109	26.6	47	64.4	156	32.3
3 bed	197	48.0	26	35.6	223	46.2
4 bed	77	18.8	0	0.0	77	15.9
5 bed	11	2.7	0	0.0	11	2.3
Subtotal	410	100.0	73	100.0	483	100.0

Affordable Units

- 6.14 There are 73 affordable units proposed, these are clearly shown on the Affordable Housing Location plan. This results in there being 15% of the total. The appeal decision associated with the outline decision concluded:

Paragraph 74 Appeal Reference (APP/P1506/W/19/3220201)

*'As eLP Policy LP 5 has not been tested at examination it is afforded modest weight. However, the Framework and NPPG allow for viability testing. Based on my assessment of the viability evidence I conclude that the scheme would not be able to viably support any more than 15% affordable housing overall, and therefore that sufficient provision for affordable housing would be made'.*

6.15 Therefore, Officers have no objection to the provision of 15% affordable housing on the site in this case. There are 10 affordable units in Flat block B, the remaining 63 units are residential dwellings spread across the site. To address Policy LP5 of the Emerging Plan which states that *'...to avoid an over-concentration of council housing in one location, no single group of council houses will exceed ten dwellings'* the applicant has provided a 'Affordable Housing Location Plan' that demonstrates no more than 10 Affordable units are clustered together. The Housing Manager has confirmed they accept the affordable housing mix. In terms of the tenure split, the Housing Manager is willing to discuss this further later in the process. They would normally look at a 70/30 split in favour of affordable rent/shared ownership but can allow for flexibility if required by the Registered Providers. The affordable 'mix' is provided below.

House Type	Sqm	No. Of Beds	No. Units	Total	Percentage
Ha-910	84.50	2	37	37 (2 Beds)	59
Ha – 1016	94.40	3	7		
Ha – 1110	107.00	3	14		
Ha - 1286	119.50	3	5	26 (3 Beds)	41
<b>Total</b>				<b>63</b>	

Flat Type*	Sqm	No. Of Beds	No. Units	Total	Percentage
Flat Block B – T1	75.80	2	4		
Flat Block B - T2	70.40	2	4		
Flat Block B - T3	69.30	2	2	10 (2 beds)	100
<b>Total</b>				<b>10</b>	

- Garden Size for Flat Blocks has been raised as a question by the member call in. Adopted policy HG9 says For flats, either:

- a minimum of 25 square metres per flat provided communally; or*
- a minimum of 50 square metres private garden area for a ground floor flat or maisonette and a minimum balcony area of 5 square metres for units above.*

Flat Block B involves two identical blocks opposite each other, 5 flats in each. Therefore, 125 sqm garden space is required. One of the flats has 125 sqm and the other 132 sqm of garden space. This therefore complies with HG9 i) of the adopted policy on such matters.

### Market Housing

6.16 There are 410 market houses on the site a schedule of the house types and flat types is shown below.

House Type	Sqm	No. Of Beds	No. Units	Total	Percentage
910	84.54	2	85	85 (2 Beds)	23
1016	94.38	3	45		
1110	103.12	3	41		
1285	119.37	3	22		
1286	119.47	3	62		
1331	123.65	3	25	195 (3 Beds)	53
1465	136.10	4	4		
1596 (1.5 stories)	148.27	4	2		
1596	148.27	4	20		
1683 (1.5 stories)	156.35	4	2		
1683	156.35	4	11		
1747	162.30	4	7		
1750	162.57	4	16		
2014 (1.5 stories)	187.10	4	2		
2014	187.10	4	7		
2089	194.07	4	6	77 (4 Beds)	21
2200	204.08	5	11	11 (5 Beds)	3
<b>Total</b>				<b>368</b>	

Flat Type	Sqm	No. Of Beds	No. Units	Total	Percentage
Flat Block A - T3	56.00	1	4		
Flat Block C - T3	41.10	1	3		
Flat Block C - T1	47.70	1	3		
Flat Block D - T3	56.00	1	2		
FOGS		1	4	16 (1 Beds)	38
Flat Block A - T1	61.00	2	4		
Flat Block A - T2	61.00	2	4		
Flat Block C - T2	71.44	2	1		
Flat Block C - T4	67.01	2	1		
Flat Block D - T1	61.00	2	4		
Flat Block D - T2	61.00	2	2		
Flat Block D - T6	74.45	2	1		
Flat Block D - T7	75.66	2	1		
Flat Block E - T1	75.80	2	2		
Flat Block E - T2	70.30	2	2		
Flat Block E - T3	69.30	2	1		
Flat Block E - T4	61.47	2	1	24 (2 Beds)	57
Flat Block D - T4	78.00	3	1		
Flat Block D - T5	78.02	3	1	2 (3 Beds)	5

Total	42	
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- Garden Sizes for Flat blocks has been raised as a question by the member call in.

Adopted policy HG9 says For flats, either:

- i. a minimum of 25 square metres per flat provided communally; or*
- ii. a minimum of 50 square metres private garden area for a ground floor flat or maisonette and a minimum balcony area of 5 square metres for units above.*

Type	Unit No.	Required Garden Size	Provided Garden Size
Flat Block A	12	12 x 25 = 300 sqm	300 sqm
Flat Block C	8	8 x 25 = 200 sqm	333 sqm
Flat Block D	12	12 x 25 = 300 sqm	300 sqm
Flat Block E	6	6 x 25 = 150 sqm	213 sqm

These sizes therefore comply with policy HG9 i) of the adopted policy on such matters.

#### Principle of Development

6.17 The principle of development has been established by the granting of outline planning permission for up to 485 dwellings on this site at appeal. Condition No. 5 of the appeal decision states that the reserved matters shall be in general conformity with the following parameter plans:

- a) OPA/17006-04b – Landscape Parameter Plan
- b) OPA/17006-06a – Density Parameter Plan
- c) OPA/17006-07b – Storey Heights Parameter Plan

6.18 The Landscape Parameter Plan shows no development within the Green Gap to the north of the site, a landscape buffer circling the site with the drainage details to the east of the site and also a central green square within the main section of the residential area. The Storey Heights Plan shows the majority of the site is expected as 1 to 2 storeys, with three areas where up to 2.5 storeys would be expected. The Density Parameter Plan expects there to be greater density in the central area with lowest density around the periphery of the site. The submitted layout needs to be in 'general conformity' to these three Parameter plans.

6.19 Ultimately, Officers view the proposed plans are indeed in 'general conformity' with the three aforementioned Parameter Plans. Therefore, there can be no 'in principle' objection to the proposed development. This conclusion is discussed in more detail in the sections below.

#### Assessment

6.20 The principal issues are:

- Appearance;
- Landscaping;
- Layout;
- Scale
- Biodiversity
- Drainage/Flood Risk

- Accessibility and Adaptability
- Renewable Energy Provision
- Section 106 of the Town and Country Planning Act 1990

### Appearance

- 6.21 All of the houses are of an attractive design based on neo-Georgian and Victorian Styles. They are all between 2 - 5 bedroom proportions, being terraced, semi-detached and detached houses. There are also 6 no. detached 1.5 storey dwellings. The houses collectively benefit from features such as overhanging eaves detailing, some with external chimney stacks, half hipped roofs, bay windows, porches, soldier courses above the windows and string course brickwork. There is also the very positive use of full weatherboarding on predominately the dwellings located on the outskirts of the site.
- 6.22 The flats blocks follow a similar theme. The use of pitched front gables provides an interesting alternative to dormers in the roof space. Also, the flats feature staggered ridge heights in several instances, Flat Block A for example. The flat blocks appear as a solid 'finished product', this is important as alterations to flats (unlike residential dwellings) post construction is unrealistic to be achieved. There are 4 flats above garages, these have been redesigned during the process and have weatherboarding at first floor only.
- 6.23 External finishes for the residential element of the scheme will include a mix of two different types of red brick and weatherboarding finishes. These materials are found in the surrounding areas and will help the development assimilate into the area and help create a 'sense of place'. The finished appearance is a strong cohesive with the Georgian and Victorian style. Weatherboarding, an Essex tradition, has been used on the rural edges of the site, on key dwellings. The 'Materials Plan' shows clearly the spread of brick types and weatherboarding. The weatherboarding is witnessed on approximately 12% of the dwellings mostly around the edges of the site. The roof tiles shall be either a pantile or a plain red roof tile.
- 6.24 Officers recommend a condition is attached to the decision to see samples of all the materials on each phase, before development can commence. The outline appeal decision concluded the development would '*not have a harmful effect on the adjacent Conservation Area*' (Paragraph 39 Appeal Decision APP/P1560/W/19/3220201). The outline parameter plans for landscaping, scale and density has been closely adhered to and there is no reason to conclude the proposed appearance of the buildings, traditional in nature, would create any harm on the neighbouring Conservation Area. Furthermore, due to the near 200 metre separation distance to the boundary of the host site, the proposed development and associated appearance would have no material impact on the setting of the nearby Listed Buildings to the east. This conclusion is strengthened via the positive landscape buffer along the eastern boundary, discussed further in the Landscaping section below.
- 6.25 Subject to planning condition, the appearance of the buildings will be reflective of the vernacular and styles found locally and ultimately officers do not object to their appearance.

### Access

- 6.26 In accordance with the outline approval, the principal means of access to the residential development was approved to be gained from its Long Road frontage but with a secondary access from Clacton Road to the east. The original outline included access as a reserved matter, however there has recently been a variation of condition application to approve the amended access from Clacton Road, namely (Ref: 21/00213/OUT). Therefore, the amended access in this application is acceptable to review. The key change to the Clacton Road access involves a longer 22 metre straight road section into the site. This has been introduced to enhance highway safety. No further accesses are proposed onto Clacton Road and there will be no vehicular access onto Dead Lane immediately to the south of the site.
- 6.27 In terms of internal access provision, this is proposed to be determined by three route types: primary, secondary and tertiary. The primary route connects the two entrances into the development from Long Road and Clacton Road and will be the main corridor of movement for residential traffic. Secondary and tertiary routes allow perforation into the balance of the site. There is not a continuous loop road around the perimeter of the site. The roads are 'closed' in various sections to ensure only those who live on the secondary and tertiary routes shall use these roads. Not included in this application is the separate access to the employment land that was approved in part at the outline level. The access to the employment land shall go via Peddlers Corner and there is no vehicular access from the residential element to the employment section and visa versa.
- 6.28 The Highway Authority has confirmed that they have no objection to the application as submitted from an access and highway layout perspective. The internal road widths and pavement widths have been checked and are considered acceptable; as is the quantum of parking. Overall, there are no objections to the development in relation to Access matters.

#### Landscaping

- 6.29 The outline approval included a Landscape Parameter Plan, which was introduced by the applicant, during the Appeal Hearing. The Reserved Matters are to be in 'general conformity' with this plan. Overall, the landscape provided is in 'general conformity' with the outline plan, the only difference is that there is a proposed an attenuation basin in the northern section of the site, whereas in the Landscape Parameter Plan all the attenuation basins were on the eastern side of the site. However, the applicant has confirmed the additional drainage basin is required to ensure the full site can be drained via infiltration. Without the additional attention basin this would not be achievable. There is not space on the eastern edge to accommodate the additional drainage basin required. There remains 20% Public Open Space across the site that excludes all the attenuation basins on site (3 on the eastern boundary and 1 in the northern section). Therefore, Officers consider the level of Public Open Space provided on site as acceptable. Along with the explanation for the attenuation to the north of the site, all the Public Open Space is to be given to the Local Authority to maintain and manage post development. This was agreed at the outline stage.
- 6.30 The application included a landscape masterplan which is based on the following landscape strategy principles:

- Formal avenue street sequence

The northern section of the development is located within the emerging Green Gap. This area of land will be brought into active use for residents and is considered a positive social gain for the development. The tree lined entrance is particularly suitable entrance for the development setting. A dog off the lead area is included in this space together with an oversized LEAP (Locally Equipped Area of Play) measuring 600m<sup>2</sup>. Also, within this area is a drainage feature, that shall be enclosed with a fence to be controlled via planning condition. This is required to ensure the full site can be drained via infiltration. Without the additional attention basin this would not be achievable. There is not space on the eastern edge to accommodate the additional drainage basin required.

- Central open squares, within the residential context

There are two open squares within the development, one with a shop and café (two retail units) on the ground floor in the most central of the two open squares. These create a pleasant area of public open space to mark the centre of the site and to the west, a suitable green space to break up the mass of the development. They also act as a focus for the public realm, accommodating footpath routes through the site, including a pedestrian link between the employment uses in the south eastern corner and the bus stops on Long Road.

- Public Open Space

As established there is 20% Open Space provision including, 1 oversized LEAP (Locally Equipped Area of Play) and 2 LAP's (Local Areas for Play), two public green spaces, and a 'trim trail' or pedestrian path leading all the way round the site with associated outdoor seating areas. The applicant is prepared to sign up to a legal agreement to ensure this footpath extends around the commercial area. This is a positive idea as conditions cannot control this due to the limitations of the red line boundary of the application site.

Recreational walking routes are incorporated within the areas of public open space, offering a sequence of circuits for jogging, dog walking, etc. as well as connecting to the network of rights of way beyond the site boundary through the grounds of Mistle Hall (to the east), towards Chequers Farm (to the south) and via Dead Lane to the paths around Grange Farm (to the south west). These recreational benefits will also act as the on-site element of mitigation against the recreational impacts of an increased population on nearby nationally protected coastal habitats.

- Attenuation basin to the north and east

There are two storm flow attenuation basins to the north and east of the site. These have been designed into the landscaping of the perimeter of the site and shall be fenced off with low level fencing. As the developer has over supplied in terms of Open Space it is not considered objectional to have a drainage feature to the north of the site. The reality of available space to the east has resulted in the requirement to use some land in the northern section. Furthermore, the applicant is willing to sign a legal agreement to ensure the 'trim trail' circles to the entire border of the site, including the commercial sector. This is an added public benefit to the development.

- The establishment of a native woodland and hedging boundary

To the south, east and west. There is scattered woodland to the southern and eastern boundary to ensure sufficient screening while providing views to the agricultural land beyond. While to the north, there is a gentle mounding on the northern boundary to mitigate noise and enhance the parkland setting.

- 6.31 The Council's Landscape Officer has supported the '*comprehensive detailed planting proposals for the land designated as public open space*', that includes a good mix of tree, shrub and hedgerow species along with ferns and herbaceous species to provide interest and colour. Essentially the strategic boundaries to the site and the northern green gap area have been fully catered for. However, in terms of the level of detail provided in relation to the 'residential' element of the development, the level of detail is not sufficient to enable the reserved matter relating to soft landscaping to be discharged.
- 6.32 The applicant has requested that the detailed planting to the residential elements be deferred at this stage and are agreeable to the imposition of a planning condition to agree the specification of planting. Officers accept this suggestion as it is in accordance with Planning Policy Guidance. Conditions requiring such details can be imposed at Reserved Matters stage as they relate directly to a specific reserved matter. It is consequently recommended that conditions be imposed to secure an acceptable soft landscaping scheme for 'residential' element of the development and to ensure its implementation and where necessary, replacement within 5 years should planting not survive.
- 6.33 In terms of hard landscaping, it is proposed that all roads and footways will be built to the County Council's standards, but they will not be adopted and will be maintained privately and in perpetuity. Through routes shared by all residents will be surfaced in asphalt, whilst private drives will be finished in block paving so that the boundary between the street and the curtilage of the property is clearly defined.
- 6.34 It is considered that the strategic landscape approach to the public open space areas is acceptable and will facilitate the delivery of well thought out and usable open spaces. This will establish a positive landscaping setting for the development whilst also aiding the transition from new built development to rural edge. The retention of the landscaping is controlled via the outline permission.
- 6.35 The residential element of the soft landscaping will be forthcoming via the discharge of Planning Conditions associated with this application. This accounts for the absence of plan 2446-LLA-ZZ-00-DR-L-0210, the detailed planting plan in the centre of the site. The applicant has amended the planting arrangements next to 10 Long Road, to account for the neighbours wishes not to have trees planted next to his property.

#### Layout

- 6.36 The original outline planning permission was for up to 485 dwellings. This application seeks to achieve 483 dwellings on site. The entire site covers an area of 23.46 hectares, however, up to 2 hectares of the site is allocated for employment uses, while 2.48 hectares to the north of the site is not for residential development as it forms part of the emerging Green Gap allocation. Therefore, across the 'Residential' element of the site (some 18.89 hectares) a net density of around 26 dwellings per hectare is achieved. It is considered that this is a relatively low housing density in keeping with the semi-rural nature of the site and lower than the minimum

density that is generally required under Policy HG7 of the adopted Local Plan and Policy LP3 of the emerging Local Plan.

- 6.37 The relatively low density of development allows for a generous standard of road and footway width, ensuring that the internal road layout can safely and comfortably accommodate emergency services and waste collection services. All of the houses would benefit from a combination of garaging and surface parking, which in all instances would be compliant with parking standards. Residential amenity for future residents would be acceptable having regard to privacy, avoidance of overshadowing or overbearance, while garden sizes, including Flat blocks (shown on the Garden Areas Plan) would be compliant with standards as would back to back distances (shown on the Back to Back plan). All the plots including the flats are provided with bin and cycle provision and meet the National Minimum Floor size allowances.
- 6.38 As established, the vast majority of the site is 2 storey dwellings, with some 2.5 and houses and 2.5 storey flat blocks (5 no.) within 4 key locations; particularly around the Garden Squares. There are 4 flats above garages where parking is to the rear of properties to help with surveillance, this is supported by Essex Police who have no objections to the development. While on the southern boundary there are 6 no. 1.5 storey buildings.

The layout is arranged around four character areas.

1. Parkland Edge
2. Main Approach
3. Garden Square
4. Mews Square

- 6.39 These focal points within the scheme, help to give a differing sense of place and wayfinding through design. Given the immediate surrounding built environment, many traditional design features have been included within the designs themselves.
- 6.40 The site is surrounded by open farmland, so the parkland edge provides a landscape transition space between the fields, road and new development. This is boosted via the boundary landscape buffer and also the use of 1.5 storey housing especially on the southern boundary.
- 6.41 The Main Approach is influenced by the development of housing within Manningtree and Mistley. As a result, terraced housing is used to create a strong frontage. Front to back pitched roofs and the use of chimneys and gables at either end breaks up the form and creates interest. The entrance road has retained a formal sense of arrival, with the use of a tree-lined boulevard, connecting to the formal landscaped garden square.
- 6.42 The Garden Square character area provides two focal points, both at the heart of the scheme. The height of the buildings is increased to 2.5 storeys in these locations, the central square has two retail units, associated visitor parking and apartments above. The south facing terraces off the café and shop allows residents and visitors views across the square and provides the social heart to the development.
- 6.43 The Mews Squares are influenced by the Chelsea mews courts. As a result, these will comprise of a hard standing shared surface, with small verges dividing public

from private. The dwellings within this character area will park in front of their plot and parking will be interspersed with trees grown in guards, in a considered balance between hard and soft landscaping. The houses within this area generally have a wider frontage and are terraced.

- 6.44 These varied but traditional designed streetscapes demonstrates a positive design response which assists in breaking up the built form on this more sensitive rural edge location. The application is fully policy compliant in terms of garden sizes, back to back distances and internal room sizes and no objection on layout is raised.

### Scale

- 6.45 The outline permission included a 'Storey Heights Parameter Plan' and a 'Density Parameter Plan'. This shows the highest density in the centre of the site and lowest density around the perimeter. Furthermore, three areas of up to 2.5 storey buildings, albeit one of the circles (central area) is larger than the other two.
- 6.46 The application includes five flat blocks on the site which will be 2.5 storey buildings, Additionally, within the central and western locations there are also 2.5 storey houses.
- 6.47 Officers are content that the higher density buildings development is centrally located. With regards the three areas of 2.5 storey development, ultimately presented are four sites, not three put forward in the parameters plan. However, flat block B in the south-eastern corner is smaller in scale than what could have been accepted in this location. This is well demonstrated in the 'Massing Plan Rev N'. Therefore, the additional area of 2.5 storey development in the central southern section of the site (where the parameter plan circle was larger) is not considered objectional.
- 6.48 The scheme predominantly proposes two storey buildings, although there will be interest created through variation in the streetscape, roofscape and the relationship with the new trees.
- 6.49 With respect to the more sensitive eastern and southern edges to the site which form the new urban/rural edge to the site, the application has introduce a lower density more fragmented building line and additional space between plots. The dwellings facing east towards Clacton Road are partially concealed behind a green buffer zone with new trees and hedges planted. Likewise, the southern boundary provides for a more organic and varied streetscape with the use of 1.5 storey developments along the southern boundary with Dead Lane.
- 6.50 The scale is considered to be in general conformity with the parameters plan. Therefore, no objection is raised to the scale of the proposed development in this regard.

### Biodiversity

- 6.51 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 a site of international, national or local importance to nature conservation but the urban area of Manningtree, Lawford and Mistleay does fall within

the 'Zone of Influence' (Zol) of the Stour and Orwell Estuaries Special Protection Area (SPA), a Ramsar Site and a Site of Special Scientific Interest (SSSI). In the context of the Council's duty as 'competent authority' under the provisions of the Habitats Regulations, it is therefore anticipated that, without mitigation, new residential development in this location is *'likely to have a significant effect on one or more European designated sites through increased recreation pressure, either when considered 'alone' or 'in combination' with other plans or projects.'*

- 6.52 The Council has screened the proposed development and consider that it falls within the scope of the Essex Coast RAMS and as a result the Council has gone on to carry out a Habitats Regulations Assessment (HRA)(Stage 2 – Appropriate Assessment) in order to secure any necessary recreational disturbance mitigation. The applicant has also submitted a document titled 'On Site Recreational Disturbance Avoidance And Mitigation Strategy Rev 2' outlining the measures they have taken. This is in line with the outline condition 17 that requires as part of the Reserved Matters to be submitted in accordance with Condition 4, an on-site Recreational disturbance Avoidance and Mitigation Strategy with details on the delivery of this on site mitigation.
- 6.53 The mitigation described in the Appropriate Assessment, being a combination of on-site measures (circular dog walking routes and/or links to the surrounding public rights of way (PRoW); and dedicated 'dogs-off-lead' areas; in addition to signage/leaflets to householders to promote these areas for recreation; dog waste bins etc). There are also connections to the Off Site public rights of way, these will be sign posted from within the site. There is a network of approximately 4km of footpaths to the north east of the site allowing for moderate length recreational walks with potential for a circular walk/loop and these do not lead to the statutory designated site of the Stour Estuary. There is one regional/ recreation footpath - The Essex Way - approximately 500m to the north of the site, this route does travel for 1km close to the southern shore of the Stour Estuary, however this is on a B road and therefore not considered to add any additional significant pressure along this part of the Stour Estuary. In terms of management of the Open Space on site, the original outline permission gave ownership and management duties of the Public Open Space to the Local Authority.
- 6.54 The development, which contains the on-site measures, referred to above will be delivered in phases. The principle areas of open space (space for walking/jogging, play spaces and dog off lead area) will be delivered in the first phase (phase 0) and then in line with subsequent phases so that the key elements of on-site mitigation will be in place early and useable, this shall be controlled via Planning Condition. Having considered the proposed avoidance and mitigation measures above, Tendring District Council conclude that with mitigation the project will not have an Adverse Effect on the Integrity of the European sites included within the Essex Coast RAMS.
- 6.55 There have been a number of suggested planning conditions from ECC Ecology, relating to ecological enhancements, lighting and details of the nearby badger sett being appropriately closed. These have been included in the decision notice and agreed in advance by the agent. However, the requirement of the Skylark planning condition involves land outside the red line boundary of the site and should have been assessed at the outline stage. Therefore is not included in the conditions list.

6.56 At the appeal stage a surface water scheme had been proposed which demonstrates that surface water management is achievable in principle and conditions have been imposed requiring further details, namely 9a (Surface Water Drainage), 9b (Drainage Maintenance Arrangements), 10 (Foul Water Strategy) and 11 (Off-Site Flooding Scheme) of application 17/01181/OUT (approved on appeal APP/P1506/W/19/3220201). These details have been submitted as part of this current application and is subject of a separate discharge of condition application (21/00451/DISCON). This is a live application that has not to date been discharged. The identical details are submitted with this application.

6.57 Essex County Council Flood and Water Management Team have been consulted on the application and raise no objection to the drainage details submitted with this application. It is noteworthy that there is a comment from Anglian Water saying there is no foul water details submitted this application, they have been consulted twice since this time but no response has been received. This is partially due to the fact that the exact details are provided within the discharge of conditions application 21/00451/DISCON that applies to the whole site. On this tandem discharge of conditions application 21/00451/DISCON, Anglian Water has said:

*'Foul water strategy plan. Development may lead to an unacceptable risk of flooding downstream. Anglian Water will need to plan effectively for the proposed development, if permission is granted. We will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development. We therefore request a condition requiring phasing plan and an on-site drainage strategy'*

6.58 However, such a condition is already in place from the outline approval (Appeal Ref: APP/P1506/W/19/322020), condition 10 says:

10. *No development shall commence on any phase of the development 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.*

6.59 Therefore, given the outline permission gave approval for up to 485 dwellings, (during which time Anglian Water were consulted twice and failed to respond on both occasions), officers consider it unreasonable to object to the application on these grounds. Furthermore, due to the fact that the identical details are required to be submitted for each phase via the outline condition, Officers consider it unnecessary to assess drainage or foul water matters as part of this Reserved Matters application. To do so could compromise the detailed work being undertaken via the Discharge of Condition process within application 21/00451/DISCON.

6.60 Given the above, it is considered that the proposed surface water drainage system and foul water details are noted as part of this application but are not to be assessed under this application.

#### Accessibility and Adaptability

6.61 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 Part M4(2) 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'.

- 6.62 The affordable properties are tenure blind and cluttered in groups of less than 11 dwellings, in line with policy. All properties meet Nationally Described Space Standards, and M4(2) and M4(3) properties are provided, in line with the policy expectation. A number of drawings have been provided which demonstrate compliance including:
- Accessibility & Adaptability Plan
  - Flat Block B M4(3) compliance plan
  - Housetype 1016 M4(2) compliance plan
  - Space Standards Compliance Schedule
  - Letter to TDC – Confirmation Design Criteria to NDSS Standard.
- 6.63 The details within these documents demonstrates the application meets the requirements of Modified Policy LP3.

#### Renewable Energy Provision

- 6.64 As part of the outline approval Condition 16 required each dwelling to be fitted with super-fast broadband, while condition 18 required an electric charging point for each dwelling. The emerging policies on such matters, include SPL3 Sustainable Design, PPL5 Water conservation, drainage and sewage and most critically, PPL10 Renewable Energy Generation. These policies will make it local policy to provide energy saving measures that could include renewables energy provision on all new residential developments.
- 6.65 Consequently, when assessing PPL10 Renewable Energy Generation in particular, the applicant has provided a 'Energy and Sustainability Statement'. This attempts to fulfil the emerging policy PPL10. This emerging Policy is given considerable weight due to the advance nature of the adoption process of the emerging plan and lack of objections to the policy. Ultimately, the Local Planning Department although welcoming the report from the applicant, do not consider that the renewable measures suggested have gone far enough. Therefore, a condition has been put forward to the applicant (who has accepted this in principle). The condition reads:

*Notwithstanding the details contained within the submitted Energy Statement, prior to the occupation of any dwelling a scheme detailing how a minimum of 20% of the energy needs generated by the development can be achieved through renewable energy sources shall be submitted to and approved in writing by the local planning authority. The scheme shall detail the anticipated energy needs of the scheme, the specific renewable technologies to be incorporated, details of noise levels emitted (compared to background noise level) and how much of the overall energy needs these will meet and plans indicating the location of any external installations within the development. The development shall be carried out in accordance with the approved details and shall be retained as such thereafter*

*Reason: To ensure the development contributes to minimising the effects of, and can adapt to a changing climate.*

- 6.66 With such a condition in place, Officers believe the development can adequately comply with the requirements of emerging Policy PPL10, therefore, no objections on these grounds are raised.

#### Section 106 of the Town and Country Planning Act 1990

- 6.67 A legal agreement was secured at outline stage requiring:
- On-site Affordable Housing (15% of the overall development)
  - Health contribution
  - Education contribution (early years learning, childcare, primary and secondary education)
  - Contribution towards off-site traffic improvement measures
  - Provision of open space and the need to secure its future management
  - RAMS payments £122.30 per net additional dwelling
- 6.68 These details are 'index linked' and remain in place. The proposed Deed of Variation will 'add' to this legal agreement. Thus providing a legal guarantee of that perimeter landscaping 'trim trail' will encircle the whole site. This can only be achieved at this stage via legal agreement as the Red line area for the host application does not include the Employment Section in the south eastern corner of the site. Therefore, such a landscaping measure cannot be controlled or obtained via planning condition. Also, to be included in the Deed of Variation will a commitment to provide and maintain signage on site, directing pedestrians towards off site public rights of way, including within the Employment sector.

#### Other Matters

- 6.69 No construction management plan is recommended as they were conditioned as part of the outline approval for each phase, furthermore this shall include construction lighting. Equally, a contaminated land survey was resolved at outline stage and this shall not be included in the list of conditions. No removal of permitted development rights is considered necessary, due to the policy compliant nature of the development.

### **7. Conclusion**

- 7.1 As established through the granting of outline application 17/01181/OUT, at appeal, the principle of residential development for up to 485 dwellings on this site is acceptable.
- 7.2 This scheme provides a range of housing within landscaped surroundings to create safe, attractive and characterful streets. The appearance does not feel cramped or overdeveloped. The detailed design, appearance, layout, landscaping and scale are considered acceptable. The proposal would result in no material harm to residential amenity or highway safety.
- 7.3 The new homes have policy compliant private gardens, sufficient off-street parking provision and include capacity for the storage of cycles and refuse. Sustainable drainage has been utilised to manage surface water runoff and the highways are

designed to meet the necessary safety standards and compliment the different character areas of the site.

- 7.4 The landscaped perimeter of the site will provide benefits for local biodiversity, as well as retaining the character of Long Road, Clacton and Dead Lane.
- 7.5 Ultimately, the proposals bring forward much-needed housing in a manner that is considered a sympathetic and high-quality addition to Lawford and Mistley. The proposal is considered compliant with the parameter plans as set out and approved at Outline stage.
- 7.6 The application is, therefore recommended for approval subject to a legal agreement to secure the extension of the 'trim trail' around the entire perimeter of the site and signage to the public footpaths beyond.

## 8. **Recommendation**

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

<b>CATEGORY</b>	<b>TERMS</b>
Extension of Trim Trail	
Signage to the public footpaths beyond	

## 8.2 **Conditions and Reasons**

- |    |  |  |
|----|--|--|
| 1. | 20-3074-050 rev b plans                              | Amended house type 1750 - proposed floor |
|    | 20-3074-054 rev b elevations                         | Amended house type 2014 - proposed       |
|    | 20-3074-053 rev b plans                              | Amended house type 2014 - proposed floor |
|    | 20-3074-056 rev b plans                              | Amended house type 2089 - proposed floor |
|    | 20-3074-057 rev b and side elevations (weatherboard) | Amended house type 2089 - proposed front |
|    | 20-3074-026 a plans                                  | Amended house type 1110 - proposed floor |
|    | 20-3074-027 a elevations                             | Amended house type 1110 - proposed       |
|    | 20-3074-024 a elevations                             | Amended house type 1016 - proposed       |
|    | 20-3074-029 a plans                                  | Amended house type 1285 - proposed floor |
|    | 20-3074-034 a (detached)                             | House type 1286 - proposed elevations    |
|    | 20-3074-032 a plans                                  | Amended house type 1286 - proposed floor |
|    | 20-3074-033 a elevations                             | Amended house type 1286 - proposed       |

20-3074-036 a elevations	Amended house type 1331 - proposed
20-3074-035 a plans	Amended house type 1331 - proposed floor
20-3074-038 a plans	Amended house type 1465 - proposed floor
20-3074-039 a elevations	Amended house type 1465 - proposed
20-3074-043 a (brick)	House type 1596 - proposed elevations
20-3074-045 a elevations (weatherboard)	Amended house type 1683 - proposed
20-3074-047 a plans	Amended house type 1747 - proposed floor
20-3074-048 a elevations	Amended house type 1747 - proposed
20-3074-049 a elevations (brick)	Amended house type 1747 - proposed
20-3074-060 a plans	Amended house type 2200 - proposed floor
20-3074-062 c proposed side and rear elevations	Amended house type 2200 (brick) -
20-3074-063 c (weatherboarding) - proposed side and front elevations	Amended house type 2200
20-3074-063.1 c (weatherboarding) - proposed side and rear elevations	Amended house type 2200
20-3074-505 a floor plans	House type 1016 - part m4(2) compliance
20-3074-058 rev b and side elevations (weatherboard)	Amended house type 2089 - proposed rear
20-3074-044 rev b plans	Amended house type 1683 - proposed floor
20-3074-051 rev c elevations	Amended house type 1750 - proposed
20-3074-023 a plans	Amended house type 1016 - proposed floor
20-3074-042 a elevations	Amended house type 1596 - proposed
20-3074-041 a plans	Amended house type 1596 - proposed floor
20-3074-058.1 rev a and side elevations (weatherboard)	Amended house type 2089 - proposed front
20-3074-058.2 rev a and rear elevations (weatherboard)	Amended house type 2089 - proposed side
20-3074-046 rev b (brick)	House type 1683 - proposed elevations
20-3074-021 a elevations	Amended house type 910 - proposed
20-3074-020 a plans	Amended house type 910 - proposed floor
20-3074-061 rev b	Amended house type 2200 (brick) - proposed front and side elevations
20-3074-031	Amended house type 1285 - v1 - proposed elevations

20-3074-030 a elevations	Amended house type 1285 - proposed
20-3074-071 a	Terrace block 4 - proposed floor plans
20-3074-069 a	Terrace block 3 - proposed floor plans
20-3074-067 a	Terrace block 2 - proposed floor plans
20-3074-065 a	Terrace block 1 - proposed floor plans
20-3074-064 a elevation	Amended terrace block 1 - proposed front
20-3074-066 a elevation	Amended terrace block 2 - proposed front
20-3074-068 a elevation	Amended terrace block 3 - proposed front
20-3074-070 a elevation	Amended terrace block 4 - proposed front
20 - 3074 - 073	Terrace block 5 - floor plans
20 - 3074 - 072	Terrace block 5 – elevations
20-3074-054.1 rev a	1.5 storey - proposed floor plans
20-3074-054.2 rev a	1.5 storey - proposed elevations
20-3074-046.1 rev a	Amended 1.5 storey - floor plans
20-3074-046.2 rev a	Amended 1.5 storey – elevations
20-3074-110 rev a	Amended 1b-fog floor plans
20-3074-111 rev b	Amended 1b-fog elevations
20-3074-043.2	1.5 storey - elevations
20-3074-043.1	1.5 storey - floor plans
20-3074-108 a	Amended flat block d - proposed floor plans
20-3074-109 a	Amended flat block d - proposed elevations
20-3074-105	Amended flat block b - proposed floor plans
20-3074-105.1	Amended flat block b - proposed elevations
20-3074-100 rev e	Amended flat block a - proposed floor plans
20-3074-101 rev e	Amended flat block a - proposed elevations
20-3074-106 rev c	Amended flat block c - proposed floor plans
20-3074-107 rev c	Amended flat block c - proposed elevations
20-3074-104 rev c	Flat block e - proposed elevations
20-3074-103 rev c	Flat block e - proposed floor plans
20-3074-500 a compliance plan (flat type 1 & 2)	Flat block b - ground floor part m4(3)
Eds 07-3102.gp b	Small power and lighting arrangement for single transformer substation
2446-lla-gf-00-dr-l-0003-p01 plan	Tram trail link - dog bin and signage strategy
Eds 07-3102.01 b Eds 07-3102.ge a	Unit or padmount substation in grp enclosure Earthing arrangements for freestanding substations with grp enclosures
2446-LLA-GF-00-DR-L-0004	POS Calculation
2446-LLA-ZZ-XX-DR-L-0301 P08	Landscape Specifications and details Rev
2446-lla-zz-00-dr-l-0201-p04	Amended detailed planting proposals 1

2446-lla-zz-00-dr-l-0202-p07	Amended detailed planting proposals 2
2446-lla-zz-00-dr-l-0203-p06	Amended detailed planting proposals 3
2446-lla-zz-00-dr-l-0204-p06	Amended detailed planting proposals 4
2446-lla-zz-00-dr-l-0205-p04	Amended detailed planting proposals 5
2446-lla-zz-00-dr-l-0206-p02	Amended detailed planting proposals 6
2446-lla-zz-00-dr-l-0207-p03	Amended detailed planting proposals 7
2446-lla-zz-00-dr-l-0208-p05	Amended detailed planting proposals 08
2446-lla-zz-00-dr-l-0209-p05	Amended detailed planting proposals 09
2446-lla-zz-00-dr-l-0211-p04	Amended detailed planting proposals 11
2446-lla-zz-00-dr-l-0212- p02	Amended detailed planting proposals 12
2446-lla-zz-00-dr-l-0108-p02	Detailed hard landscape proposals 8
2446-lla-zz-00-dr-l-0101-p02	Detailed hard landscape proposals 1
2446-lla-zz-00-dr-l-0102-p02	Detailed hard landscape proposals 2
2446-lla-zz-00-dr-l-0105-p02	Detailed hard landscape proposals 5
2446-lla-zz-00-dr-l-0103-p03	Amended detailed hard landscape proposals
03	
2446-lla-zz-00-dr-l-0104-p04	Amended detailed hard landscape proposals
04	
2446-lla-zz-00-dr-l-0106-p02	Amended detailed hard landscape proposals
06	
2446-lla-zz-00-dr-l-0107-p02	Amended detailed hard landscape proposals
07	
19403-hyd-00-zz-dr-c-7005 06 of 4	Amended proposed external levels - sheet 1
19403-hyd-00-zz-dr-c-7006 06 of 4	Amended proposed external levels - sheet 2
19403-hyd-00-zz-dr-c-7007 06 of 4	Amended proposed external levels - sheet 3
19403-hyd-00-zz-dr-c-7008 06 of 4	Amended proposed external levels - sheet 4
20-3074-010 rev l	Amended boundary treatments plan
20-3074-005 rev n	Amended massing plan
20 - 3074 - 126	Cycle store
20-3074-128	Car port - version 2
20-3074-127	Car port - version 1
20-3074-120 a	Amended double garage 01 - proposed floor plan and elevations
20-3074-121 a	Amended double garage 02 - proposed floor plan and elevations
20-3074-122 b	Amended single garage - proposed floor plan and elevations
20-3074-123 a	Bin and cycle store - proposed floor plan and elevations
Cc-y321-lp2500	Site plan
2446-lla-gf-00-dr-l-0001-p12	Amended landscape strategy plan
2446-lla-gf-00-dr-l-0002-p10	Amended landscape strategy
20-3074-002 rev l	Amended site layout
20-3074-011 rev g	Amended affordable housing location plan
20-3074-016 rev b	Amended accessibility and adaptability plan

20-3074-006 rev m	Amended refuse and cycle strategy
20-3074-007 rev m	Amended garden areas
20-3074-008 rev l	Amended parking strategy plan
20-3074-009 rev m	Amended materials plan
Preliminary Ecological Appraisal (DF Clark, July 2021)	

2. Prior to the occupation of any unit, the associated internal road, footway layout, turning and parking areas shall be provided in principle and accord with revised drawing numbers:

- 20-3074-002 Rev. L Amended Site Layout Plan.
- 20-3074-008 Rev. L Amended parking strategy plan.
- 20-3074-006 Rev. M Amended refuse and cycle strategy

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

Note: It has been agreed with the developer that the proposed internal road layout, footway layout, turning area surface water drainage or any form of street lighting will not be adopted by the Highway Authority.

3. Prior to the commencement of any phase of the 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.

4. 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.

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

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

6. Prior to the occupation of each unit, the associated powered two-wheeler/cycle parking facilities as shown on the approved plans ref. 20-3074-006 Refuse & Cycle Strategy Rev M and 20-3074-123 Bin and Cycle Store Rev A are to be provided and retained at all times.

Reason: To ensure appropriate powered two-wheeler and bicycle parking is provided

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

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

8. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the On Site Recreational Disturbance Avoidance And Mitigation Strategy (City and Country, August 2021) and the Preliminary Ecological Appraisal (DF Clark, July 2021) 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).

9. The Preliminary Ecological Appraisal (DF Clark, July 2021) identifies that a licence will be required for the closure of a badger sett within the Zone of Influence of the development. The following sett closure 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 Badger Protection Act 1992 authorizing the specified activity/development to go ahead; or
  - b) a statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence.

Reason: To conserve protected species and allow the LPA to discharge its duties under and Badger Protection Act 1992 and s17 Crime & Disorder Act 1998.

10. Prior to the occupation of any dwelling, a Biodiversity Enhancement Layout providing the finalised details and locations of the integrated bat and bird boxes, shall be submitted to and approved in writing by the local planning authority. The enhancement measures shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

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

11. Prior to the occupation of any dwelling a lighting design scheme based on Appendix 6 of the the Preliminary Ecological Appraisal (DF Clark, July 2021), shall be submitted to and approved in writing by the local planning authority.

The scheme shall identify those areas 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 and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

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 Engineers, 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 coming into beneficial use and thereafter be retained and maintained to the agreed specification and working order.

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). To protect the amenity of and to minimise potential nuisance to nearby existing residents.

12. Prior to the Occupation of any Dwelling a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior occupation of the development.

The content of the LEMP shall include the following:

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

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details."

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

13. Prior to development above slab level, on each phase, precise details of the manufacturer and types and colours of the external facing and roofing materials for the dwellings and associated boundary treatments to be used in the construction shall be submitted to and approved, in writing, by the Local Planning Authority. Such 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.

14. Prior to the occupation of any dwelling the details of the equipment used in the LEAP are submitted to and approved in writing by the Local Planning Authority. The approved details shall be those used in the development and installed prior to the first occupation of any dwelling on site.

Reason: To ensure a satisfactory development in relation to public open space and in the interests of residential amenity.

15. Prior to the occupation of any dwelling within a phase that contains a LAP, details of the equipment used in the LAP are submitted to and approved in writing by the Local Planning Authority. The approved details shall be those used in the development.

Reason: To ensure a satisfactory development in relation to public open space and in the interests of residential amenity.

16. Notwithstanding the details contained within the submitted Energy Statement, prior to the occupation of any dwelling a scheme detailing how a minimum of 20% of the energy needs generated by the development can be achieved through renewable energy sources shall be submitted to and approved in writing by the local planning authority. The scheme shall detail the anticipated energy needs of the scheme, the specific renewable technologies to be incorporated, details of noise levels emitted (compared to background noise level) and how much of the overall energy needs these will meet and plans indicating the location of any external installations within the development. The development shall be carried out in accordance with the approved details and shall be retained as such thereafter

Reason: To ensure the development contributes to minimising the effects of, and can adapt to a changing climate.

17. Notwithstanding the details on the approved plans, only the detailed hard and soft landscaping plans relating to the strategic Public Open Space (Phase 0 as approved via 21/00494/DISCON) has been approved. The details for the residential hard and soft landscaping remain outstanding. Prior to the occupation of any residential dwelling on each phase, the details of the hard and soft landscaping shall be submitted to and approved in writing, by the Local Planning Authority. The scheme of hard and soft landscaping works for that phase, 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 **Page 85** 2012 Trees in relation to design, demolition and construction."

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

18. Notwithstanding the details on the approved plans, prior to the occupation of any dwelling on site, a statement shall be submitted to the Local Planning Authority outlining the exact dimension including gradients of the attenuation basins and this could involve additional fencing to protect the public from these features during times of flood.

Reason: To ensure a satisfactory development in relation to public open space and in the interests of residential safety.

### 8.3 Informatives

#### Positive and Proactive Statement

1. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address 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.

#### Highways:

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

2: Any tree planting proposed within the highway must be agreed with the Highway Authority. Trees must be sited clear of all underground services and visibility splays and must be sympathetic to the street lighting scheme.

3: 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 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.

4: General note: areas where there is no footway being provided adjacent to the carriageway and the intention is for these areas to be adopted a half a metre 'no build zone' will need to be provided and hard surfaced.

5: Any gates provided at the entrance to the parking courts shall be inward opening only and shall be set back a maximum of 0.5 metres from the back edge of the footway/cycleway or where no provision is present, the carriageway.

Note: The 0.5 metre or less set back should only be used within internal estate roads where dwell time on the carriageway is acceptable.

6: Cycling surface Width Guidelines: to ensure effective width is secured - table below provide guidance on widths. There are a number of variables to achieve an "EFFECTIVE" width.....- e.g., a 3m wide strip of tarmac with a 6ft fence on one side and a 50mph road on the other has an effective width of 2m...as you should be adding extra width for things that are alongside the path

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

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

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

8: 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 under-represented) 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, **Page 88** 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/>.

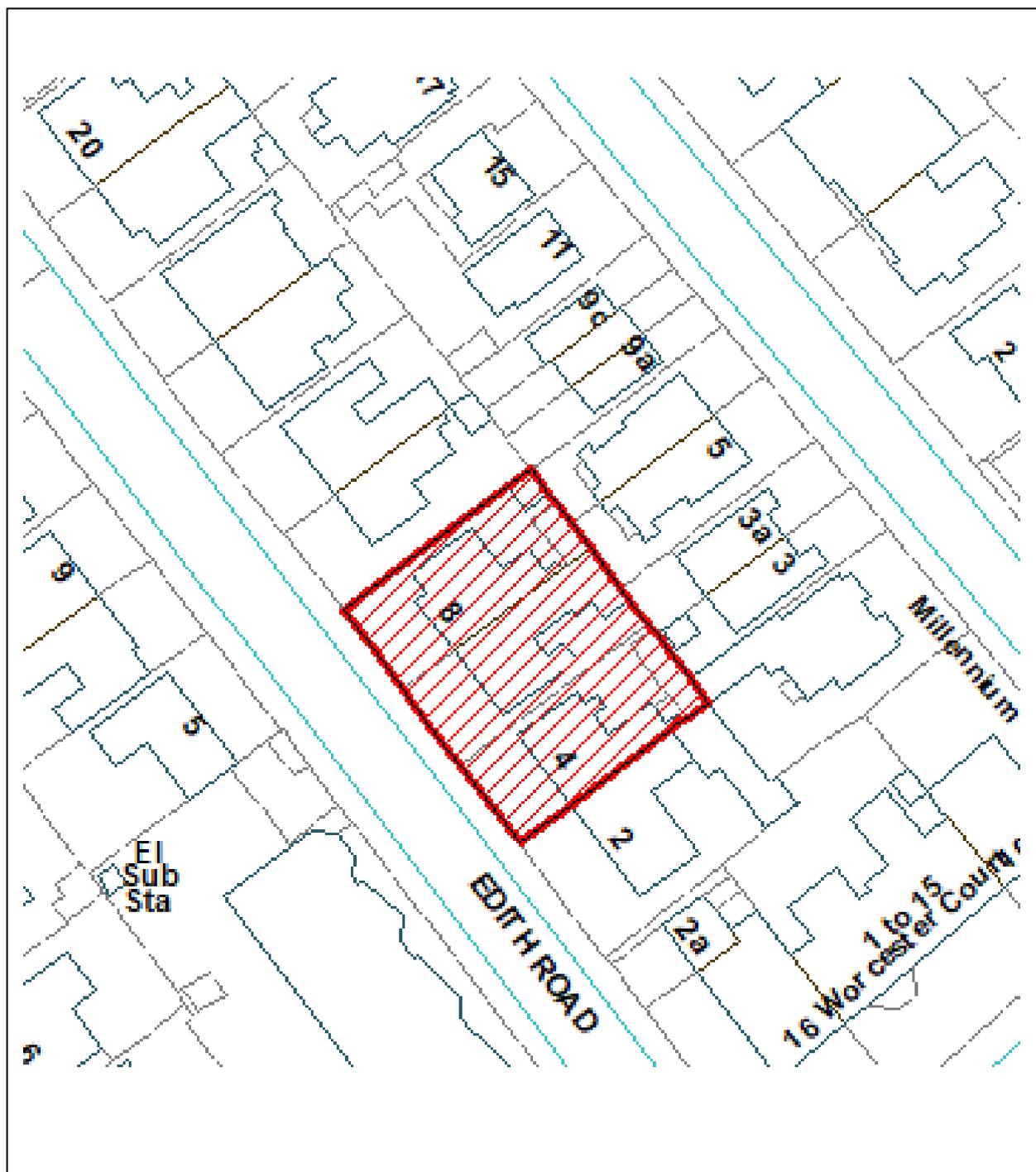
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## PLANNING COMMITTEE

26<sup>th</sup> October 2021

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### **A.2 PLANNING APPLICATION – 21/01104/FUL – 4 - 8 EDITH ROAD CLACTON ON SEA CO15 1JU**



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**Application:** 21/01104/FUL

**Town / Parish:** Clacton Non Parished

**Applicant:** Issam Property Limited

**Address:** 4 - 8 Edith Road Clacton On Sea CO15 1JU

**Development:** Proposed change of use to a sui generis for 34 supported living units, including infill extension and other minor external alterations - Revised plans received 23/09/2021.

## 1. **Executive Summary**

- 1.1 The application is before Members at the request of the Assistant Director of Planning and because there are minor conflict with policies and guidance relating to what is expected on standards for residential accommodation.
- 1.2 The application site is known as Nos. 4, 6 and 8 Edith Road and is located on the east side of Edith Road (Clacton on Sea) and close to the junction with Marine Parade. The site lies within the Settlement Development Boundary of Clacton on Sea as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). The immediately vicinity is predominantly residential in character and a mixture of residential development comprising two, three and four storey semi-detached, terrace dwellings, the occasional detached dwelling and apartment blocks surround the site.
- 1.3 The development proposal consists of a change of use to a sui generis for 34 supported living units, including infill extension and other external alterations.
- 1.4 Given the current shortage of affordable homes in the district, facilities such as this play a vital role in providing short-term accommodation for sections of society in need, which is supported by national policy. Furthermore, the site is located in a highly sustainable, built up area of Clacton on Sea and within easy walking distance of a local convenience store, a café, the beach and other amenities. There are a bus stops along Marine Parade West providing regular services to Walton, Frinton, Colchester and indeed other urban centres with ample services and job opportunities. The site is within walking distance of Clacton Overland Railway station providing excellent links to London and other larger English Cities.
- 1.5 The existing and authorised uses on site are a combination of low budget guest houses/hotel, a hostel for the homeless, and some lawful self-contained flats. Collectively and having regard to the existing authorised uses, the site consisting of nos. 4, 6 and 8 Edith Road can provide either low budget guest houses/hotel, or accommodation in the form of a hostel for the homeless, or accommodation in the form of 5 self-contained flats for up to 36 unrelated people or groups of people/families equating to up to 36 individuals.
- 1.6 The principle of supported living units being provided in sustainable urban centres close to shops, services, open spaces and other amenities is supported in both local (emerging and adopted) policies as well as in the NPPF. The proposal will homogenise a current incompatible series of residential land uses (low budget guest houses/hotel, a hostel for the homeless, and some lawful self-contained flats), and will bring forward functional and appropriate temporary accommodation for at risk people and the vulnerable, which will be, subject to conditions, well managed and in a suitable and sustainable location.
- 1.7 Having regard to the operational fallback position the proposal is considered to be acceptable from a residential amenity perspective (subject to conditions). The scheme will result in

significant improvements to the buildings and the wider streetscene and there are no highways safety or parking implications, and subject to conditions, the development will result in no net loss in biodiversity

- 1.8 For these summarised reasons, the application is therefore recommended for approval subject to conditions.

**Recommendation:**

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

- a) Subject to the conditions stated in section 8.2

## **2. Planning Policy**

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

*NPPF National Planning Policy Framework February 2021*

*Technical Housing Standards - Nationally Prescribed Space Standards – March 2015*

*National Planning Practice Guidance*

### **Tendring District Local Plan 2007**

HG3	Residential Development within Defined Settlements
HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
HG10	Conversion to Flats and Bedsits
HG14	Side Isolation
QL11	Environmental Impacts and Compatibility of Uses (part superseded)
COM6	Provision of Recreational Open Space for New Residential Development
EN6	Biodiversity
EN11A	Protection of International Sites European Sites and RAMSAR Sites
TR1A	Development Affecting Highways
TR7	Vehicle Parking at New Development

### **Tendring District Local Plan 2013-2033 and Beyond (the 2013-33 Local Plan)**

Section 1 (adopted):

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)
SP3	Spatial Strategy for North Essex
SP4	Meeting Housing Needs
SP7	Place Shaping Principles

Section 2 (emerging):

SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design

HP5	Open Space, Sports and Recreation Facilities
LP1	Housing Supply
LP3	Housing Density Standards
LP4	Housing Layout
LP5	Affordable Housing
LP11	HMO and Bedsits
PPL1	Development and Flood Risk
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL8	Conservation Areas
PPL9	Listed Buildings
PPL10	Renewable Energy Generation and Energy Efficiency Measures
CP1	Sustainable Transport and Accessibility
DI1	Infrastructure Delivery and Impact Mitigation

Supplementary Planning Guidance:

*Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)*  
*Essex County Council Development Management Policies 2011 (the Highways SPD)*  
*Essex County Council Parking Standards Design and Good Practice Guide 2009 (the Parking SPD)*  
*Tendring Provision of Open Recreational Open Space for New Development SPD 2008 (Open Space and Play SPD)*  
*Tendring Landscape Character Assessment 2001*

Local Planning Guidance

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

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

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).

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 26<sup>th</sup> 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.

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 29<sup>th</sup> June 2021. The Council held a six-week public consultation on the Main Modifications and associated documents which began on 16<sup>th</sup> July 2021. The consultation closed at 5pm on 31<sup>st</sup> 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.

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.

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

#### **No. 4 Edith Road**

01/01858/FUL	Continued use as guest house with owners flat	Approved	20.12.2001
91/01182/FUL	Retention of reconstructed outbuilding for use as office/workshop/store.	Approved	26.11.1991
04/01534/FUL	Change of use of owners accommodation to guest rooms.	Approved	09.11.2004
21/30145/PREAPP	Proposed extensions and conversion of Nos 4, 6 and 8 Edith Road into 34 self contained studio flats for single occupancy to provide accommodation for homeless.	Support in principle but raised concerns in a number of areas	28.04.2021
21/01104/FUL	Proposed change of use to a sui generis for 34 supported living units, including infill extension and other minor external alterations (proposal constitutes a departure from the Development Plan) (Revised plans received 23/09/2021)	Current	

#### **No. 6 Edith Road**

19/30073/PREAPP	Change of use to a 15 room HMO.	Refused	14.06.2019
21/01104/FUL	Proposed change of use to a sui generis for 34 supported living units,	Current	

	including infill extension and other minor external alterations (proposal constitutes a departure from the Development Plan) (Revised plans received 23/09/2021)		
21/30145/PREAPP	Proposed extensions and conversion of Nos 4, 6 and 8 Edith Road into 34 self contained studio flats for single occupancy to provide accommodation for homeless.	Support in principle but raised concerns in a number of areas	28.04.2021
<b>No. 8 Edith Road</b> 00/01846/FUL	Change of use from guest house to private dwelling	Approved	13.12.2000
91/01037/FUL	Conversion of garage to W.C. and storage area.	Approved	14.10.1991
93/00786/FUL	Use of lounge as office for computer related mail order business	Approved	21.09.1993
95/00711/FUL	Use of lounge as office for computer related mail order business (renewal of planning permission TEN/93/0786)	Approved	25.07.1995
05/01485/FUL	Change of use from residential dwelling to mixed use Homeless Hostel and Guesthouse	Approved	06.03.2006
21/30145/PREAPP	Proposed extensions and conversion of Nos 4, 6 and 8 Edith Road into 34 self contained studio flats for single occupancy to provide accommodation for homeless.	Support in principle but raised concerns in a number of areas	28.04.2021
21/01104/FUL	Proposed change of use to a sui generis for 34 supported living units, including infill extension and other minor external alterations (proposal constitutes a departure from the Development Plan) (Revised plans received 23/09/2021)	Current	
<b>Relevant to Nos. 4, 6 and 8 Edith Road</b> 21/01104/FUL	Proposed change of use to a sui generis for 34 supported living units, including infill extension and other minor external alterations (proposal	Current	

constitutes a departure from the Development Plan) (Revised plans received 23/09/2021)

21/30145/PREAPP	Proposed extensions and conversion of Nos 4, 6 and 8 Edith Road into 34 self contained studio flats for single occupancy to provide accommodation for homeless.	Support in principle but raised concerns in a number of areas	28.04.2021
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### Relevant Planning Enforcement and Appeal History:

- 3.1 In 2016 and early 2017 a total of 4 enforcement appeals were considered and determined by a Planning Inspector – these appeal decisions are attached as Appendix 1 to this report.
- 3.2 No. 4 Edith Road: The enforcement appeals relevant to No. 4 (referred to as Appeals A and B in Appendix 1) relate to *'the creation, (as an unauthorised material change), of a mixed use of a hostel for assisted living, a house in multiple occupation, together with associated rooms and units used as self-contained flats'*.
- 3.3 The Inspector considered extensive evidence as part of the appeal and concluded that an unauthorised change of use from what appear to be a previous hotel/guest house (as frequently referred to by LPA officers as the former use in the enforcement report dated 26 April 2016) to an HMO took place in parts of the building known as No. 4 at some point in 2009. Both appeals, were dismissed in 2017, because the Appellant failed to prove on the balance of probability that the unauthorised HMO use had been in operation for more than 10 years to become immune from enforcement action, and the enforcement notice was upheld. However, importantly the Inspector directed amendments (to the enforcement notice) and ultimately the requirements of the final enforcement notice were to:
- 3.4 'Cease the unauthorised material change of use of those parts of the premises in use solely as a house of multiple occupation (i.e. all rooms and units except 401, 404, 413 and 4A as shown on plans considered as part of that appeal (Officer comment: *the units are judged by the Inspector to be separate self contained flats immune from enforcement action due to the 4 year rule – see paragraph 37 of Appendix 1).*
- 3.5 No. 6 Edith Road: The enforcement appeals (referred to as Appeals C and D in Appendix 1) relevant to No. 6 relate to *'the creation, (as an unauthorised material change,) of a mixed use of a hostel for assisted living, house in multiple occupation together with an associated unit used as a self-contained flat'*.
- 3.6 Again the Inspector considered extensive evidence as part of the appeal and concluded that because the Appellant did not challenge the LPA's position that parts of No. 6 had been in use as a hostel for assisted living, this use (hostel for assisted living) must have commenced somewhere in 2009 but ceased in the build up to 2017, so the Inspector's decision is that the 'hotel for assisted living' element had not been in existence for 10 or more years to be immune from enforcement action. For the same reason as in Appeals A and B above, the Inspector found that the unauthorised HMO use in parts of No. 6 had also not been in existence for 10 or more years to be immune from enforcement action. Subsequently these two appeals (C and D) were also dismissed in 2017. Once again, the Inspector directed amendments (to the enforcement notice) and ultimately the requirements of the final enforcement notice were to:
- 3.7 'Cease the unauthorised material change of use of those parts of the premises in use solely as a hostel for assisted living and house of multiple occupation (i.e. all units except unit 6A)'.  
Officer comment: *Again the Inspector found that a unit known as No. 6A (part of but to the rear*

of No. 6) to be a separate self contained flat immune from enforcement action due to 4 year rule – see paragraph 37 of Appendix 1

**Summary of Planning History, Enforcement and Enforcement Appeal outcome for Nos. 4, 6 and 8 Edith Road:**

- 3.8 No. 4 Edith Road - with the exception of the 4 lawful flats, an Inspector directed in 2017 for the then operators to cease the unauthorised HMO use and revert back to a guest house/hotel. Regardless of whether this direction was carried out, having regard to the existing and previous floorplans, as a lawful operational fall-back position **up to 13 people** is capable of being accommodated in No. 4 Edith Road in the 4 self- contained flats or as part of a stay in a low budget guest house/hotel.
- 3.9 No. 6 Edith Road - with the exception of the 1 lawful flat, an Inspector directed in 2017 for the then operators to cease the unauthorised material change of use of those parts of the premises in use solely as a hostel for assisted living and house of multiple occupation and revert back to a guest house/hotel. Regardless of whether this direction was carried out, having regard to the existing and previous floorplans, as a lawful operational fall-back position **up to 13 people** could reside in No. 6 Edith Road in 1 bed self-contained flats or as part of a stay in a low budget guest house/hotel
- 3.10 No. 8 Edith Road has planning permission for a change of use from residential dwelling to mixed use Homeless Hostel and Guesthouse and having regard to the existing and previous floorplans, **up to 10 people** can reside in No. 8 Edith Road in the form of a mixed Homeless Hostel and Guesthouse
- 3.11 Therefore across the 3 properties known as Nos. 4, 6 and 8 Edith Road **up to 36 individuals or groups totalling 36 people** can reside in these properties (which collectively form the application site the subject of this application) in a convoluted mixture of low budget guest house/hotel accommodation, homeless hostel and guest house and self-contained flats.

**4. Consultations**

TDC UU Open Spaces  
08.09.2021

There is currently a deficit of 41.08 hectares of play in the Clacton/Holland area

Recommendation

No contribution is being requested on this occasion.

ECC Highways Dept

Comments dated 11 Oct 2021: ECC Highways raise no objection to the proposal subject to the following mitigation and conditions:

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

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

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

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

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

3. Each vehicular parking space shall have minimum dimensions of 2.5 metres x 5.0 metres (at approximately right angles to the road).

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

4. Prior to occupation of the development, any new vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 3.6 metres (3 metres minimum – 6 metres maximum), shall be retained at that width for 5 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway.

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

5. 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.

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

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

accordance with policy DM1.

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

**Informative:**

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

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

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

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

**3:** It is noted that there is an existing limited waiting restriction located partly on Edith Road and across the proposed frontage of the development; this may need to be revoked and/or reduced in length at the applicant's expense to accommodate the off-street parking for the development and to ensure that all vehicular traffic using the accesses may do so in a controlled manner and without obstruction prior to occupation.

TDC Housing

Statement in support of the application by the Housing Solutions and Allocations Manager who commented as follows:

*Over the last two years, and particularly during the Covid pandemic, we've seen an increase in approaches from*

*single people and a greater need for self-contained and supported accommodation.*

*The statistics (provided to TDC Planning) show the number of approaches from single people and of those single people how many had other support needs. It is clear that the demand for supported housing far outweighs what we have access to.*

*We've worked closely with Circle Housing for a number of years and have referred vulnerable people to their supported housing projects in both Clacton and Harwich. They've supported the most vulnerable in our community to live independently, sustain tenancies and move on into more settled accommodation. We are in the process of arranging a more formal move on agreement with them.*

*The provision of this accommodation will go a long way in helping us to meet our statutory duties.*

TDC Tree & Landscape Officer  
18.08.2021

No trees or other significant vegetation will be adversely affected by the development proposal.

Whilst there appears to be limited opportunity for new soft landscaping the site and the surrounding area would benefit from the introduction of new planting on the application site.

Therefore consideration should be given to soft landscaping the front gardens to maximise the limited soft landscaping opportunities for the benefit that it would bring to the public realm

TDC Building Control and Access  
Officer  
23.08.2021

These are effectively flats, and the means of escape should be designed accordingly.

*Officer comment: The Applicants agent confirmed in writing that the project draughtsman (who prepared the drawings) is satisfied that the proposed building design complies with the up to date fire/building regulations, but in any event he is arranging a meeting to discuss with local authority building control partnership to confirm this position. The proposal including the layout will be subject to compliance with up to date building regulations and fire safety regulations, which falls under separate legislation to planning.*

Arch. Liaison Off, Essex Police

No response received.

## 5. **Representations**

5.1 In the region of 18 objections received, these letters are in response to the application as originally submitted as well as in response to re-consultation on the additional information. The concerns raised can be summarised as follows (officer response in italics);

Unsustainable location.

- Lack of amenities and employment opportunities.  
*The site lies within the Clacton on Sea Settlement Development Boundary and has therefore previously been considered an acceptable location for residential development.*
- Will devalue property prices.  
*This is not a material planning consideration.*
- Examples of anti-social behaviour from the previous unauthorised uses and likely to result from proposal, non-compliance with enforcement notices etc.  
*Each case should be assessed on its individual planning merits. The previous operator/owner's compliance/non-compliance with enforcement notices should have no bearing on this assessment and ultimate decision. The proposal should be assessed in accordance with the Town and Country Planning Act 1990 (section 70(2)) – ie having regard to the provisions of the Development Plan and any other material planning considerations*
- Was previously poorly run hotel/guest house/HMO, some previous residents guilty of anti-social behaviour etc  
*Historic actions/inactions of former operators not a material planning consideration especially if unauthorised changes of use occurred. Although anti-social behaviour is a matter for the police to deal with this proposal should be assess on its merits and what is put forward in terms of site management.*
- Highway safety and parking concerns.  
*Covered in the relevant section below*
- Impact on residential amenity  
*Covered in the relevant section below*
- Properties should revert back to hotel/guest houses  
*The application as submitted and in front of the LPA is for a change of use to a sui generis for 34 supported living units, including infill extension and other minor external alterations. The LPA is duty bound to assess the application proposal as submitted having regard to the provisions of the development plan and any other material planning considerations (all covered below)*

## 6. **Assessment**

6.1 The main planning considerations are:

- Background;
- Site Description;
- Description of Proposal;
- Principle of Development;
- Visual Impact;
- Access and Parking;
- Residential Amenities;

- Financial Contribution – Recreational Disturbance; and
- Financial Contribution – Open Space and Play Space.

### Background

6.2 As outlined in section 3 above, the application site has a long and complex planning and enforcement history, however in summary (from a land use/planning perspective) the operational and lawful fall-back position is one of a convoluted mixture of low budget guest house/hotel accommodation, homeless hostel and guest house and 5 self-contained flats. In addition, having regard to existing and previous floorplans/layout plans, as an operational fall-back position (and it is acknowledged that this fall-back position is perhaps not a realistic one due to the convoluted mix of residential uses lawfully present on site), but nevertheless up to around 36 individuals or groups totalling 36 people can reside in these properties, either as clients of low budget guest house/hotel accommodation, tenants of homeless hostel accommodation, or tenants/owners of the 5 lawful self-contained flats.

### Site Context

- 6.3 The application site is in the heart of Clacton-on-Sea, located on the east side of Edith Road (towards its southern end close to Marine Parade West, the seafront and the grade II listed gardens). The site consists of 3 x three storey properties known as Nos. 4, 6 and 8 Edith Road. To the front of each property there is a vehicular access point (and separate pedestrian access point) with hardstanding. Along the rear the properties benefit from small courtyards/garden areas. Each building (nos. 4, 6 and 8) has its own ground floor access point along the front providing internal access (via a collection of dated staircases) to a collection of single and double rooms, some with en-suite bathrooms, separate bathrooms, shower-rooms and shared facilities. Nos. 4 and 6 Edith Road have access points to the rear providing access to self-contained flats (lawfully authorised through appeal decisions attached as Appendix 1). The external facades of the buildings are in a poor state and in need of repair and modernisation. All internal spaces in all three buildings are severely depleted, neglected and in a very poor state. The buildings are currently vacant and as stated above were previously used as a mixture of individual flats, low budget guest houses/hotels, authorised and un-authorised homeless hostel accommodation and also an unauthorised larger house in multiple occupation (HMOs).
- 6.4 Edith Road consists of a mixture of flatted development, and two and three storey semi-detached dwellings, some have been converted into bed and breakfast facilities/guest houses, or hotels (indeed some appear to have been in use as hotels/guest houses for a considerable time, others are still in use are single dwellings. It is possible that some of the other properties on Edith Road (not forming part of the application site) are in use as unauthorised HMOs however this could not be verified and in any event should not have a bearing on this assessment or decision as the proposal will be assessed on its individual planning merits having regard to the Development Plan and all other material planning considerations.
- 6.5 The character of Edith Road and surrounding roads, including Beatrice Road and Jackson Road to the north, are residential. The application site is not in a Conservation Area, neither are any of the buildings on the site locally or statutorily listed, however the Clacton Seafront Conservation Area is nearby (the southernmost tip of Edith Road is included in the above mentioned Conservation Area). There are also no listed buildings in close proximity to the application site, the nearest listed building being the Clacton-on-Sea War Memorial opposite the Pier (much further to the east of the Edith Road). The seafront gardens themselves are also listed as Grade II and runs along Kings Promenade and Marine Parade West from Tower Road (to the west) all the way to the Pier and the War Memorial to the east.
- 6.6 The application site is in a very sustainable location close to a significant number of shops, services (along the seafront and further inland along the High Street and surrounding roads),

potential job opportunities (being in larger urban centre) and public transport options with bus stops and Clacton Overland station all within walking distance from the site.

### The Proposal

- 6.7 Planning permission is sought for a change of use of all the buildings on site (i.e. Nos. 4, 6 and 8 Edith Road) to a sui generis use for 34 supported living units, including infill extension and other minor external alterations.
- 6.8 In terms of the 34 supported living units, these will take the form of either studios or 1-bed/sitting apartments. There will be three distinct ground floor communal access points in the ground floor front elevation of Nos. 4, 6 and 8 respectively. Some of the proposed studios/bed/sitting apartments on ground floor will have their own individual access points in the side elevations of buildings, or those to the rear also have individual access points. The building known as No. 4 Edith Road will contain 13 supported living units including all the landing areas and corridors. No. 6 Edith Road will accommodate 11 supported living units as well as the site office (to the front on ground floor) and No. 8 Edith Road will accommodate 10 supported living units making up the total of 34 supported living units. There will be a separate refuse store to the front (of No. 8) to serve the entire facility. Each supported living unit will be fully self-contained with its own kitchen area (or in the case of studios a living/sleeping area). Each unit will have at least one decent sized window serving the habitable area(s). The vast majority of units (33 in total) will have two or more windows. In other words, only one studio (proposed flat No. 11) will have one window – in the case of flat No. 11 this is a large window in the rearward facing elevation.
- 6.9 In terms of the tenure type (supported living units), the applicant has explained that prospective tenants suitability for occupation of the premises will be considered (presumably on a case by case basis) and where tenants have additional restrictions incorporated into their tenancy and support agreements, for example preventing amongst other requirements, the use of illegal substances on the premises and where, as part of their occupancy, they then must take part in supported living tuition/support with one to one support learning often on a daily basis, but at least once a week. The benefits of this one to one support is given with the aim of developing an independent life style for tenants as they progress towards independent living accommodation elsewhere. Another example of a prospective tenant of the proposed supported living units proposed could be somebody fleeing domestic abuse/violence where they are forced to leave their home for safety reasons. They may occupy the proposed units for a short time whilst they gather themselves together and save for a deposit for a private rental unit, and or whilst the domestic affairs are settled. A house manager would be present on site on a daily basis, managing tenants, enforcing house rules and rules of the support agreements that the tenants have signed up to. Work is also carried out with the local authority and other agencies. The remainder of the characteristics of the proposed supported living units and how these will function are outlined in detail in paragraphs 3.1 – 3.12 of the Fisher Jones Greenwood Planning Statement publically available on the Councils Planning pages of the TDC website.
- 6.10 Externally to the front of Nos. 4, 6 and 8 the hardstanding areas will be retained to serve as car parking areas (four no. car parking spaces are proposed). Externally to the rear some breakout areas/garden areas with secure bicycle storage areas are proposed.
- 6.11 Significant external and internal cosmetic improvements and refurbishment works are proposed. Specifically in terms of external improvement works it is proposed to repair and repaint all rendered and brick areas, all soffits, fascias and gutters, drainpipes to be replaced, all timber and upvc windows to be replaced with new upvc windows. All decorative woodwork features are to be repaired and painted, all existing front doors to be replaced with new ones, the front parking areas to be replaced with new block paving, and new fence, wall and gate to replace damaged front wall areas. A new infill extension is also proposed between Nos. 4 and

6 to include a ground and first floor extension, slightly set back from the front and significantly set back from directly adjacent elevations along the rear. Internally new staircases and a significantly altered layout (compared to current situation) is proposed.

#### Principle of Development

- 6.12 The National Planning Policy Framework 2021 (NPPF) states that housing applications should be considered in the context of the presumption in favour of sustainable development and that the Council should deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. It is important to help create mixed and inclusive communities, which offer a choice of housing and lifestyle. It also states local planning authorities should encourage the development of mixed and balanced communities; they should ensure that new housing developments help to secure a better social mix by avoiding the creation of large areas of housing of similar characteristics.
- 6.13 Saved Policy HG3 of the adopted Local Plan deals with residential development within defined settlements stating that, within the defined development boundaries of towns and villages, residential development will be permitted provided it satisfies amenity, design, density, environmental and highway safety as appropriate, and can take place without material harm to the character of the local area. Emerging Policy SPL2 states that within the Settlement Development Boundaries, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies and any approved Neighbourhood Plans.
- 6.14 The proposal is for a change of use to create 34 supported living units (in the sui generis use class – meaning it is a land use that does not fall within any particular use class), however supported living units is nevertheless a form of residential accommodation. The site lies within the Settlement Development Boundary of Clacton as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017), and in light of the fact that supported living units is a form of residential, the overarching spatial policies as outlined above supports residential development within settlement boundaries, subjected to relevant detailed considerations (covered below).

#### Appearance, Design, Scale

- 6.15 The NPPF states that development proposals should function well, add to the overall quality of the area, be visually attractive as a result of good architecture and layout and be sympathetic to local character. Adopted policy SP7 and saved Policy QL11 of the adopted Tendring District Local Plan (2007) seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Emerging Plan.
- 6.16 The proposals include an extension in the form of a ground and first floor infill extension between Nos. 4 and 6 Edith Road to create additional space at first floor level where 2 new units (apartments 18 and 19 as annotated on the proposed first floor plan) will be located. As outlined above various other minor external alterations are proposed (to facilitate the conversion scheme) and include things like replacement or alterations of existing windows or window openings (either making slightly smaller or slightly larger), as well as blocking up of existing doors and rendered over to match existing buildings. No new window openings are proposed other than the new windows proposed in the first floor front and rear elevation of the infill extension.
- 6.17 In terms of the new infill extension, along the front the extension will be set back from the main front elevations on both sides by approximately 200mm (0.2m), striking an appropriate balance between subordination and the requirement for sufficient space inside units 18 and 19 (latter

issue covered below). Along the rear the infill extension will appear as a subordinate and appropriate addition having regard to the fact that Nos. 4, 6 and 8 have rearward projections projecting significantly beyond the rear elevation of the new infill extension. The infill extension will have a pitched roof finished in pantile rooftiles, and this, together with the other alterations outlined above will result in appropriate extensions and alterations to the buildings in accordance with the relevant design policies quoted above.

- 6.18 Three new bicycle storage shelters (to accommodate 12 bikes each) are proposed in the rear courtyard areas of Nos. 4, 6 and 8 Edith Road and will consist of a galvanised steel frame with a curved sheet roof and galvanised steel bicycle racks. A new bin store is proposed to accommodate 3 x 1100 litre wheelie bins in a neat galvanised steel frame clad with recycled and purposely designed plastic cladding panels to give the enclosure a brownish timber effect. These structures are considered to be acceptable in terms of their appearance and will provide a functional and aesthetically acceptable solution to cycle storage provision.

Layout, Standard of Accommodation including housing size and mix and private amenity space

- 6.19 The application proposes a total of 34 supported living units. The units will be spread over four floors (ground, first, lower second and upper second floors) and each unit will be fully self-contained with either a kitchen or kitchen/living area, a separate shower room with toilet and hand basin, and a bedroom or bed/sitting area.

Sub-heading: Unit sizes/Floor Space Standards/Private amenity space

- 6.20 The Applicant has made clear in their supporting statement that each apartment comprises a single person unit. The starting point for assessing unit sizes is the Development Plan insofar as relevant to the application. Adopted policies HG6 and HG10 (of the Local Plan 2007) and emerging policy LP3 are also relevant, considerable weight is afforded to emerging policy LP3. These policies state (summarised): To reflect the identified needs of the local community and to create diversity in design terms, an appropriate mix of dwelling sizes and type will be sought in housing developments of 10 or more dwellings or residential sites of 0.3 hectare or more, taking into account local circumstances and site characteristics (HG6), and policy HG10 states subdivision into flats will be permitted subject to compliance with 7 sub criteria. Emerging policy LP3 states new residential and mixed-use development (including conversions) shall have regard to factors such as the national minimum internal floor space standards. The Technical housing standards – nationally described space standard (THS) March 2015 is therefore a material planning consideration in the assessment of this planning application. With this in mind the minimum gross internal floor area requirement for a 1 person, 1 bedroom unit is 37 sqm where a shower room (instead of a bathroom) is proposed. Having regard to the 'Accommodation Schedule' submitted with the application and the proposed layout plans, it is clear that all the units proposed will fall short of the floor space requirement for such units as set out in the THS March 2015 (the largest unit is Unit 9 at 32.8 sqm). There is minor conflict with the THS March 2015, however there is tension between the THS and the TDC emerging policy LP 11 which allows for bedsits with a minimum floor area of 16 square metres. The 34 supported living unit scheme also relies on balconies on first floor level only to provide exclusive external amenity space for two units, and small external areas to the side and rear of the buildings. The proposal is therefore clearly in conflict with policies HG7 and HG9 and emerging policies SPL3 and LP11.
- 6.21 In accordance with the Town and Country Planning Act 1990 (section 70(2)) (and because of the policy conflict and minor conflict with the THS identified above), the assessment now turns to other material planning considerations:

Sub-heading: Other Material Considerations (unit sizes/floor space standards)

- a) The Planning Practice Guidance states that where a need for internal space standards is identified local authorities should take account of need (based on evidence on the size and type of dwellings currently being built), and the impact of viability of imposing the standards. The Applicant and the Council's own Housing Team have clearly demonstrated the demonstrable need for supported living units. In addition, it will undoubtedly be the case that a straightforward insistence on complying with the THS will have an impact on the viability of this scheme. In any event, there is tension between the THS and emerging policy LP 11 insofar as floorspace standards for bedsits is concerned. Emerging policy LP 11 is well advanced and considerable weight is attached to this policy.
- b) 'Sui Generis' (meaning it's a land use falling in its own category) supported living units are proposed. The proposal is in response to a very specific and acute housing need as set out in this report. Moreover, the Council Housing team have commented and explained that "... *in these units and clearly the intention is not for these units to become the permanent residence for these individuals.*" Having regard to the above, and should planning permission be granted, it is considered necessary and reasonable to condition the planning permission to ensure the units remain in perpetuity as Sui-Generis Supported living units because the Applicant has put forward the proposal on this basis and the application, insofar as need is considered, has been assessed on this basis.
- c) Supporting text to adopted policy HG6 (paragraph 4.69) acknowledged that sheltered or supported housing may by necessity contain a preponderance of one dwelling type.
- d) At this stage of the assessment there is no clear conflict with key Development Plan policies HG6 and HG10 insofar as unit sizes is concerned
- e) Due regard is given to the temporary nature of the tenure type (supported living units – they are never intended for permanent or long term occupancy).
- f) In terms of the provision of external amenity space and the policy conflict identified above, the site is within a very short walk of Clacton Seafront with its Pier, beautiful listed gardens, large expanses of white sandy beaches and other parks and amenity areas. Having regard to the proposed tenure type (supported living), the intention is not to encourage residents to spend time outside within the confines of the site, and the reality is that prospective occupiers will much rather spend time in the nearby high quality open spaces that Clacton on Sea has to offer.

6.22 In terms of the Housing Mix, only bedsits and one bedroom units are proposed, all for single person occupancy. The proposed housing mix is such because the scheme is clearly aiming to address a specific need. In addition, currently across Nos. 4, 6 and 8 Edith Road up to 36 unrelated people can occupy the mismatch and mixture of self-contained flats, low budget guesthouse / hotel bedrooms or homeless hostel accommodation in any event. Having regard to the above, the proposal, insofar as the housing mix is concerned, will not be in conflict with key policy HG6 because the policy allows decision makers to take into account local circumstances and site characteristics, including realistic fall back positions.

Highway Safety/Parking

6.23 Relevant Paragraphs in the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Relevant saved policies in the adopted Tendring District Local Plan 2007 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people. The sentiments of this

policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

- 6.24 In terms of parking, Essex County Council Parking Standards (ECCPS) - Design and Good Practice September 2009, set out the minimum parking requirements for different types of development. Parking Standards for other uses falling within the 'Sui Generis' category includes 'Hostels providing no significant element of care'. The parking standards for hostels require 1 space per full time staff equivalent. No resident parking requirements are given for this type of use.
- 6.25 Vehicular access and pedestrian access off the highway/pavement will remain unchanged with safe and convenient access via dropped kerbs/separate pedestrian access points off Edith Road. To the front of Nos. 4, 6 and 8 Edith Road are hardstanding areas capable of providing off street parking for up to at least 4 vehicles to meet the needs for the limited number of employees this facility will generate, as well as occasional deliveries requiring off street parking or other visitors. In terms of parking for future residential occupiers, the ECCPS has no specific resident parking requirements for this type of use and each case should be assessed on its individual merits. Due to the nature of the proposed use (assisted/supported living) would mean that occupiers would not have access to a car. This position is backed up TDC Housing and ECC Highways who raise no objection the proposal as a whole. In addition, individuals referred to this facility will be clearly informed of this position that there is no parking available for the use of private cars. Insofar as car parking provision is concerned there is no conflict with any of the adopted or emerging policies on car parking, or indeed the ECCPS. In any event, a full range of facilities are located only a short walk away from the application site, where transport to travel beyond exists. Occupiers would be able to walk and cycle, with other transport choices available after a short walk away from the application site.
- 6.26 In terms of cycle parking, a total of 34 secure and convenient spaces are proposed to the rear of the building in the courtyards of Nos. 4, 6 and 8 respectively. This provision will offer one space per unit and is considered to be more than sufficient for the nature of the proposed use, and will encourage sustainable means of transport in accordance with the NPPF 2021, adopted and emerging policies, as well as the ECCPS.

#### Impact on Residential Amenity

- 6.27 Relevant paragraphs in the National Planning Policy Framework 2021 states that planning should always seek to secure a high standard of amenity for existing and future users. Policy QL11 of the adopted Tendring District Local Plan (2007) states that development will only be permitted if it will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives.
- 6.28 As outlined in section 3, Nos. 4, 6 and 8 Edith Road as a collective could be occupied up by up to 36 individuals or groups / small families totalling up to 36 people in the form of a mixture of the uses already specified. The fact of the matter is that the current lawful mixture of residential use types (part low budget guest house, some self-contained flats and hostel for the homeless) are piecemeal and not complementary, for example guest house accommodation does not lend itself to work seamlessly directly adjacent to, or as part of a hostel for the homeless or indeed pepper potted self-contained flats for private occupancy. The proposal is to homogenise the use (sui generis supported living) and it is against this backdrop and very realistic fall-back position that impact on residential amenity should be assessed.
- 6.29 The proposal will provide 34 self-contained units to be offered as supported living units. This will mean a house manager would be present on site on a daily basis, managing tenants, enforcing house rules and rules of the support agreements that the tenants have signed up to. The operators of the site will also work in partnership with the local authority and other

agencies. In addition to the above, the Applicant has explained that CCTV is proposed, as utilised with other similar premises managed by the operator, to ensure that if any anti-social behaviour/breaches of agreements occurs this can be dealt with at the earliest opportunity to avoid any problems occurring or repetition of behavioural issues. The Applicant also explained that neighbours will be provided with a 24 hour on call 7 day a week contact number so that any issues arising can be dealt with immediately. The Applicant further explained that there will be an additional requirement for tenants to sign up to a support agreement before entering the premises to commence their short term stay, alongside the strict rules laid down by the provider ensures tight management of the units to promptly address any anti-social behaviour or noise issue at a very early stage. Ultimately, the primary function of the proposed facility is to work with the local authority to meet housing need for vulnerable and homeless people and to assist in meeting the significant and the growing need for homeless person accommodation in the TDC administrative area.

- 6.30 It is clear from the above that the Applicant is offering significant safeguards in an attempt to ensure the amenity of surrounding residents and those of future occupiers are safeguarded. For the LPA to give appropriate weight to these safeguards as outlined in the paragraph above, it is considered necessary, reasonable, relevant (to planning) and enforceable for a condition to be imposed should planning permission be granted requiring the Applicant or future operators to annually submit a precise and detailed Site Management Plan to include all the above safeguards (list not exhaustive) for the LPA to consider, review and determine on an annual basis. It is acknowledged that some of the proposed safeguards put forward may well fall under the licensing regime (a specific license will be required by the Operators from TDC licensing) however it is considered that as a whole, the proposed safeguards as put forward by the Applicant is relevant to planning, as without these the LPA cannot be sure that the proposal will not result in an unacceptable impact on residential amenity in respect of noise and general disturbance. Therefore, it is considered that a condition for an ongoing Site Management Plan is appropriate in this instance as these safeguards are clearly put forward by the Applicant in their Planning Statement and other supporting documents, and the only way the LPA can give weight to these safeguards is to ensure they are carried forward in perpetuity and for as long as the proposed tenure type shall exist, a tenure type which will also be conditioned to remain in perpetuity unless specific planning permission is obtained to change this arrangement. This, together with the Site Management Plan condition will ensure the sui generis use is carried out and managed in accordance with an annual site management plan, to remain up to date and enforceable as it will be reviewed and considered annually.
- 6.31 With these safeguards in place, and having regard to the lawful and operational fallback position - which is that up to 36 people can occupy these premises in any event - it is considered that the proposal will not result in any undue harm or unacceptable impact on residential amenity of existing and future surrounding occupiers by way of noise disturbance or the comings and goings of up to 34 individuals.
- 6.32 In terms of the proposed infill extension, it will neatly nestle in-between Nos. 4 and 6 and will, therefore have no impact whatsoever, on the daylight/sunlight or views of surrounding residents. The proposed refuse store will be located to the front of No. 8 Edith Road away from the northern boundary, will consist of a well-designed enclosure and regular refuse collections will occur to ensure this element of the scheme will not have a detrimental impact on the residential amenity of occupiers to the north.

#### Ecology and Biodiversity

- 6.33 The NPPF states that 'the planning system should contribute to, and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible.' Relevant adopted and emerging policies reinforces this requirement and

require development proposals to take account of nature and wildlife conservation and seek to enhance biodiversity.

- 6.34 The existing site has low or no ecological or biodiversity value because the areas around the buildings are predominantly hardstandings with the exception a few small patches of un-kept 'bedding' areas to the front and to the rear. No specific biodiversity enhancement measures are proposed, and given the existing situation on site it would be unreasonable to specifically insist upon a preliminary ecological appraisal as the buildings was until recently occupied and it is therefore unlikely that the buildings would have provided habitat for any protected species. There appears to be limited opportunity for new soft landscaping on the site however the site and surrounding area would benefit significantly from the introduction of new planting. There is certainly scope on the site to incorporate soft landscaped areas as such it is considered necessary and reasonable to include a planning condition requiring details of hard and soft landscaping should planning permission be granted. Not only will this further improve the appearance of the building but it will also ensure there will be no nett loss in biodiversity on site, as such, with a condition the proposal is considered to be in accordance with the relevant policies and provisions in the NPPF.

#### Financial Contributions – Recreational Disturbance and Open Space

- 6.35 Under the Habitats Regulations, where necessary, a proportionate financial contribution will be secured in line with the Essex Coast RAMS requirements to ensure that this proposal will not have an adverse effect on the integrity of the above European sites from recreational disturbance, when considered 'in combination' with other development.
- 6.36 The site lies within the Zone of Influence. The site is not within or directly adjacent to one of the European designated sites, but is approximately 7 miles from the Hamford Water SAC, SPA and Ramsar.
- 6.37 In this instance, and having regard to the mixture of residential uses currently or previous on site, as well as the fact that up to 36 individuals or groups totalling up to 36 can occupy the buildings in any event, the proposal will result in a similar number of residents than currently or previously allowed within that combination of residential uses. Regard is also given to the temporary nature of the proposed tenure (supported living). Therefore, the number of visitors to the above-mentioned designated sites is likely to have a similar result and a proportionate financial contribution is not considered necessary or justified in this instance.
- 6.38 In terms of open space, again for the same reasons it is not considered to be justified to request a specific contribution towards open space, in any event, colleagues in Public Realm, Open Spaces and Play Team have confirmed no contribution is being requested on this occasion.

#### Other Matters – Engagement with the Head of Housing

- 6.39 Throughout the course of the application, officers have engaged extensively with the applicants to seek various additional pieces of information to allow for a better understanding of the use and how it will function. Officers have also engaged with the Head of Housing who has confirmed that there is a need for good quality, low cost accommodation in the District for vulnerable people and those at risk of homelessness.
- 6.40 TDC Housing have written in full support of the proposal and stated the provision of this accommodation will go a long way in helping us to meet our statutory duties.
- 6.41 The Councils Housing service will retain full control over the referral of potential occupiers and this will be dependent on an inspection of the finished, converted building and successful issue

of the relevant licence and further discussions with the owners about the support package on offer.

## **7. Conclusion**

7.1 The principle of supported living units being provided in sustainable urban centres close to shops, services, open spaces and other amenities is supported in both local (emerging and adopted) policies as well as in the NPPF. The proposal will homogenise a current incompatible series of residential land uses (low budget guest house/hotels, self-contained flats and hostel for homeless people) and although there are minor conflict with policies and guidance relating to what is expected on standards for residential accommodation, having regard to the other material planning considerations outlined in section 6 of the report, the scheme will bring forward functional and appropriate supported living units for qualifying individuals. Having regard to the lawful operational fall-back position and conditions that will secure additional residential amenity safeguards, the proposal is considered to be acceptable from an amenity perspective. The scheme will result in significant improvements to the buildings and the wider streetscene, there are no highways safety or parking implications, and subject to conditions, the development will result in no net loss in biodiversity, accordingly the proposal is recommended for approval subject to conditions.

## **8. Recommendation**

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives as set out below:

### **8.2 Conditions and Reasons**

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

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

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

- 2020121/11
- 2020121/13 Rev B
- 2020121/24
- 2020121/25 Rev C
- 2020121/26 Rev A
- 2020121/27
- 2020121/28
- 2020121/29 Rev B
- 2020121/30 Rev A
- 2020121/31 Rev A
- 2020121/32 Rev A
- 2020121/33

- 2020121/34 Rev B
- Document titled 'Circle Housing and Support – Supported Lodging to independent living – Property Specification and Standards
- Document titled 'Proposed conversion of buildings into self-contained studio apartments – 4, 6 & 8 Edith Road, Clacton on Sea for ISSAM Properties – Accommodation Schedule by floor and apartment number

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

3. The use hereby approved shall only be occupied by a maximum of 34 residents at any one time.

Reason – In order to control the intensity of the use in the interests of residential amenities.

4. Prior to first occupation of any of the 34 supported living units hereby approved, a detailed Site Management Plan (SMP) shall be submitted to and approved in writing by the local planning authority. The SMP shall describe and detail precisely the means by which the Sui Generis supported living facility hereby approved shall be managed on a day to day basis, and shall include details on refuse management and all maintenance of internal and external communal areas. The measures agreed every annual SMP shall be implemented as agreed and retained as such thereafter.

Reason – To ensure the use and facility is appropriately operated and managed in the interests of residential amenities for both existing and future occupants.

5. The development hereby approved shall only be used on the basis of 'Sui Generis' Supported Living units, and the ground floor site office in No. 6 Edith Road shall be retained and used as site office in connection with the management of the supported living facility in perpetuity, in strict accordance with the plans hereby approved. The 34 supported living units hereby approved shall not be used at any times as private self-contained dwellinghouses falling under use Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended). The overall number of residents occupying the buildings at Nos. 4, 6 and 8 Edith Road at any one time shall not exceed 34.

Reason – The application has been assessed on the basis of the proposal for 34 supported living units (sui generis), and in order to prevent the establishment of unmanaged self-contained units for private occupancy, and in view of the limited provision of car parking, to protect the amenity of the area generally.

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

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

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

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

8. Prior to first occupation of any of the 'Sui Generis' Supported Living units hereby approved, the Developer shall be responsible for the provision and implementation of a Residential

Travel Information Pack per unit, for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.

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

9. Each vehicular parking space shall have minimum dimensions of 2.5 metres x 5.0 metres (at approximately right angles to the road).

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

10. Prior to first occupation of any of the 'Sui Generis' Supported Living units hereby approved, any new or altered vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 3.6 metres (3 metres minimum – 6 metres maximum), shall be retained at that width for 5 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway.

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

11. 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.

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

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

### 8.3 Informatives

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 seeking additional information from the Applicant to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

## 9. Additional Considerations

### Public Sector Equality Duty (PSED)

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

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

#### Human Rights

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

#### 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/>.

## 10.2 Appendix 1 – Planning Enforcement Appeal Decisions

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## Appeal Decisions

Inquiry held on 28 February 2017

Site visit made on 1 March 2017

**by Katie Peerless Dip Arch RIBA**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 21 March 2017**

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### **Appeal A: APP/P1560/C/16/3152145**

### **Appeal B: APP/P1560/C/16/3152146**

### **4 Edith Road, Clacton-on-Sea CO15 1JU**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mr K Wright (Appeal A) and Mr M Mann (Appeal B) against an enforcement notice issued by Tendring District Council.
  - The enforcement notice, numbered 15/00069/CHGUS2, was issued on 28 April 2016.
  - The breach of planning control as alleged in the notice is: the creation, (as an unauthorised material change), of a mixed use of a hostel for assisted living, a house in multiple occupation (Class C4 of the Town And Country Planning (Use Classes) Order 1987 as amended) together with associated rooms and units used as self-contained flats. The flats are shown edged blue on plan 2 attached to the enforcement notice.
  - The requirements of the notice are 1. Cease the unauthorised material change of use and 2. Cease the use as a hostel for assisted living and 3. Cease the use as a house of multiple occupation and 4. Cease any use of Rooms 401, 404, 413, 4A Edith Road and 4B Edith Road as shown edged blue on plan No.2 annexed to the enforcement notice as self contained residential flats and 5. Remove from Units Rooms 401, 404, 413, 4A Edith Road and 4B Edith Road as shown edged blue on plan No.2 annexed to the enforcement notice any locks, numbers, kitchenettes and self contained meters which would enable them to be used as self contained residential flats.
  - The period for compliance with the requirements is 6 months.
  - The appeal is proceeding on the grounds set out in section 174(2)(b) and (d) of the Town and Country Planning Act 1990 as amended.
  - All the evidence to the Inquiry was given under oath.
- 

### **Appeal C: APP/P1560/C/16/3152149**

### **Appeal D: APP/P1560/C/16/3152150**

### **6 Edith Road, Clacton-on-Sea CO15 1JU**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr K Wright (Appeal C) and Mr M Mann (Appeal D) against an enforcement notice issued by Tendring District Council.
- The enforcement notice, numbered 15/00061/CHGU, was issued on 28 April 2016.
- The breach of planning control as alleged in the notice is the creation, (as an unauthorised material change,) of a mixed use of a hostel for assisted living, house in multiple occupation (Class C4 of the Town and Country Planning (Use Classes) Order 1987 as amended) together with an associated unit used as a self-contained flat. The flat is shown edged blue on plan 2 attached to the enforcement notice.
- The requirements of the notice are 1. Cease the unauthorised material change of use and 2. Cease the use as a hostel for assisted living and 3. Cease the use as a house of multiple occupation and 4. Cease any use of 6A Edith Road as shown edged blue on

plan No.2 annexed to the enforcement notice as a self contained residential flat and 5. Remove from 6A Edith Road as shown edged blue on Plan No.2 annexed to the enforcement notice any locks, numbers, kitchenette and self contained meters which would enable it to be used as a self contained residential flat.

- The period for compliance with the requirements is 6 months
  - The appeal is proceeding on the grounds set out in section 174(2)(d) of the Town and Country Planning Act 1990 as amended.
  - All the evidence to the Inquiry was given under oath.
- 

## **Decisions**

### **Appeals A & B: APP/P1560/C/16/3152145 & 46**

1. I direct that the enforcement notice be corrected and varied by the deletion of the allegation and the substitution of the following words: '*an unauthorised material change of the property to a mixed use of a house in multiple occupation (Class C4 of the Town And Country Planning (Use Classes) Order 1987 as amended) together with associated rooms and units used as self-contained flats. The flats are shown edged blue on plan 2 attached to the enforcement notice.*'
2. I also direct that the requirements of the enforcement notice be deleted and replaced with the following words: '*Cease the unauthorised material change of use of those parts of the premises in use solely as a house of multiple occupation (i.e. all rooms and units except 401, 404, 413, 4A & 4B).*'
3. Subject to these corrections and variations, the appeal is dismissed and the enforcement notice is upheld.

### **Appeals C & D: APP/P1560/C/16/3152149 & 50**

4. I direct that the enforcement notice be varied by the deletion of the allegation and the substitution of the following words: '*an unauthorised material change, of the property to a hostel for assisted living, a house in multiple occupation (Class C4 of the Town and Country Planning (Use Classes) Order 1987 as amended) together with an associated unit used as a self-contained flat. The flat is shown edged blue on plan 2 attached to the enforcement notice.*'
5. I also direct that the requirements of the enforcement notice are deleted and replaced with the following words: '*Cease the unauthorised material change of use of those parts of the premises in use solely as a hostel for assisted living and house of multiple occupation (i.e. all units except unit 6A).*'
6. Subject to these variations, the appeal is dismissed and the enforcement notice is upheld.

### **Application for costs**

7. At the Inquiry an application for costs was made by the appellants against Tendring District Council. This application is the subject of a separate Decision.

### **Procedural matters**

8. Although there are 2 enforcement notices for 2 separate properties, the appeal sites are in the same ownership and the enforcement notices have similar allegations. The submissions for the appeals on ground (d) are also similar for both properties and I have therefore dealt with both appeals in this one document.

9. The wording of the enforcement notices is, in my view, somewhat confusing in their phrasing and, after discussion at the Inquiry, it was agreed by the parties that it could be altered to read more clearly without prejudicing either side. I have therefore altered the allegations accordingly.
10. Notwithstanding my findings on the appeal on ground (b) in Appeals A & B relating to the use of No. 4 Edith Road, as no such appeal has been made for Appeals C & D, the enforcement notice in those cases will remain unaltered in that respect.

### **Appeal sites**

11. The appeal premises are 2 former private houses, with accommodation on 3 storeys, in a street of similar properties near the seafront in Clacton. They are both semi-detached but No. 4 is attached to No. 2 Edith Road and No. 6 to No. 8. Both properties have been extended into the roof space and at the rear. No. 4 was also known at one time as the Sandpiper Guest House and No. 6 as the Lodge Hotel.
12. At the time of the site visit there were bedsitting rooms within the main building at No. 4, some with en-suite facilities, some with kitchenettes and some with both (401, 404 and 413), a communal kitchen on the first floor, a kitchen that was not in use on the ground floor and communal bath or shower rooms and WCs on the first and second floors. There are also 2 separate units (4A and 4B), both self-contained with kitchen and bathrooms, accessed separately from the rear of the main building.
13. No. 6 has similar rooms, but although some are fitted with kitchenettes none have en-suite bathrooms and there are shared facilities on each floor and communal kitchens on the ground and first floors. To the rear there is a unit that is self-contained with a bed/sitting room, kitchen and bathroom.

### **Reasons**

#### *Appeals A & B – ground (b)*

14. An appeal on ground (b), that the allegation of the use of the property as a hostel has not occurred as a matter of fact, has been made in respect of the property at No. 4 Edith Road only.
15. It seems that the allegation of a hostel use has been made for both properties because they, and the building at No. 8 Edith Road, were leased by a charity known as the April Centre between 1 November 2009 and 1 May 2015, which let out the rooms in them to tenants. The tenants were selected by the April Centre and the properties were not available to the general public. No. 8 was granted planning permission for a mixed use as a homeless hostel and guest house in 2005. All 3 properties were, and are still, in the same ownership and the Council consider that the hostel use also occurred, and may still be occurring in Nos. 4 and 6.
16. The appellants maintain that the history of No. 4 shows that it has never been in a hostel use and also that the use of No. 6 has consistently been as a HMO rather than a hostel. However, as No. 6 is physically attached to No. 8, its use may have been considered to be more akin to the authorised hostel use in that property.

17. A letter from a previous employee of the April Centre confirms that the occupants were considered as tenants and had 6 month Assured Shorthold Tenancies. I have seen nothing that contradicts that statement and this confirms that the use be as a House in Multiple Occupation (HMO). The letter goes on to explain that there were no bed and breakfast facilities at the properties whilst being operated by the April Centre.
18. However, the tenants apparently included ex-prisoners and people with drug and alcohol addiction problems who required support and help to try and get their lives back on track. The Council considers that the support given to them by the April Centre in this regard brings the use of the building into the category of a hostel rather than use as a HMO.
19. Hostels were previously included in the same use class as hotels until 1994 when they were changed to a 'sui generis' use following concerns that hotel accommodation was not being used for tourism purposes but was being used to house other groups such as benefit claimants, which could have an impact on the amenities of the surrounding area. There is, however, a range of uses to which a 'hostel' can be put, such as housing for students or nurses, transient accommodation for those being re-housed elsewhere, shelter for those in need of a safe place to stay on a temporary basis or a tourist facility for those travelling on a budget and ready to accept a standard of accommodation lower than that generally found in a hotel.
20. However, in my view, as one of the characteristics of a hostel is the temporary nature of the accommodation. Where occupants have entered into a tenancy agreement and the premises is their only home, I consider that the use may then fall to be categorised as an HMO or flat, depending on the facilities available.
21. I note that one of the Council's witnesses reports that he was told that there were restrictions placed on who could visit the residents and when, but the appellants say that the manager of the property only acted to prevent anti-social behaviour that appeared to occur when some of the residents congregated together in particular areas of the building. This would not, in my view, be sufficient to indicate a hostel use throughout the building.
22. The April Centre occupied the premises from 2009 to 2015 but had vacated the premises by the time the enforcement notice was issued. Given my findings as set out above and the lack of any other evidence that persuades me that there was a hostel use taking place in No. 4 after the April Centre vacated the building, the appeal on ground (b) in respect of this use succeeds. The enforcement notice will be corrected accordingly.

*All Appeals – ground (d)*

23. The defining characteristic of an HMO is a property where some of the facilities needed for day to day living, such as food preparation and storage areas or bathrooms are shared between more than one household occupying a single dwelling. It is not generally the case that meals or other such services are supplied and each occupant normally fends for themselves in this regard. It is also normal for the occupants to have some form of tenancy agreement, which is obviously not the case with hotel guests.

24. The appellants consider that the enforcement notices were issued well after the time for taking action against any change of use expired. The onus is firmly on them to demonstrate, on the balance of probabilities, that their version of events is correct and, provided this is sufficiently precise and unambiguous it will be accepted, unless it is undermined or contradicted by other evidence from the Council.
25. To refute the appellants' claim that the properties had been in an HMO use from 2003 onwards, the Council has produced evidence that shows it was sending people in need of emergency accommodation to the properties until 2009 and its witnesses told the Inquiry that premises used by the Council for this purpose were expected to provide a bed and breakfast service. From this evidence, I do not doubt that the Council were still sending people to stay at Nos. 4 and 6 Edith Road on a temporary basis until the April Centre took over in 2009.
26. I have been given no details of any tenancy agreements for these people and can only conclude that, whilst their stay might have lasted some time, their use of the rooms was on the basis of guest house or bed and breakfast occupation. The Council's witnesses gave evidence that the properties were on a list of guest houses which would be telephoned to inquire about vacancies when the need arose and clients were then booked in and paid for by the Council on a nightly or weekly basis. This situation appeared to have continued up to the time that the April Centre took over the premises in 2009, and certainly after the relevant date of 28 April 2006.
27. It is true that the premises were also considered to have an element of HMO use in 2003 and this is confirmed by the Council issuing licences to cover this use in 2007 and later, to the April Centre, in 2011. This issue of such a licence is not, however, conclusive proof that the whole building had been given over to an HMO use.
28. After regulations changed in 2004, a licence was required for premises over 2 storeys high where there were 5 or more occupants in 2 or more households being housed on a long term basis. Whilst not all guest houses used by the Council needed such a licence, Nos. 4 and 6 Edith Road met the above criteria. These regulations did not, however, apply in the case of hotel guests staying for business or leisure purposes and the licence does consequently not confirm that the C1 guest house use of the buildings had completely ceased.
29. The appellants point to the evidence of the Council's Environmental Health Officer, who told the Inquiry that, when he visited the property in June 2006, he concluded that the buildings were predominantly in an HMO use. However, this officer was not assessing whether there had been a change of use in planning terms, but only whether the property needed to be licenced, given the use that the Council was then making of it.
30. There may well have been times when the HMO occupancy levels were more than the C1 use, but the evidence from the Council casts significant doubt that the C1 use had been wholly discontinued by April 2006, and the referral of people from the Council's housing department on what could be a nightly stay basis meant that there was an element of C1 hotel/guest house use still operating up until 2009. It is, however, clear that the guest house use had finally ceased completely by the time the April Centre took over the buildings and that it has not recommenced since then.

31. The numbers of referrals for emergency housing from the Council may have varied over time, but as long as the property was available for such clients and also, as confirmed by some of the Council's evidence, for members of the general public, an element of C1 use remained. The evidence is also ambiguous on the levels of each use and it is not therefore possible to conclude that any guest house use was ancillary to the HMO use or that the HMO use had been established without the guest house element by the relevant date. I therefore conclude that the properties were in a mixed use between 2006 and the time that the April Centre took over the houses in 2009.
32. There was a material change at that time, but the evidence presented by the appellants, as challenged by the Council, is not precise or unambiguous enough to allow me to conclude that the HMO use, excluding the C1 hotel use, is immune from enforcement action and the appeal on ground (d) in respect of this part of the use consequently fails.
33. However, this does not necessarily mean that the self-contained flats can now also be enforced against as part of the change of use. Although the Council submitted that the whole of each property was in a mixed use and that the '10 year rule' relating to time limits for enforcement should apply to the flats or units with kitchen and bathroom facilities, I disagree. A planning unit can be formed from only part of a building and a self-contained flat can be a 'dwellinghouse' for the purposes of s.171B(2) of the Town and Country Planning Act 1990 (as amended) to which a time limit for enforcement action of 4 years applies.
34. I consider that those units within the properties that have private cooking and bathroom facilities are self-contained flats, to which the '4 year rule' applies. I therefore need to consider whether these rooms have been self-contained for more than 4 years prior to the issue of the enforcement notices on 28 April 2016.
35. The planning history of the properties record that flat 4A at the rear of No. 4 Edith Road was granted planning permission for a change of use from owners' accommodation to guest rooms in 2004 and the plans show the layout as I found it at the site visit.
36. The findings of the *Gravesham*<sup>1</sup> case confirmed that the distinctive characteristic of a dwellinghouse is its ability to afford to those who use it the facilities required for day-to-day private domestic existence. The notion that a building which had that characteristic ceased to be a dwellinghouse because it was occupied only for a part or parts of the year or at infrequent or irregular intervals or by a series of different persons was firmly rejected. Therefore, whether or not the unit was rented out or used by the owners, it is nevertheless a self-contained dwellinghouse and has been for many years.
37. Plans accompanying the notices are dated November 2010 and show kitchens and bath or shower rooms in the rooms identified by the blue edging (401, 404, 413 in No. 4 Edith Road, 4B to the side of No. 4 and flat 6A to the rear of No. 6. There was no suggestion from the Council that the dates of these plans were inaccurate and I saw at the site visit that the facilities in the rooms are still present. I conclude therefore that these rooms and units are separate dwellinghouses which are now immune from enforcement action.

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<sup>1</sup> *Gravesham Borough Council v Secretary of State for the Environment and Michael W. O'Brien* (1984) 47 P&CR 142 [1983]

38. In summary, I consider that the appellants' evidence is not precise and unambiguous enough to allow me to conclude that No. 4 and 6 Edith Road have been an HMO with associated self-contained flats for long enough to be immune from enforcement action.
39. Parts of Nos. 4 and 6 Edith Road were in a mixed use as an HMO and C1 guest house on the relevant date in 2006, when the Council was still referring residents to the guest houses. This changed in 2009 when the April Centre took over the lease and began operating what I have found to be an HMO with associated flats. Although I have found there was no hostel use in No. 4, this part of the enforcement notice for No. 6 has not been challenged. However, if No. 6 had ever been used in this way, it appears that this use has ceased in any event.
40. Even if the self contained flats had not been created by 2006, they were present by 2010 at the latest and are now separate planning units that are immune from enforcement action, but the material change from a guest house/HMO to an HMO is not. Consequently, the enforcement notices will be varied to reflect my findings and the appeals on ground (d) succeed only in respect of the flats.

*Katie Peerless*

**Inspector**

## **APPEARANCES**

### FOR THE APPELLANT:

Peter Le Grys MA DipTP MRTPI	Stanfords Land and Property Consultants
He called	
Keith Wright	Appellant
Mr Le Grys also gave evidence	

### FOR THE LOCAL PLANNING AUTHORITY:

Asitha Ranatunga	Of Counsel instructed by L Trembath , Solicitor for Tendring District Council
He called	
Grant Fenton-Jones BSc (Hons)	Environmental Health Team Leader, Tendring District Council
Robert Goswell	Technical Officer, Private Sector Housing Team, Tendring District Council
Peter Russell	Housing Needs and Strategic Policy Manager, Tendring District Council
Jenny Haggis	Benefits Manager, Tendring District Council
Christopher Stathers	Enforcement Team Leader, Tendring District Council

### DOCUMENTS

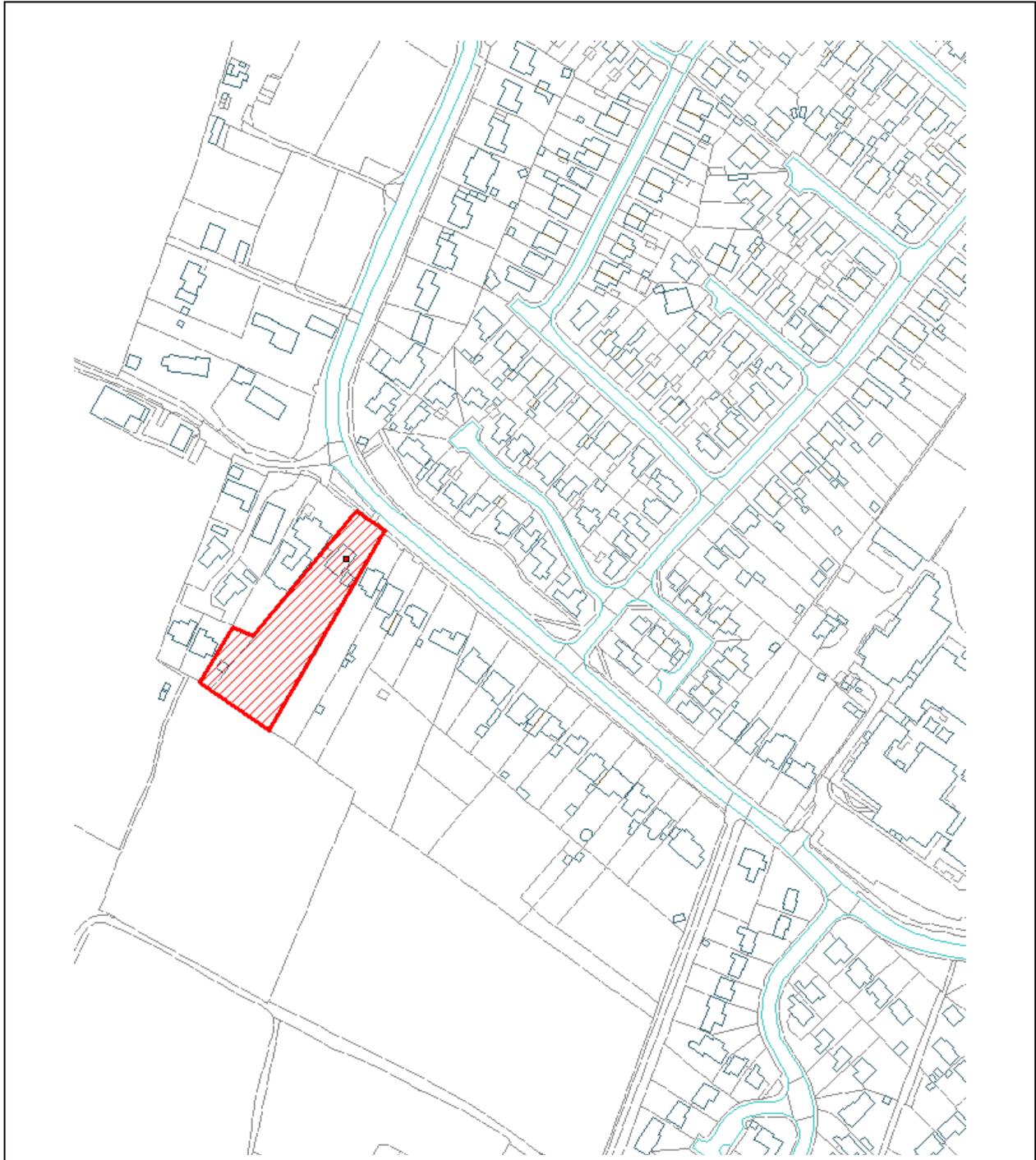
- 1 Statement of Common Ground
- 2 Notes of Council's opening statement
- 3 Housing benefit information 4 & 6 Edith Road

## PLANNING COMMITTEE

26<sup>th</sup> October 2021

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### A.3 PLANNING APPLICATION – 21/00208/FUL – LAND REAR OF STRANGERS WAY CHURCH ROAD BRIGHTLINGSEA CO7 0QT



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**Application:** 21/00208/FUL

**Town / Parish:** Brightlingsea Town Council

**Applicant:** Park Mark Ltd

**Address:** Land rear of Strangers Way Church Road Brightlingsea CO7 0QT

**Development:** Erection of 5 no. self-contained residential houses (bungalows) with associated parking, landscaping and amenity space

## 1. Executive Summary

- 1.1. This application has been called to Planning Committee at the request of Councillor Steady and Councillor Barry for the following reasons:
  - The proposal is contrary to the Development Plan
  - Highway and Traffic Impact
  - Adverse impact on ancient woodland
  - Is outside the development area
  - The proposal could impact on highway safety at a difficult location and where school children are regularly walking.
- 1.2. This application seeks planning permission for the erection of 5 no. self-contained residential bungalows with associated parking, landscaping and amenity space at land to the rear of Strangers Way, Church Road, Brightlingsea.
- 1.3. The site is located to the rear of the properties known as Strangers Way and Stronvar in Church Road, Brightlingsea. Church Road comprises generally of large detached buildings set on large plots. To the west of the site is a small development which was granted permission at appeal in 2017 for the erection of 4 detached bungalows to the rear of Homefield, Church Road, Brightlingsea.
- 1.4. The site is located outside of the Settlement Development Boundary as defined under Policy QL1 of the adopted 2007 Local Plan. However, the publication draft of the Local Plan includes the site within the proposed Settlement Development Boundary, with no change proposed in the most recent modifications. From the Status of the Local Plan section above the plan is at a very advanced stage of preparation, and ought to be afforded considerable weight.
- 1.5. The immediate locality is characterised by a mixture of two storey, one and a half storey and single storey dwellings. They are all detached dwellings and located on large plots, with the exception of a small development of bungalows to the rear of 'Homefield', which is considered to set a precedent for in-depth development in the locality.
- 1.6. The design, layout, access, are considered acceptable. The proposal would result in no significant material harm to residential amenity or highway safety.
- 1.7. It is considered that the proposal would not adversely affect the Ancient Woodland or any protected species.

**Recommendation:**

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

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

- Financial Contribution towards Open Space
- Financial Contribution towards RAMS

Subject to the conditions stated in section 8.2

B. 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 July 2021*

*National Planning Practice Guidance*

*Adopted Tendring District Local Plan 2007 (part superseded)*

- QL11 Environmental Impacts and Compatibility of Uses (part superseded)
- QL12 Planning Obligations
- HG7 Residential Densities
- HG9 Private Amenity Space
- COM6 Provision of Recreational Open Space for New Residential Development
- COM23 General Pollution
- EN1 Landscape Character
- EN11A Protection of International Sites European Sites and RAMSAR Sites
- EN29 Archaeology
- TR1A Development Affecting Highways
- TR3A Provision for Walking
- TR5 Provision for Cycling
- TR7 Vehicle Parking at New Development

*Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)  
Relevant Section 1 Policies (adopted 26 January 2021)*

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP3 Spatial Strategy for North Essex
- SP4 Meeting Housing Needs
- SP6 Infrastructure and Connectivity
- SP7 Place Shaping Principles

*Relevant Section 2 Policies (emerging)*

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- HP5 Open Space, Sports & Recreation Facilities
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- LP8 Backland Residential Development
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- PPL7 Archaeology
- CP1 Sustainable Transport and Accessibility

Local Planning Guidance

*Essex Design Guide*

*Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)*

*Essex County Council Development Management Policies 2011*

*Essex County Council Parking Standards Design and Good Practice Guide 2009*

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

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).

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 26<sup>th</sup> 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.

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 29<sup>th</sup> June 2021. The Council held a six week public consultation on the Main Modifications and associated documents, which began on 16<sup>th</sup> July 2021. The consultation ran for just over 6 weeks, closing at 5pm on 31<sup>st</sup> 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.

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.

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**

21/00168/FUL	Proposed erection of a single storey	Approved	20.04.2021
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rear extension, two storey side extension and roof alterations.

#### 4. Consultations

Woodland Trust  
07.04.2021

Objection - detrimental impacts to Lodge wood

Ancient Woodland

Natural England and the Forestry Commission defines ancient woodland "as an irreplaceable habitat [which] is important for its: wildlife (which include rare and threatened species); soils; recreational value; cultural, historical and landscape value [which] has been wooded continuously since at least 1600AD."

It includes: "Ancient semi-natural woodland [ASNW] mainly made up of trees and shrubs native to the site, usually arising from natural regeneration

Plantations on ancient woodland sites - [PAWS] replanted with conifer or broadleaved trees that retain ancient woodland features, such as undisturbed soil, ground flora and fungi"

Damage to Ancient Woodland

The Trust objects to planning application 21/00208/FUL on the basis of damage to Lodge wood (grid ref: TM07941777), an Ancient Semi Natural Woodland designated on Natural England's Ancient Woodland Inventory (AWI).

Planning Policy

National Planning Policy Framework, paragraph 175 states: "When determining planning applications, local planning authorities should apply the following principles:

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists;

Footnote 58, defines exceptional reasons as follows: "For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat." There is no wholly exceptional reason for the development in this location and as such this development should be refused on the grounds it does not comply with national planning policy.

Tendring Local Plan 2007

## Enhancement of the Natural Environment and Landscape

6.51a states that It is important that there is no further loss of ancient trees and hedges through development pressures, mismanagement or poor practise. This Council therefore feels strongly that any development that would result in the loss of or damage to such hedges and trees will not be granted planning permission. To summarise, planning permission will not be granted for development that would have an adverse impact upon the physical appearance, landscape character or historic or archaeological interest of Historic Landscapes, including the ancient woodlands, trees, hedgerows and other physical components which are essential features of these landscapes. These landscapes are protected by policy EN1.

### Policy EN1 - Landscape Character

The quality of the district's landscape and its distinctive local character will be protected and, where possible, enhanced. Any development which would significantly harm landscape character or quality will not be permitted. Development control will seek in particular to conserve the following natural and manmade features which contribute to local distinctiveness:

- estuaries and rivers, and the undeveloped coast;
- skylines and prominent views, including those of ridge tops and plateau edges;
- the settings and character of settlements and of attractive and/or vernacular buildings within the landscape;
- historic landscapes and listed parks and gardens, ancient woodlands, and other important woodland, hedgerows and trees;

### Policy EN6 - Biodiversity

Development proposals will not be granted planning permission unless the existing local biodiversity and geodiversity is protected and enhanced. In exceptional circumstances, where the planning benefits are considered to outweigh the protection or enhancement of local biodiversity and geodiversity, appropriate compensating measures to outweigh the harm caused by the development must be provided. Where appropriate, conditions or planning obligations will be sought to protect the biodiversity interest of the site and to provide appropriate compensatory or mitigation measures and long term site management, as necessary

The benefits of the development are not exceptional and appropriate mitigation and compensation does not exist due to the irreplaceable nature of ancient woodland. Where an application involves the loss or deterioration of irreplaceable habitats, such as ancient woodland, net gains for biodiversity cannot possibly be achieved.

## Impacts to Ancient Woodland

Natural England has identified the impacts of development on ancient woodland or veteran trees within their standing advice. This guidance should be considered as Natural England's position with regards to development impacting ancient woodland.

"Nearby development can [also] have an indirect impact on ancient woodland or veteran trees and the species they support. These can include:

- breaking up or destroying connections between woodlands and veteran trees
- reducing the amount of semi-natural habitats next to ancient woodland and other habitats
- increasing the amount of pollution, including dust
- increasing disturbance to wildlife from additional traffic and visitors
- increasing light pollution
- increasing damaging activities like fly-tipping and the impact of domestic pets
- changing the landscape character of the area"

When land use is intensified such as in this situation, plant and animal populations are exposed to environmental impacts from the outside of a woodland. In particular, the habitats become more vulnerable to the outside influences, or edge effects, that result from the adjacent land's change of use. These can impact cumulatively on ancient woodland - this is much more damaging than individual effects.

We are specifically concerned about the following impacts to the ancient woodland:

Intensification of the recreational activity of humans and their pets can result in disturbance to breeding birds, vegetation damage, trampling, litter, and fire damage.

Fragmentation as a result of the separation of adjacent semi-natural habitats, such as small wooded areas, grassland, hedgerows, individual trees and wetland habitats.

Noise, light and dust pollution occurring from adjacent development, during both construction and operational phases.

The ecological report does not address the potential loss of functional connectivity and foraging habitat for light-sensitive bat species as a result of inappropriate lighting at the woodland edge, despite acknowledgement that Lodge wood itself is 'likely to provide good conditions for foraging bats'. Lighting is only referred to in the context of bat box positioning.

Where the wood edge overhangs public areas, trees can become safety issues and be indiscriminately lopped/felled, resulting in a reduction of the woodland canopy and threatening the long-term retention of such trees.

Adverse hydrological impacts can occur where the introduction of hard-standing areas and water run-offs affect the quality and quantity of surface and ground water. This can result in the introduction of harmful pollutants/contaminants into the woodland.

Development can provide further sources of non-native and/or invasive plant species and aids their colonisation of the woodland;

Where gardens abut woodland or the site is readily accessible to nearby housing, it gives the opportunity for garden waste to be dumped in woodland and for adjacent landowners to extend garden areas into the woodland. It can also create pressure to fell boundary trees because of shade and leaf fall and interference with TV reception. It also forces boundary trees to be put into tree safety inspection zones resulting costs for neighbours and increasingly comprehensive felling.

W1 (as identified in the Arboricultural report) is noted as part of Lodge wood; comments on shading and light suggested that there would be a 'slight loss to midday sunlight reaching rear amenity spaces during summer months'. This exacerbates concerns about felling pressure from residents and demonstrates the inappropriate proximity of plots to the woodland.

Any effect of development can impact cumulatively on ancient woodland - this is much more damaging than individual effects.

The site plan and applicant's statements indicate at least three bungalows and associated hardstanding located within 11m of Lodge wood.

The 'acceptability' of this reduced buffer zone appears to be based on the applicants argument that there is a lack of certain features such as boundary edges or wood bank systems, and that the woodland edge is in poor condition having been subject to 'gradual erosion'.

This assertion is contrary to Natural England's standing advice which states that "a woodland in poor condition can be improved with good management and development proposals should enhance the condition of existing ancient woodland, where appropriate. Where a proposal involves the loss of ancient woodland, you should not take account of the existing condition of the ancient woodland when you assess the merits of the

development proposal. Its existing condition is not a reason to give permission for development."

In addition, features such as boundary edges or wood bank systems are only one of many potential ecological and historical indicators of ancient woodland status. As Lodge wood is included on the Ancient Woodland Inventory, Natural England consider this site to be ancient therefore, the Council should fully adhere to this classification in terms of planning policy.

As stated in the ecological report, the applicant intends to carry out native tree/shrub planting 'along the woodland edge'. Gardens associated with the bungalow plots extend southwards towards Lodge wood and appear to comprise a large part of the 11m buffer based on the site plan; as such, this suggests that only a thin margin of hedgerow planting is intended to protect the woodland edge.

Standing advice clarifies that any buffer zones should not include gardens or sustainable drainage schemes and should contribute to wider ecological networks. As such, the current proposals are unacceptable.

#### Mitigation

Detrimental edge effects have been shown to penetrate woodland causing changes in ancient woodland characteristics that extend up to three times the canopy height in from the forest edges. As such, it is necessary for mitigation to be considered to alleviate such impacts.

Natural England's standing advice for ancient woodland, states: "Mitigation measures will depend on the development but could include:

- improving the condition of the woodland
- putting up screening barriers to protect woodland or ancient and veteran trees from dust and pollution
- noise or light reduction measures
- protecting ancient and veteran trees by designing open space around them
- identifying and protecting trees that could become ancient and veteran trees in the future
- rerouting footpaths
- removing invasive species
- buffer zones"

Additional mitigation approaches are also outlined in our Planners' Manual; these measures would help ensure that the development meets policy requirement and guidance and include:

- Non-invasive root investigation for ancient trees and protection beyond the limit of the usual investigative tools.
- Measures to control noise, dust and other forms of water and airborne pollution

- Sympathetic design and use of appropriate lighting to avoid light pollution.
- Producing and funding an access management plan for the woodland, and/or providing alternative natural greenspace to reduce additional visitor pressure.
- Implementation of an appropriate monitoring plan to ensure that proposed measures are effective over the long term and accompanied by contingencies should any conservation objectives not be met.

### Buffering

This development should allow for a buffer zone of at least 15 metres to avoid root damage and to allow for the effect of pollution from the development. The council should ensure that the width of the proposed buffer is adequate to protect the adjacent ancient woodland. The buffer should be planted before construction commences on site. HERAS fencing fitted with acoustic and dust screening measures should also be put in place during construction to ensure that the buffer zone does not suffer from encroachment of construction vehicles/stockpiles, and to limit the effects of other indirect impacts.

This is backed up by Natural England's standing advice which states that "you should have a buffer zone of at least 15 metres to avoid root damage. Where assessment shows other impacts are likely to extend beyond this distance, you're likely to need a larger buffer zone.

Natural England goes on to state:

Where possible, a buffer zone should:

- contribute to wider ecological networks
- be part of the green infrastructure of the area
- It should consist of semi-natural habitats such as:
  - woodland
  - a mix of scrub, grassland, heathland and wetland planting
- You should plant buffer zones with local and appropriate native species.
- You should consider if access is appropriate and can allow access to buffer zones if the habitat is not harmed by trampling.
- You should avoid including gardens in buffer zones.
- You should avoid sustainable drainage schemes unless:
  - they respect root protection areas
  - any change to the water table does not adversely affect ancient woodland or ancient and veteran trees

### Conclusion

The Trust objects to this planning application unless the

applicant commits to a strict 15m buffer between any aspect of the development (including gardens) and Lodge wood.

TDC Tree & Landscape Officer  
18.03.2021

There are no trees or other vegetation on the application site as the site has been cleared of all vegetation.

The application site is immediately adjacent to Lodge Wood which is recorded on the inventory of ancient woodland. Consequently, the applicant will need to consider the national guidance produced by the Forestry Commission and Natural England entitled 'Standing Advice on Ancient Woodland and Veteran Trees'.

One of the key elements of the standing advice will be the creation of a buffer zone with a minimum distance of 15m between the development and the ancient woodland.

Information demonstrating that the development proposal will not cause harm to the ancient woodland must be provided prior to the determination of the application

The applicant will need to provide details of soft landscaping to soften screen and enhance the appearance of the development and potentially to help improve the condition of the ancient woodland

TDC Tree & Landscape Officer  
21.09.2021

Further to previous comments:

Natural England have confirmed that the wooded area adjacent to the application site is not 'ancient' and that it will be removed from their inventory of ancient woodland. Consequently it appears that this woodland is no longer an active constraint on the development potential of the land.

ECC Highways Dept  
24.06.2021 & 05.10.2021

The information that was submitted in association with the application has been fully considered by the Highway Authority. A site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image dated April 2019.

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:

- 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

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 DM 1.

2. Prior to occupation of the development, the road junction / access at its centre line shall be provided with a minimum visibility splay with dimensions of 2.4 metres by 70 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway in the interest of highway safety in accordance with policy DM1.

3. 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 each 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.

4. Prior to the occupation of the proposed development the internal road and parking layout shall be provided in principal and accord with Drawing Number:  
APD/0049/PA003 Rev. B - Amended Site Layout Plan.

Reason: To ensure that vehicles using the site

access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM1.

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

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

Note: As per the Essex Parking Standards (Parking Standards: Design and Good Practice, Sept 2009) 6 metres should be provided behind each parking space to allow for manoeuvring.

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

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

7. Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Carriageway / Footway / Highway Boundary and provided with an appropriate dropped kerb crossing of the footway/verge.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety in accordance with policy DM1.

8. Prior to occupation of the development the vehicular access for the host dwelling shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be more than 4.5 metres (5 low kerbs), shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.

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

policy DM1.

9. The existing access for the host dwelling shown on the site layout plan shall be suitably and permanently closed incorporating the reinstatement to full height of the highway verge / footway / cycleway / kerbing immediately the proposed new access is brought into first beneficial use.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety in accordance with policy DM1.

10. 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.

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

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

12. 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 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.

Informative

It is noted that the new vehicular access for the

host dwelling appears to impact directly on the existing telegraph pole and support cables adjacent to the highway boundary; one of the support cables appears to be within the alignment of the new driveway. The support cables cannot simply be moved or even removed as it will impact on the structure of the telegraph pole and in-turn compromise highway safety. The agent/applicant needs to discuss this with the respective Utility Company to see what would be acceptable to them in relation to the driveway access and what potential costs would be entailed to possibly re-locate the apparatus which would be at the applicants expense.

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

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to: SMO1 - 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 Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

TDC Environmental  
Protection  
05.03.2021

Environmental Protection have the following comments to make -

Construction Method Statement: In order to minimise potential nuisance to nearby existing residents caused by construction and any demolition works, Environmental Protection ask that the following is submitted:

Prior to the commencement of any construction or demolition works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, Environmental Protection. This should at minimum include the following where applicable.

#### Noise Control

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

- 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.
- 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.

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

Reason: 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).

#### Contaminated Land

Given the historic agricultural use of the land adjoining the proposed site, we are requesting that should the application be approved, a watching brief is conditioned and undertaken by the applicant, and that the Local Authority are contacted in the event of unexpected ground conditions being encountered during development; ensuring the below minimum precautions are undertaken until such time as the LPA responds to the notification. I would also advise that the developer is made aware that the responsibility for the safe development of the site lies with them.

Minimum requirements for dealing with unexpected ground conditions being encountered during construction.

- a. All site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department will be notified as a matter of urgency.
- b. A suitably trained geo-environmental engineer should assess the visual and olfactory observations of the ground and the extent of contamination and the Client and the Local Authority should be informed of the discovery.
- c. The suspected contaminated material will be investigated and tested appropriately in accordance with assessed risks. The investigation works will be carried out in the presence of a suitably qualified geo-environmental engineer. The investigation works will involve the collection of solid samples for testing and, using visual and olfactory observations of the ground, delineate the area over which

- contaminated materials are present.
- d. The unexpected contaminated material will either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.
  - e. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
  - f. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.
  - g. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.
  - h. Where the potentially contaminated material is to be temporarily stockpiled, it will be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.
  - i. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.
  - j. A photographic record will be made of relevant observations.
  - k. The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions. After consultation with the Local Authority, materials should either be: o re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or o treatment of material on site to meet compliance targets so it can be re-used; or o removal from site to a suitably licensed landfill or permitted treatment facility.
  - l. A Verification Report will be produced for the work.

Reason: to protect site workers and end users

#### Lighting

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 Engineers

Reason: to protect the existing residential amenity

TDC UU Open Spaces  
24.03.2021

There is currently a deficit of 13.68 hectares of play and formal open space in Brightlingsea.

Any additional development in the Brightlingsea area will increase demand on already stretched play facilities and formal open space.

Recommendation

A contribution towards increasing the play or facilities and formal open space is relevant and justified to the planning application.

Any contribution would be used to make improvements Western Promenade or associated area.

TDC Building Control and Access  
Officer  
14.04.2021

No adverse comments at this time.

Essex County Council Archaeology  
01.04.2021 & 21.09.2021

The Essex Historic Environment Record (HER) shows that the proposed development lies within an area of archaeological interest.

The proposed development lies adjacent to an area identified on the Essex Historic Environment Record as containing evidence for archaeological activity (EHER 2234). The record of cropmarks shows enclosures, trackways and ringditches in the adjacent fields which extend across a large area. Excavations at the nearby Moverons Pit have revealed significant multi-period archaeological remains including prehistoric ritual activity and Saxon settlement. The potential for archaeological remains within the development site is high and the impact of the development upon them should be assessed with an archaeological field evaluation.

The following recommendations are made in line with the National Planning Policy Framework:

RECOMMENDATION: Archaeological trial trenching and excavation

1. 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.

2. 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.
3. The applicant will submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

#### Reason for recommendation

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

#### Further Recommendations:

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

Natural England  
01.07.2021

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 Regulations, 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.

The planning application currently shows means of foul water disposal are unknown. If this development will not be connected to the mains sewer, please refer to the attached guidance note for potential impacts to the Colne Estuary from discharges.

#### Ancient Woodland

Following the submission of additional information and that provided by cartographic colleagues the area in question, was not present as woodland on the Epoch 1 map of 1874-5. The area in question is shown as open land. Therefore, this area is not ancient woodland and Natural England will remove it from the ancient woodland inventory.

Please note there will be a delay of approximately 2 months before this amendment appears on the MAGIC website. However, in the meantime and for planning purposes, please take this email as evidence that the area in question does not constitute ancient woodland.

However, the woodland area in question first appears on the 1923 Epoch 3 OS map, so has been extant for at least 100 years and constitutes priority deciduous woodland habitat, which buffers the ancient woodland site and is valuable in the context of the local habitat network.

## 5. **Representations**

5.1 47 letters of objection have been received which raise the following concerns:

- Loss of privacy
- Light Pollution
- Noise Pollution
- Overdevelopment
- All trees have been removed
- The sports ground at the rear already causes indiscriminate pavement and grass verge parking when it is used which is a danger to passing pedestrians.
- The very narrow access route demonstrates as to why the proposed development is in a crowded and unsuitable location

- The proposed properties are on a very confined plot and it is only with small and odd shaped gardens that they have been fitted onto the site plan.
- Could set a precedent for future building and effectively bringing the urban landscape closer to the open fields, woodland and the nature reserve.
- The development would negatively impact on badgers and other wildlife
- The development is out of character of this part of Church Road and would set a precedent for further backland development
- The development would increase traffic on the corner of Strangers Corner, a place where school children regularly cross to go between school sites.
- The proposed development will reduce the stock of large family homes for future generations
- Adverse impact on ancient woodland
- The development would have a detrimental effect on wildlife
- Vehicles waiting to turn right into the development would block the road on a blind corner and represent a very significant risk of an accident.
- The construction of these properties would cause light, noise and air pollution in very close proximity to the ancient woodland causing serious disruption to wildlife including bats and badgers.
- Urban encroachment onto such high quality natural habitats is an ever increasing problem that is not justified in the circumstances
- Limited parking means that visiting vehicles will park out on the main road and cause additional traffic disruption.
- The well documented removal of the habitat on this site in August 2020 before the ecological assessment or the Arboricultural assessment leaves TDC unable to provide a base-line from which they can establish biodiversity net gain post development. TDC will therefore be unable to discharge their statutory duty as referent to under paragraph 170(d) of the NPPF (2019) and Policy EN6b of the Local Plan.
- Another development for 36 retirement units, 5 houses and 104 holiday lodges have just been granted permission, no more are needed.
- Tendring already has a 6 year housing land supply.
- Loss of outdoor space for the Care Home
- The local schools and GP surgery are already overstretched.
- The only road into/out of the town cannot cope with the number of vehicles using it in rush hour periods.

5.2 17 letters of support have been raised which support the applications for the following reasons:

- Provides affordable housing when there is a clear shortage and high demand in Brightlingsea
- New access road will require additional dropped kerbs, which will prevent cars from parking close to the corner.
- The woodland will be unaffected and not touched, the only trees that have been removed were from the previous home owners garden.
- As the properties being built are bungalows and will be surrounded by a fence, neighbouring properties cannot be overlooked.
- The development is not out of character with the area, as a project of the same nature was built to the other side of the Stronvar Care Home 2/3 years ago.

5.3 **Brightlingsea Town Council** – object to the application on the basis that the proposed does not accord with the NPPF, it adversely impacts on ancient woodland, it does not comply with Part 1 of the adopted TDC Local Plan particularly Policy PL8 and it is outside the development area. The proposal could impact highway safety at a difficult location and where school children are regularly walking. The Committee were dismayed that both the Arboricultural Report and the Ecological Report submitted with the application were

both written after the trees were cleared from the site. A member of the public questioned whether the tree felling constituted more than 5 cubic meters of trees which would have required a Forestry Commission licence.

## **6. Assessment**

### Site Context

- 6.1. The site is located to the rear of the properties known as 'Strangers Way' and 'Stronvar' in Church Road, Brightlingsea. Church Road comprises generally of large detached buildings set on large plots. To the west of the site is a small development which was granted permission at appeal in 2017 for the erection of 4 detached bungalows to the rear of Homefield, Church Road, Brightlingsea.
- 6.2. To the north-west of the site lies Stronvar, a two-storey building with a large single storey rear extension, used as a Care Home. On the opposite side of the site is 'Shepards Croft', which is a one and a half storey detached dwelling. To the rear of the site lies woodland known as Lodge Wood.

### Planning History

- 6.3. Planning Application 16/01385/FUL sought permission for the erection of 4 detached bungalows to the rear of Homefield, Church Road, Brightlingsea. That application was refused by the Planning Committee but subsequently allowed on Appeal under appeal reference APP/P1560/W/17/3169862.
- 6.4. More recently, planning permission was granted for the erection of a single storey rear extension, two storey side extension and roof alterations to the existing dwelling under reference number 21/00168/FUL. This was amended under application 21/01335/FUL, which granted permission for the change of external material due to supply issues and re-instating second floor rear facing roof windows that were omitted on submission drawings by mistake.

### Proposal

- 6.5. This application seeks planning permission for the erection of 5no. self-contained residential bungalows with associated parking, landscaping and amenity space at land to the rear of Strangers Way, Church Road, Brightlingsea. The application originally proposed 5 x 3 bedroom dwellings, but subsequently reduced to 3 x 3 bedroom dwellings and 2 x 2 bedroom dwellings.
- 6.6. The proposed dwellings are to be accessed via a new access drive between Strangers Way and Shepard's Croft. A new brick wall is proposed adjacent to the boundary with the proposed access road and Strangers Way, this will be 1.8 metres towards the rear of the site and 0.9 metres at the front of the site. A 1.8 metres close-boarded fence is proposed along all other boundaries with the exception of the rear boundary with the woodland where a native hedgerow is proposed.
- 6.7. All of the 5 proposed dwellings are single storey in height. Three of the proposed dwellings have 3 bedrooms and two have 2 bedrooms. The proposed materials are a mixture of brickwork and render with concrete tiled roofs.

### Principle of Development

- 6.8. Adopted Policy SP3 sets out the Spatial Strategy for North Essex. The Council's Spatial Strategy is to direct most housing developments to the Strategic Urban Settlements and

the Tendring Colchester Borders Garden Community (TCBGC). To encourage sustainable patterns of growth and carefully control urban sprawl, each settlement listed under emerging Policy SPL1 (with the exception of the TCBGC) is defined under Policy SPL2 with a 'Settlement Development Boundary' (SDB). Outside of SDBs, the Council will consider any planning application in relation to the pattern and scales of growth promoted through the Settlement Hierarchy, and any other relevant policies in the plan. In general terms, development outside of defined Settlement Development Boundaries will be the subject of strict control to protect and enhance the character and openness of the countryside.

- 6.9. The site is located outside of the SDB as defined under Policy QL1 of the adopted 2007 Local Plan. However, Policy QL1 was superseded by Policy SP3 when Part 1 of the 2013-33 Local Plan was adopted. Emerging Policy SPL1 defines Brightlingsea as a 'Smaller Urban Settlement' an area which *'will accommodate the second largest proportion of the District's increase in housing stock over the plan period'*. Furthermore, the publication draft of the Local Plan includes the site within the proposed SDB, with no change proposed in the most recent modifications which have been out to consultation. From the Status of the Local Plan section above the plan is at a very advanced stage of preparation, and ought to be afforded considerable weight. On this basis, it is considered that the proposal accords with the spatial approach to housing delivery and is therefore acceptable in principle.

#### Character, Appearance and Layout

- 6.10. Policy SP7 sets out the place shaping principles all new development should follow. The first bullet of this policy states that development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Emerging Policy LP4(h) states that new housing development should deliver new dwellings that are designed to high standards of architecture, which respect local character and which, together with a well-considered site layout, create a unique sense of place. Paragraph 126 of the Framework states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work, and helps make development acceptable to communities. Paragraph 130 of the Framework requires developments are sympathetic to local character and history, including the surrounding built environment, and are visually attractive as a result of good architecture.
- 6.11. The immediate locality is characterised by a mixture of two storey, one and a half storey and single storey dwellings. They are all detached dwellings and located on large plots, with the exception the small development of bungalows to the rear of 'Homefield' (see Planning History). Given that appeal decision it is considered that the principle of backland development in the locality has been accepted.
- 6.12. Policy LP8 of the Emerging Plan states that 'proposals for the residential development of "backland" sites must comply with the following criteria:
- a) where the development would involve the net loss of private amenity space serving an existing dwelling, that dwelling must be left with a sufficient area of private amenity space having regard to the standards in this Local Plan;
  - b) a safe and convenient means of vehicular and pedestrian access/egress must be provided that does not cause undue disturbance or loss of privacy to neighbouring residents or visual detriment to the street scene. Long or narrow driveways will not be permitted;
  - c) the proposal must avoid "tandem" development using a shared access;

- d) the site must not comprise an awkwardly shaped or fragmented parcel of land likely to be difficult to develop in isolation or involve development which could prejudice a more appropriate comprehensive development solution;
  - e) the site must not be on the edge of defined settlements where likely to produce a hard urban edge or other form of development out of character in its particular setting; and
  - f) the proposal must not be out of character with the area or set a harmful precedent for other similar forms of development.
- 6.13. With regard to criteria a) the proposal will result in loss of amenity space to Strangers Way, which also has permission for extensions and alterations. Once the extensions have been completed 350 square metres of private amenity space would remain at the rear of Strangers Way which is considered more than adequate and meets the requirements of Policy HG9. Each of the proposed dwellings is providing with private amenity space in excess of 100 square metres, which meets the requirements of Policy HG9 of the Saved Local Plan.
- 6.14. The proposal does not involve 'tandem' development using a shared access and it does not comprise of an awkwardly shaped or fragmented parcel of land likely to be difficult to develop in isolation or involve development which could prejudice a more appropriate comprehensive development solution. Therefore criteria c) and d) will be met.
- 6.15. In relation to criteria e) the proposal is on the edge of a defined settlement and will provide a hard urban edge; however given the adjacent development to the rear of Homefield it is not considered that this would be detrimental to the surrounding area. Furthermore, the rear boundary of the site is likely to be screened by wider views by the existing ancient woodland. With regards to criteria f) it is considered that the Homefield development has already set a precedent for backland development in the area.
- 6.16. Concerns have been raised that the proposal represents overdevelopment of the site. Nevertheless, sufficient space around dwellings and between the boundaries would remain to ensure that the proposal complies with the requirements of adopted Policy HG14 and emerging Policy LP4. The proposal would make more efficient use of the site, consistent with Paragraph 124 of the Framework, and, because it would not be at odds with the overall character and appearance of the area, it would accord with the overall thrust of saved Policy HG7 and emerging Policy LP3 in relation to density.

#### Highway Safety/Parking

- 6.17. It is proposed that the existing access would be repositioned to serve the proposed dwellings and a new access will be created directly onto Church Road to serve the existing dwelling.
- 6.18. ECC Highways been consulted on the proposal and consider it to be acceptable subject to conditions to cover the following: a Construction Management Plan; visibility splays (vehicular and pedestrian); provision of a vehicular turning facility; no unbound material to be used within 6 metres of the highway boundary; width of the proposed private drive; the provision of vehicular access for the existing dwelling; the existing access being permanently closed; no surface water discharge onto the Highway and provision of Residential Travel Information Pack.
- 6.19. Conditions regarding the internal road layout and garage sizes are also recommended, but these are not considered necessary as compliance is shown on the approved plans. Informatives are also suggested regarding the existing telegraph pole and support cable, to advise that contact is made with the relevant utility company as these cannot simply be

removed and to advise that any works within the Highway need to be agreed separately with the Highway Authority.

- 6.20. Plots 1, 3, 4 and 5 are provided with a garage, which complies with the adopted parking standards and 2 no. additional spaces, making a total of 3 parking spaces, which is in excess of the 2 no. parking spaces required. Plot No. 2 is provided with a garage which complies with the adopted Parking Standards and one additional space, which meets the parking requirements.

#### Impact on Residential Amenity

- 6.21. A number of concerns have been raised with regard to the impact on neighbour's amenities in particular; loss of privacy; light pollution and noise pollution.
- 6.22. The proposed dwellings are single storey in height and the proposed boundary treatment is a 1.8 metre close boarded fence. A condition is imposed to ensure that the boundary treatments are erected prior to first occupation of the proposed dwellings and retained in such form. It is, therefore considered that subject to such conditions the proposal would not have any adverse impact on neighbour's amenities in terms of overlooking.
- 6.23. The proposal will create residential activity in an area to the rear of existing properties where there is currently limited activity. This in itself will result in some adverse impact on the neighbouring amenity. However, given that the proposal is for 5 dwellings it is considered that the impact would not be sufficient to warrant a reason for refusal, especially as they are located to the rear of the site, away from the rear elevations of neighbouring properties.

#### Biodiversity/Ecology

- 6.24. Concerns have been raised regarding the impact of the proposal on loss of biodiversity and adverse impact on the ecology. This is in respect of the site itself and the surrounding area.
- 6.25. Unfortunately, at the time of the Planning Officers visit the site had been cleared, and there was no potential of any protected species on the site. If any protected species were harmed during the clearance of the site this would be a criminal offence and is not a matter for consideration in this application.
- 6.26. However, in support of the application a Phase 1 Habitat Survey was submitted, this is dated January 2021 from the photographs contained within this report it is clear that this was undertaken at a stage when some of the trees had been removed. This report found no evidence of, or potential for any legally protected species. But suggests the following mitigation measures:
- Any work that could impact an active nest (including building demolition, tree work, site clearance) will be undertaken between September and February inclusive, to avoid the nesting period. If this is not possible, an ecologist can carry out a check for active nests immediately prior to work commencing.
  - Four bat roost features (either externally mounted or integrated) such as bat bricks, tiles or tubes to be installed on the southern or eastern aspect of walls or roofs, above 2 metres, away from external lighting, with a clear 1 metre drop below and a clear flight line towards vegetation.
  - Three sparrow terraces installed above 2 metres on either northern or eastern walls.
  - Three open-fronted bird boxes targeting dunnock, robin, spotted flycatcher and grey wagtail in sheltered positions in boundary shrubs/trees or on buildings.

It is proposed that these mitigation measures will be secured by planning condition and this will ensure compliance with the requirement for measurable "biodiversity net-gain" and

provide new habitat opportunities in accordance with Paragraph 174(d) of the National Planning Policy Framework 2019 and Tendring Local Plan policies.

#### Impact on Ancient Woodland

- 6.27. To the rear of the site lies Lodge Wood, originally the whole area was designated as ancient woodland, as shaded in green below.



- 6.28. The original consultation response that was received from Natural England, The Woodland Trust and the Council's Landscape Officer advised that in accordance with the national guidance produced by the Forestry Commission and Natural England entitled 'Standing Advice on Ancient Woodland and Veteran Trees', a buffer zone with a minimum distance of 15 metres between the development and the ancient woodland is required. Following these consultation responses, further information was submitted on behalf of the applicant, which sought to demonstrate that the area outlined in red below was not ancient woodland.



- 6.29. Following the submission of this information Natural England provided updated comments that stated *'the area in question, was not present as woodland on the Epoch 1 map of 1874-5. The area in question is shown as open land. Therefore this area is not ancient woodland and Natural England will remove it from the ancient woodland inventory'*. The removal of this area of land as ancient woodland results in a buffer of approx. 125 metres between the designated ancient woodland and the development site, which is significantly in excess of the required 15 metres.
- 6.30. Although part of the woodland is no longer designated as ancient woodland it first appears on the 1923 Epoch 3 OS map, so has been extant for at least 100 years and constitutes priority deciduous woodland habitat, which buffers the ancient woodland site and is valuable in the context of the local habitat network. This application is supported by an Arboricultural Assessment which demonstrates that the proposal can take place without any adverse impact on the existing trees in the woodland.

#### RAMS

- 6.31. The site is situated within the 'Zone of Influence' of internationally important sites for biodiversity covered by the Essex Coast RAMS SPD, which requires a financial contribution to fund mitigation measures. A Unilateral Undertaking has been completed to

secure the necessary contribution, in accordance with saved Policy QL12, adopted Policy SP2, and the RAMS SPD. The Council’s Habitats Regulation Assessment has concluded that, with the mitigation, the project would not have an Adverse Effect on the Integrity of the sites included within the Essex Coast RAMS.

Open Space

6.32. The Council has identified a deficit of 13.68 hectares of play and formal open space in Brightlingsea. To ensure that local play areas are able to cope with the additional usage from the development it is considered necessary to upgrade and increase the play provision available at Western Promenade – a financial contribution is recommended. Such a contribution meets the tests under Paragraph 57 of the Framework, and the necessary Unilateral Undertaking has been completed. The proposal therefore complies with saved Policies COM6 and QL12, emerging Policy HP5 and the Open Space and Play SPD.

Other Matters

6.33. The proposed development lies adjacent to an area identified on the Essex Historic Environment Record as containing evidence for archaeological activity (EHER 2234). The record of cropmarks shows enclosures, trackways and ringditches in the adjacent fields which extend across a large area. Excavations at the nearby Moverons Pit have revealed significant multi-period archaeological remains including prehistoric ritual activity and Saxon settlement. The potential for archaeological remains within the development site is high and the impact of the development upon them should be assessed with an archaeological field evaluation. A condition is therefore suggested to require archaeological trial trenching and excavation.

6.34. Given the historic agricultural use of the land adjoining the proposed site, the Council’s Environmental Protection Team are requesting that a watching brief is conditioned and undertaken by the applicant, and that the Local Authority are contacted in the event of unexpected ground conditions being encountered during development; ensuring the minimum precautions are undertaken until such time as the LPA responds to the notification.

**7. Conclusion**

7.1. The proposal is acceptable in principle and is in overall accordance with the development plan and the Framework. In accordance with Policy SP1, planning permission should, therefore be granted subject to conditions.

**8. Recommendation**

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

<b>CATEGORY</b>	<b>TERMS</b>
Financial contribution towards RAMS	£127.30 per dwelling
Financial Contribution towards Public Open Space	Based on number of bedrooms

## 8.2. Conditions and Reasons

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
  
Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.
- 2 The development hereby permitted shall be carried out in accordance with the following approved Drawing Nos: PA001, PA002C, PA003C, PA004A, PA005A, PA006, PA007 and PA008.  
  
Reason - For the avoidance of doubt and in the interests of proper planning.
- 3 The development hereby permitted shall be carried out in accordance with the Arboricultural Impact Assessment and Preliminary Method Statements, produced by Arboricultural Association, ref: TPSarb2160920, unless otherwise agreed in writing by the Local Planning Authority.  
  
Reason - To ensure that the proposal does not have any detrimental impact on adjacent trees.
- 4 The development hereby permitted shall be carried out in accordance with the Ecological Impact Assessment, produced by Hybrid Ecology Ltd, dated January 2021, unless otherwise agreed in writing by the Local Planning Authority.  
  
Reason - To ensure that the proposal does not have any detrimental impact on protected species and the interest of site biodiversity.
- 5 No above ground development shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction".  
  
Reason - In the interests of visual amenity and the character of the area.
- 6 All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.  
  
Reason - In the interests of visual amenity and the character of the area.
- 7 Prior to the commencement of development a Construction Management Plan shall have first been submitted to and approved in writing by the Local Planning Authority. This shall include a method statement for the following (where applicable):

- i) Provision 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, and; wheel and underbody washing facilities
- ii) 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.
- iii) 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.
- iv) 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.
- v) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- vi) 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.
- vii) Prior to the installation of any external lighting precise details shall have first been submitted to and approved in writing by the local planning authority. Any external lighting shall be designed so as to prevent any unnecessary light spill. 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 Engineers. Thereafter external lighting shall only be installed in accordance with such details as may have been approved.
- viii) 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.
- ix) No materials produced as a result of the site development or clearance shall be burned on site.
- x) 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.
- xi) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Reason: In the interests of residential amenity and highway safety.

- 8 Prior to occupation of the development, the access at its centre line shall be provided with a minimum visibility splay with dimensions of 2.4 metres by 70 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of obstruction at all times.

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

- 9 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 each 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.

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

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

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

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

- 12 Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Carriageway / Footway / Highway Boundary and provided with an appropriate dropped kerb crossing of the footway/verge.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety in accordance with policy DM1.

- 13 Prior to occupation of the development the vehicular access for the host dwelling shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be more than 4.5 metres (5 low kerbs), shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.

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

- 14 The existing access for the host dwelling shown on the site layout plan shall be suitably and permanently closed incorporating the reinstatement to full height of the highway verge / footway / cycleway / kerbing immediately the proposed new access is brought into first beneficial use.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety.

15 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.

16 Prior to occupation of the proposed dwellings, 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.

17 If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure that the site is free from contamination.

18 Prior to above ground works, a scheme for the provision of electric vehicle charging facilities for each dwelling shall have first been submitted to and approved in writing by the local planning authority. Thereafter the charging facilities shall be installed in a working order, prior to first occupation of the respective plot.

Reason: In order to promote sustainable transport.

19 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 or 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 Engineers

Reason: To protect the existing residential amenity

20 a) 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.

b) 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.

c) 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: The Essex HER shows that the proposed development is located within an area with potential for below ground archaeological deposits.

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

Reason - To protect the amenities and privacy of occupiers of the adjoining property.

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

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

### 8.3. Informatives

#### Positive and Proactive Statement

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

#### Highway Informatives

- It is noted that the new vehicular access for the host dwelling appears to impact directly on the existing telegraph pole and support cables adjacent to the highway boundary; one of the support cables appears to be within the alignment of the new driveway. The support cables cannot simply be moved or even removed as it will impact on the structure of the telegraph pole and in-turn compromise highway safety. The agent/applicant needs to discuss this with the respective Utility Company to see what would be acceptable to them in relation to the driveway access and what potential costs would be entailed to possibly re-locate the apparatus which would be at the applicants expense.
- All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.
- The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to: SMO1 - 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 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.

#### Archaeology

A professional team of archaeologists should undertake the archaeological work. The archaeological work will comprise initial trial trenching evaluation. A brief outlining the level of archaeological investigation will be issued from Essex County Council Archaeology on request.

### **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**

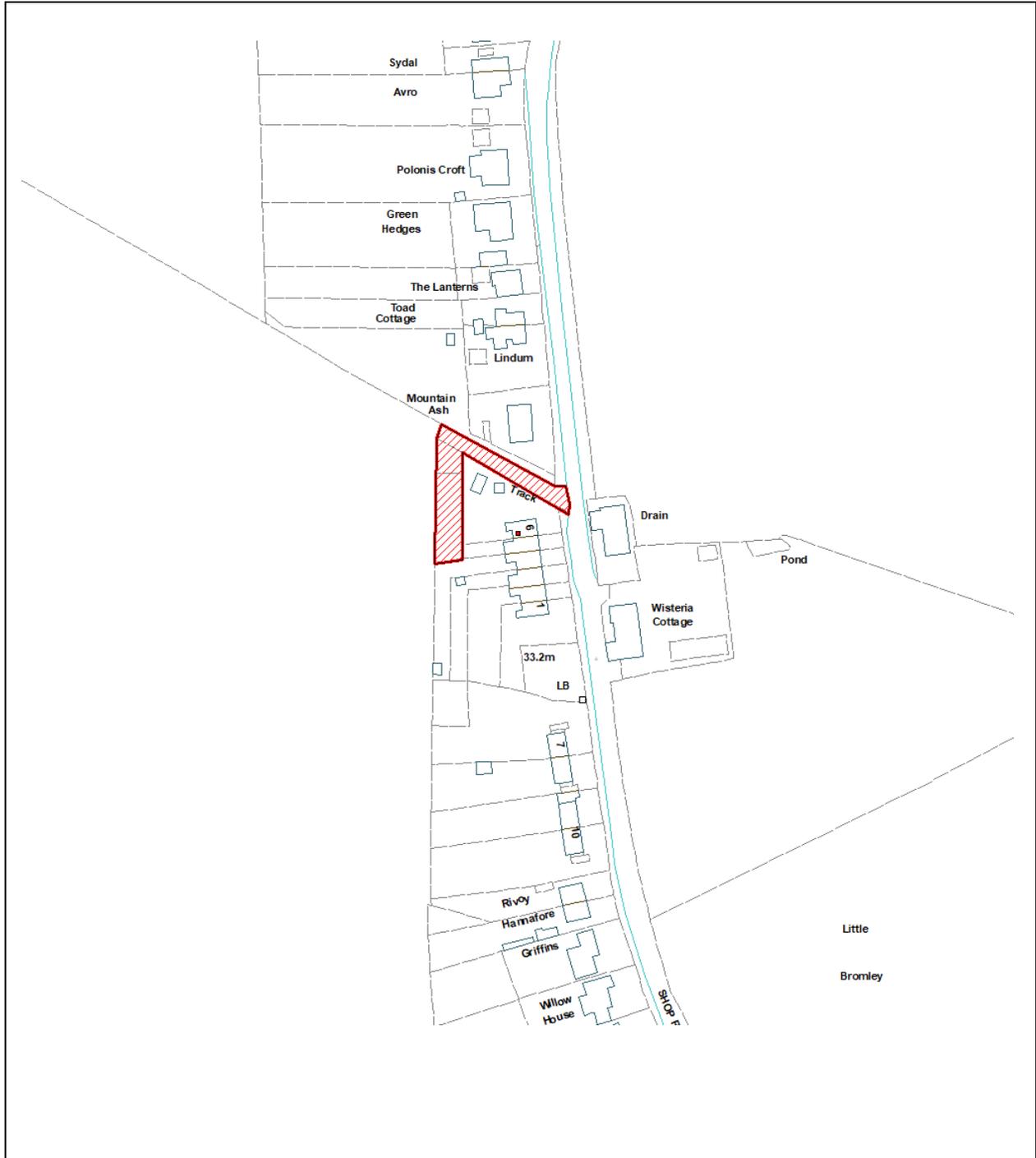
- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) 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/>.

## PLANNING COMMITTEE

26<sup>th</sup> October 2021

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### A.4 PLANNING APPLICATION – 21/00282/FUL – LAND TO THE REAR OF 5 AND 6 SHOP ROAD LITTLE BROMLEY MANNINGTREE CO11 2PZ



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**Application:** 21/00282/FUL

**Town / Parish:** Little Bromley Parish Council

**Applicant:** Mr A Mugford - Digerie Ltd

**Address:** Land to The rear of 5 and 6 Shop Road Little Bromley Manningtree CO11 2PZ

**Development:** Erection of two-bedroom self-contained dwelling house with study / home office / third bedroom, parking for 2 cars and associated landscaping.

## 1. **Executive Summary**

- 1.1 The application is referred to the Planning Committee at the Ward Members request.
- 1.2 The application involves the erection of a two-bedroom dwelling together with parking and associated landscaping.
- 1.3 The site is located within the defined Settlement Development Boundary of Little Bromley in the emerging Local Plan and the proposed modifications do not change this, very significant weight should therefore be afforded this emerging spatial policy consideration. In addition, the proposal would not result in harm to the existing character of the area or wider streetscene in general with regards to the design, siting, scale and external appearance of the development. The proposal would also have no detrimental impact on residential amenity or highway safety.

### **Recommendation:**

That the Head of Planning be authorised to grant planning permission for the development subject to the conditions stated in section 8.2 and a financial contribution towards RAMS.

## 2. **Planning Policy**

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

National:

*National Planning Policy Framework 2021 (the Framework)*  
*Planning Practice Guidance*  
*Technical Housing Standards – Nationally described space standard*

Local:

*Saved Tendring District Local Plan 2007 Policies (the 2007 Local Plan)*

QL2	Promoting Transport Choice
QL11	Environmental Impacts and Compatibility of Uses (part superseded)
QL12	Planning Obligations
HG3	Residential Development within Defined Settlements
HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
HG14	Side Isolation

COM1	Access for All
COM2	Community Safety
COM6	Provision of Recreational Open Space for New Residential Development
COM21	Light Pollution
COM31a	Sewerage and Sewage Disposal
EN1	Landscape Character
EN6	Biodiversity
EN6b	Habitat Creation
EN11a	Protection of International Sites: European Sites and Ramsar Sites
EN13	Sustainable Drainage Systems
TR1a	Development Affecting Highways
TR3	Provision for Walking
TR7	Vehicle Parking at New Development

*Tendring District Local Plan 2013-2033 and Beyond (the 2013-33 Local Plan)*

Section 1 (adopted 2021):

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)
SP3	Spatial Strategy for North Essex
SP4	Meeting Housing Needs
SP7	Place Shaping Principles

Section 2 (emerging – adoption expected later in 2021):

SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP5	Open Space, Sports and Recreation Facilities
LP1	Housing Supply
LP3	Housing Density Standards
LP4	Housing Layout
PPL1	Development and Flood Risk
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL10	Renewable Energy Generation and Energy Efficiency Measures
CP1	Sustainable Transport and Accessibility
DI1	Infrastructure Delivery and Impact Mitigation

Supplementary Planning Guidance:

*Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)*  
*Essex County Council Development Management Policies 2011 (Highways SPD)*  
*Essex County Council Parking Standards Design and Good Practice Guide 2009 (Parking SPD)*  
*Tendring Provision of Open Recreational Open Space for New Development SPD 2008 (Open Space and Play SPD)*

**Status of the Local Plan**

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).

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 26<sup>th</sup> 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.

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 29<sup>th</sup> June 2021. The Council held a six-week public consultation on the Main Modifications and associated documents which began on 16<sup>th</sup> July 2021. The consultation closed at 5pm on 31<sup>st</sup> 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.

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.

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**

21/00282/FUL	Erection of two-bedroom self-contained dwelling house with study / home office / third bedroom, parking for 2 cars and associated landscaping.	Current
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**4. Consultations**

TDC UU Open Spaces 25.03.2021	There is currently a deficit of -0.69 hectares of equipped play/open space in Little Bromley.
	Recommendation

It is felt that there will be no significant impact on the current open space and play facilities.

No contribution is required on this occasion.

TDC Environmental Protection  
16.03.2021

Contaminated Land: EP have no objection to the proposed development, however they would like to request that the LPA are contacted in the event of unexpected ground conditions being encountered during construction and that the below minimum precautions are undertaken, until such time as the LPA responds to the notification. EP would also advise that the developer is made aware that the responsibility for the safe development of the site lies with them.

Minimum requirements for dealing with unexpected ground conditions being encountered during construction

1. All site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department will be notified as a matter of urgency.
2. A suitably trained geo-environmental engineer should assess the visual and olfactory observations of the ground and the extent of contamination and the Client and the Local Authority should be informed of the discovery.
3. The suspected contaminated material will be investigated and tested appropriately in accordance with assessed risks. The investigation works will be carried out in the presence of a suitably qualified geo-environmental engineer. The investigation works will involve the collection of solid samples for testing and, using visual and olfactory observations of the ground, delineate the area over which contaminated materials are present.
4. The unexpected contaminated material will either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.
5. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
6. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.
7. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.
8. Where the potentially contaminated material is to be temporarily stockpiled, it will be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.

9. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.

10. A photographic record will be made of relevant observations.

11. The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions. After consultation with the Local Authority, materials should either be: o re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or o treatment of material on site to meet compliance targets so it can be re-used; or o removal from site to a suitably licensed landfill or permitted treatment facility.

12. A Verification Report will be produced for the work.

Reason - to protect the health of site workers and end users

Noise: In order to minimise potential nuisance caused by construction works, Environmental Protection recommend that the following below is conditioned;

- 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 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.

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

Reason - 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).

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

ECC Highways Dept  
14.05.2021

The information that was submitted in association with the application has been fully considered by the Highway Authority. A site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material. Having regard to the fact that the site will be accessed via an established vehicular access that currently serves

an existing garage and out-buildings to an existing dwelling plus field access; the proposal will not generate excessive additional vehicle movements. As far as can be determined from the submitted plans the proposal provides adequate room and provision for off-street parking and turning, 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. Prior to occupation of the dwelling a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be retained on both sides of the vehicular access at all times. 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.

2. Prior to occupation of the dwelling a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced, and maintained free from obstruction within the site at all times for that sole purpose. Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

3. Prior to occupation of the dwelling the surface treatment at the existing vehicular access with Shop Road shall be resurfaced for at least the first 6 metres from the existing drop kerb, to be approved in writing by the Local Highway Authority with no unbound material to be used. Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

4. Prior to the occupation of the proposed dwelling, the existing private drive shall be constructed to a minimum width of 5.1 metres for at least the first 6 metres from the back of Carriageway / Footway / Highway Boundary. Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety in accordance with policy DM1.

5. Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, retained in perpetuity. Reason: To ensure adequate space for parking off the

highway is provided in the interest of highway safety in accordance with Policy DM8.

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

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

7. 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 in accordance with policies DM9 and DM10.

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

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

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

Informative: 1: As access to the proposed dwelling is via a private track, the applicant should therefore be requested to demonstrate the rights of pass and repass to the proposed development site exist in perpetuity and that the applicant also has the necessary permissions to access the proposed dwelling via the private track.

2: Prior to occupation of the dwelling consideration should be given to resurface the private track from a point 6 metres from its junction with Shop Road to the entrance to the field access with for example a type 2 material and construction depth of 300 millimetres.

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

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

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

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

5: During the construction phase the applicant must ensure that no mud or detritus is taken onto the highway, such measures include provision of wheel cleaning facilities and sweeping/cleaning of the highway. Under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus etc. on the highway. In addition, under Section 161 any person, depositing anything on a highway which results in a user of the highway being injured or endangered is guilty of an offence.

TDC Waste Management  
05.10.2021

All waste and recycling to be presented at the kerbside of Shop Road

Essex County Council Ecology  
16.09.2021

No objection subject to securing biodiversity mitigation and enhancement measures

#### Summary

ECC Ecology have reviewed the Ecological Impact Assessment (Glaven Ecology, July 2021), 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 (Glaven Ecology, July 2021) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority Species particularly amphibians and reptiles.

ECC Ecology also support the proposed reasonable biodiversity enhancements, which have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework 2019. The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured as a condition of any consent.

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

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

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

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 Impact Assessment (Glaven Ecology, July 2021) 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) 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. 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 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)

TDC Tree & Landscape Officer  
06.04.2021

The application site is currently overgrown rough grass and associated vegetation. There are two small trees situated on the land that have little visual amenity value.

There is a small Flowering Cherry close to the garages on adjacent land and a multi-stemmed Hazel in the south-western corner of the plot.

Neither tree merits retention or protection by means of a tree preservation order.

In terms of the impact of the development on the character of the area it is considered the proposed

position of the dwelling is such that it does not accord with the local settlement pattern.

The introduction of a dwelling in the proposed location would diminish the quality of the soft edge to the linear development along Shop Road created by reasonably long back gardens and the vegetation contained therein.

There appears to be little scope for new soft landscaping associated with the development proposal.

TDC Tree & Landscape Officer  
21.09.2021

Notwithstanding, and in addition to, previous comments:

The applicant has provided an Amended Landscape Plan that shows new hedgerow planting on the boundary of the application site with the adjacent open countryside that will soften and partially screen the proposed dwelling.

However, the Amended Landscape Plan does not contain details of plant species or specification. These details should be provided prior to the determination of the application or secured by a condition attached to any planning permission that may be granted.

## **5. Representations**

5.1 Little Bromley Parish Council objects to the proposal due to the lack of public access from Shop Road, the access track to be used would cause noise disturbance to the neighbouring property, the proposal would cause a loss of privacy and amenity and the development site is considered to be cramped and constitute backland development, out of character for Little Bromley.

5.2 6 letters of representation have been received outlining the following concerns;

- Loss of a view
- Overlooking/loss of privacy
- Concern over parking and turning in neighbouring gardens
- Proposed size of the dwelling is too tall
- No access to any local amenities
- Biodiversity impact
- Farm track is being used as the access
- Cramped backland development

5.3 These objections to the scheme were predominantly focussed around the proposed design of the dwelling and its resulting impact. Revised drawings have been submitted and an assessment of the design and impact of the proposal on the character of the area is available in the 'Assessment' section below:

## **6. Assessment**

Site Context

- 6.1 The proposed development site is an underused parcel of land located to the rear of 5 and 6 Shop Road in Little Bromley. The parcel of land was formerly part of the extended garden of number 5 Shop Road. There are dwellings to the north, south and southeast, with agricultural fields to the west of the site. The site is accessed off Shop Road. The application site measures approximately 350 square metres.

#### Proposal

- 6.2 During the course of the application amended plans were submitted, revising the overall design of the proposal including a significant reduction in the overall height and scale of the proposed dwelling. The proposal is for the erection of one detached dwelling with parking to the front.

#### Principle of Development

- 6.3 Emerging Policy SLP1 of the 2017-33 Local Plan denotes Little Bromley as a 'Smaller Rural Settlement' with Emerging Policy SPL2 of the 2017-33 Local Plan including the site within a defined SDB, and the proposed modifications do not change this. As such, the proposal meets the criteria for being an acceptable location for new residential development and is acceptable in principle.

#### Design, Scale, Layout

- 6.4 Little Bromley is characterised by mostly detached and semi-detached dwellings situated on modest plots all of which appear set back from the main highway (Shop Road) which runs through the village. The architectural style, materials and finishes of dwellings varies.
- 6.5 Policy SP7 sets out the place shaping principles all new development should follow. The first bullet of this policy states that development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Modified emerging Policy LP4 h) states that new housing development should deliver new dwellings that are designed to high standards of architecture, which together with a well-considered site layout, create a unique sense of place – avoiding the use of ubiquitous standard house types.
- 6.6 Paragraph 126 of the Framework states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work, and helps make development acceptable to communities. Paragraph 130 of the Framework requires developments to be sympathetic to local character and history, including the surrounding built environment, and are visually attractive as a result of good architecture.
- 6.7 The proposed dwelling would have a 'barn' like appearance in terms of its overall design but also the materials to be used; low brick plinth, weatherboarding and slate tile roof. Given the proposed location, towards the rear of the existing streetscene and therefore in close proximity to the wider countryside, the proposed design, with its strong barn like features, is considered to be in keeping with the surrounding area. The external finishes are appropriate in context and, overall, the revised scheme would be policy compliant in this regard.

#### Highway Safety/Parking

- 6.8 The Local Highway Authority raised no highway safety objections in relation to the submitted proposal for one dwelling. The proposed parking provision is in accordance with the Parking SPD. Emerging Policy PPL10 addresses the renewable energy generation and energy efficiency measures for residential development involving the creation of one or more dwellings. Measures including electric car charging points should be considered. Paragraph

112 e) of the Framework states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations. These considerations have been discussed with the agent and the Council agrees that this could reasonably be dealt with by the use of a planning condition to require a scheme for the provision of an electric vehicle charging point for the proposed new dwelling. Subject to the conditions recommended (in relation to access and parking standards) the proposal would not be harmful to highway safety and for the above reasons would be compliant with the highways policies set out in the header above and the Highways and Parking SPDs.

#### Landscaping/Biodiversity

- 6.9 Subject to the mitigation measures identified in the Ecological Impact Assessment (Glaven Ecology, July 2021) which will be secured by condition, it has been confirmed that the proposal will result in no net loss in biodiversity. In addition, a landscaping condition is recommended (should planning permission be granted) to secure additional soft landscaping. The site is also considered to be approximately 3.3km from the Stour and Orwell Estuaries PSA and Ramsar site and is therefore situated within the 'Zone of Influence' of internationally important sites for biodiversity covered by the Essex Coast RAMS SPD, which requires a financial contribution to fund mitigation measures. The applicant has completed the necessary Unilateral Undertaking, in accordance with saved Policy QL12, adopted Policy SP2, and the RAMS SPD. The Council's Habitats Regulation Assessment has concluded that, with the mitigation, the project would not have an Adverse Effect on the Integrity of the sites included within the Essex Coast RAMS.

#### Impact on Residential Amenity

- 6.10 Policy SP7 and emerging Policy LP4 g), and Paragraph 130 f) of the Framework, together seek to ensure high standards of amenity for existing and future occupants. Due to the location of the new dwelling being a sufficient distance away from nearby properties, the proposal would not lead to any unacceptable adverse effects on the living conditions of existing residents, in terms of daylight and natural light, overlooking and privacy, nor would the proposal be overbearing. Garden sizes and internal floor space would be sufficient to meet the needs of future occupants and would provide a good level of amenity. The proposal would therefore allow for acceptable living conditions for existing and future occupants in accordance with the relevant adopted and emerging policies.

### **7. Conclusion**

- 7.1 As amended, the proposal is acceptable in principle in accordance with the provisions of the emerging local plan and the NPPF 2021. Considerable weight is afforded to the emerging Local Plan policies, and there are no suggested modifications or amendments to include Little Bromley as a 'Smaller Rural Settlement' with Emerging Policy SPL2', and the site falls within the SDB of that settlement. The proposed design responds appropriately to this semi-rural context, and the residential amenity of surrounding occupiers will be maintained. The proposal raises no highway safety or parking issues, and subject to the mitigation measures identified in the Ecological Impact Assessment (Glaven Ecology, July 2021) which will be secured by condition, the proposal will result in no net loss in biodiversity. As such, planning permission should be granted in accordance with Policy SP2 and the presumption in favour of sustainable development.

### **8. Recommendation**

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

CATEGORY	TERMS
Financial contribution towards RAMS.	£127.30 per dwelling

## 8.2 Conditions and Reasons

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

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

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

- Drawing No. 20 1705 LOC Rev A – Location and Block Plan
- Drawing No. 20 1705 01 Rev B – Landscaping Plan
- Drawing No. 20 1705 02 Rev B – Proposed Floor Plans and Elevations
- Planning Statement
- Ecological Impact Assessment

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

3. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Impact Assessment (Glaven Ecology, July 2021) 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)

4. Prior to commencement of above ground works, a Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority.

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

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

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

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

5. Prior to commencement of above ground works, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed 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)

6. Prior to the commencement of any above ground works, a scheme of hard and soft landscaping works for the site shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction.

Reason - To enhance the visual impact of the proposed works

7. 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 that the landscaping scheme is suitably implemented within an appropriate timescale

8. In order to minimise potential nuisance caused by construction works, Environmental Protection recommend that the following below is conditioned;  
-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 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.

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

Reason - 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).

9. Prior to occupation of the dwelling a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be retained on both sides of the vehicular access at all times. 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.

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

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

11. Prior to occupation of the dwelling the surface treatment at the existing vehicular access with Shop Road shall be resurfaced for at least the first 6 metres from the existing drop kerb, to be approved in writing by the Local Highway Authority with no unbound material to be used.

Reason - To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

12. Prior to the occupation of the proposed dwelling, the existing private drive shall be constructed to a minimum width of 5.1 metres for at least the first 6 metres from the back of Carriageway / Footway / Highway Boundary.

Reason - To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety in accordance with policy DM1

13. Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, retained in perpetuity.

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

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

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

15. 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 in accordance with policies DM9 and DM10.

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

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

17. Prior to above ground works, a scheme for the provision of electric vehicle charging facilities for the new dwelling hereby approved shall have first been submitted to and approved in writing by the local planning authority. Thereafter the charging facilities shall be installed in a working order prior to first occupation of the dwelling.

Reason: In order to promote sustainable transport.

### 8.3 Informatives

#### Positive and Proactive Statement

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

#### Legal Agreement Informative - Recreational Impact Mitigation

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

#### Highways Informatives

As access to the proposed dwelling is via a private track, the applicant should therefore be requested to demonstrate the rights of pass and repass to the proposed development site exist in perpetuity and that the applicant also has the necessary permissions to access the proposed dwelling via the private track.

Prior to occupation of the dwelling consideration should be given to resurface the private track from a point 6 metres from its junction with Shop Road to the entrance to the field access with for example a type 2 material and construction depth of 300 millimetres.

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

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

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

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

During the construction phase the applicant must ensure that no mud or detritus is taken onto the highway, such measures include provision of wheel cleaning facilities and sweeping/cleaning of the highway. Under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus etc. on the highway. In addition, under Section 161 any person, depositing anything on a highway which results in a user of the highway being injured or endangered is guilty of an offence.

## **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**

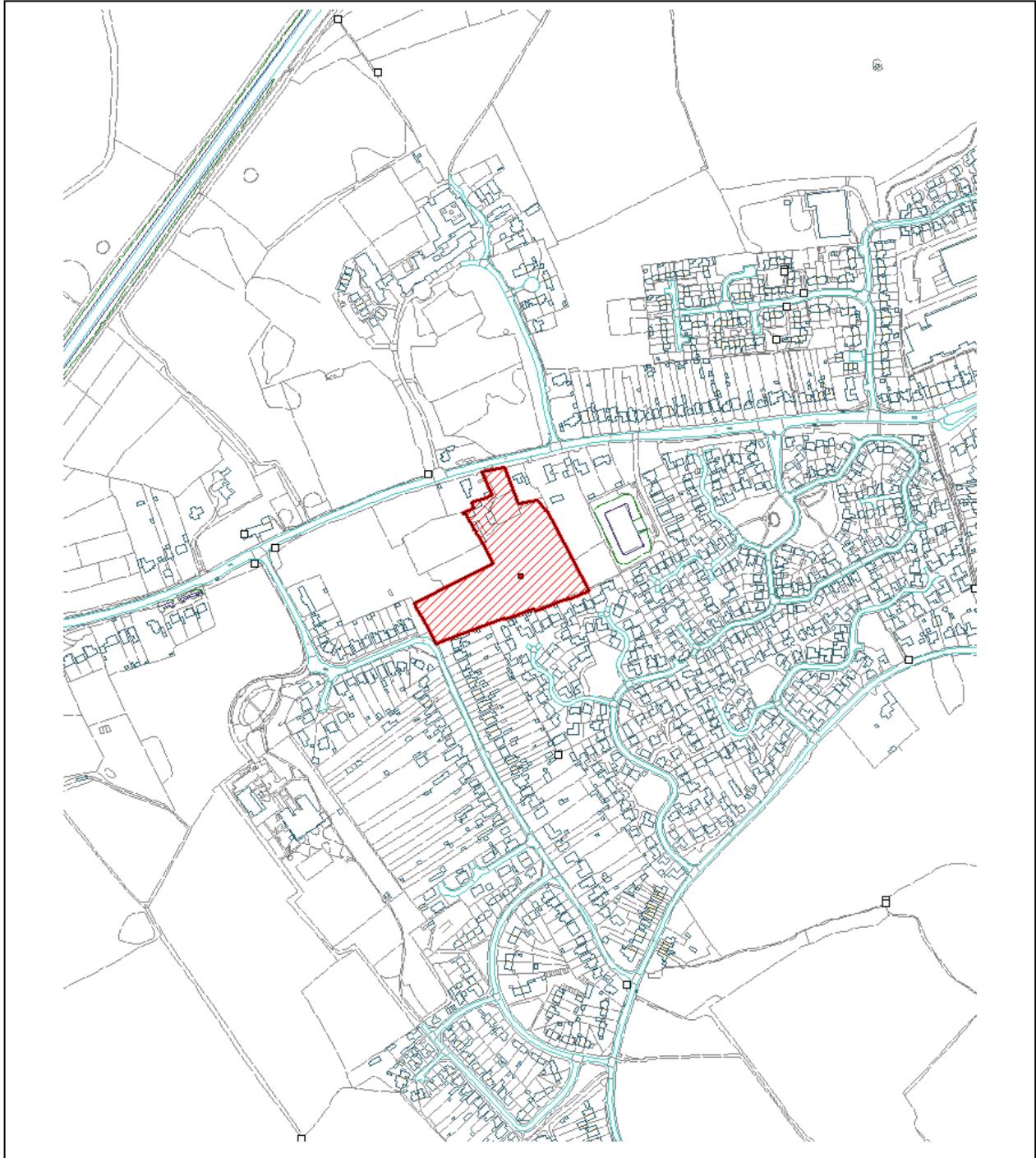
- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) 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/>.

## PLANNING COMMITTEE

26<sup>th</sup> October 2021

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### **A.5 PLANNING APPLICATION – 21/00376/DETAIL – LAND TO THE SOUTH OF RAMSEY ROAD AND EAST OF MAYES LANE RAMSEY CO12 5EW**



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**Application:** 21/00376/DETAIL

**Town / Parish:** Ramsey & Parkeston Parish Council

**Applicant:** Olushanu - Mayes Lane SPV Ltd

**Address:** Land to The South of Ramsey Road and East of Mayes Lane Ramsey CO12 5EW

**Development:** Application for reserved matters following approval of outline consent 19/00917/OUT for the development of 31 dwellings and 10 almshouse type bungalows for older persons and associated open space, incorporating details to discharge of conditions 8 (vehicular access - Ramsey Road), 9 (vehicular access - Mayes Lane), 11 (surface water discharge), 12 (estate roads and footways), 13 (construction method statement), 16 (landscape management plan), 17 (tree protection) 22 (surface water drainage), 24 (archaeology) and 26 (construction phasing) of outline consent 19/00917/OUT.

## 1. Executive Summary

- 1.1 This application seeks approved of the Reserved Matters associated with the granting of planning permission 19/00917/OUT for the construction of 31 dwellings and 10 almshouse type bungalows for older persons and associated open space.
- 1.2 Members of the Planning Committee resolved to approve the outline planning permission at the Planning Committee meeting held on 19 May 2020 and requested that the 'Reserved Matters' application is referred back to the Committee.
- 1.3 As established through the granting of outline 19/00917/OUT application the principle of residential development for up to 41 dwellings (including 10 almshouses) on this site is acceptable.
- 1.4 The detailed design, layout and landscaping are considered acceptable. The proposal would result in no material harm to residential amenity or highway safety and is considered acceptable in urban design terms.
- 1.5 The various details and technical reports submitted to meet the requirements of certain conditions placed on the outline permission (as outlined within the application description) have been reviewed by consultees and are acceptable.
- 1.6 The application is therefore recommended for approval subject the conditions outlined at 8.2 below.

### **Recommendation:**

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

- a) Subject to the conditions stated in section 8.2

## 2. Planning Policy

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

*NPPF National Planning Policy Framework February 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
EN11	A 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**

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).

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 26<sup>th</sup> 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.

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 29<sup>th</sup> June 2021. The Council held a six-week public consultation on the Main Modifications and associated documents which began on 16<sup>th</sup> July 2021. The consultation closed at 5pm on 31<sup>st</sup> 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.

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.

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**

19/00917/OUT	Outline application for development of 31 dwellings and 10 almshouse type bungalows for older persons and associated open space.	Approved	27.08.2020
21/00376/DETAIL	Application for reserved matters following approval of outline consent 19/00917/OUT for the development of 31 dwellings and 10 almshouse type bungalows for older persons and associated open space, incorporating details to discharge of conditions 8 (vehicular access - Ramsey Road), 9 (vehicular access - Mayes Lane), 11 (surface water discharge), 12 (estate roads and footways), 13 (construction method statement), 16 (landscape management plan), 17 (tree protection), 22 (surface water drainage), 24 (archaeology) and 26 (construction phasing) of outline consent 19/00917/OUT.	Current	

**4. Consultations**

ECC Highways Dept  
17.09.2021

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

1. 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 Numbers:

- IA20/168/1100 Rev. P3 Externals Layout.
- IA20/168/1120 Rev. P3 Adoptable Highway setting out
- IA20/168/1130 Rev. P3 Ramsey Road - section 278 works
- IA20/168/1140 Rev. P4 Mayes Lane - section 278 works
- And construction method statement.

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.

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.

3. Prior to the commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing, traffic calming 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.

4. 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 and in the interests of highway safety and in accordance with Policy DM1.

5. 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.

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 in accordance with Policy DM8.

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

intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8.

9. 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.

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

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.

TDC Tree & Landscape Officer  
23.04.2021

The information contained on the drawing entitled Basic Landscaping Proposals provides a good indication of the location and species of trees to be planted, however, it does not provide a specification for the trees or any information relating to shrub and hedgerow planting on the site.

Therefore, the application should provide a detailed soft landscaping scheme showing the species and planting location of trees, shrubs and hedges along with a specification for all plants included in the scheme.

In terms of the existing trees on the land and taking into account their relatively poor condition it is considered that no additional information is required relating to tree retention and protection.

TDC Tree & Landscape Officer  
25.08.2021

The information provided in relation to tree planting and other planting shown on the Amended Basic Landscape Proposals plan and the 2.No Detailed Landscape Proposals Plans is sufficient to secure a satisfactory level of new planting. The soft landscaping will adequately soften, screen and enhance the appearance of the proposed development.

21.04.2021

EP have reviewed the submitted construction method statement and have no adverse comments to make.

#### Contaminated Land

The Environmental Protection team have recently been contacted by Groundsure in relation to potential historic land contaminated on the proposed site. Therefore, Environmental Protection are requesting that prior to any ground works, a Phase One Contaminated Land Risk Assessment in the form of a desktop study/site walkover report is submitted to the local authority for approval.

TDC Waste Management  
16.04.2021

No comments

Essex County Council Archaeology  
04.05.2021

A Written Scheme of Investigation (WSI) has been received and approved, the condition can be part discharged only to allow the archaeological evaluation to proceed.

Essex County Council Archaeology  
12.07.2021

A programme of archaeological evaluation has been completed in accordance with the WSI submitted and approved. A mitigation strategy has been proposed which identifies areas within the site which require further archaeological investigation. The pre-commencement condition has been satisfied by the approval of the mitigation strategy and development can commence in areas that do not require mitigation. Condition 24 is part discharged to allow development to commence.

ECC SuDS Consultee  
21.05.2021

Lead Local Flood Authority position

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

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

TDC Building Control and Access  
Officer  
25.06.2021

No adverse comments at this time.

TDC Waste Management  
28.06.2021

Access roads to be constructed to suitable width to allow full access for 26 tonne, 2.5 metre wide waste collection vehicles.

ECC Urban Design  
17.09.2021

Following on from initial comments and suggested changes to the layout, ECC Urban Design have received amendments to the application submitted. A

review of the suggested changes are listed below and are split into five core areas:

#### Public Open Space (POS)

Urban Design have raised concerns over the design of the POS and the arrangement of parking, which was seen to dominate the spaces around, limiting access and overlooking onto the space.

The revised plan shows a new arrangement, opening views and access to the POS while reorganising parking as a formal parking square which combines with the spine road as a raised table. These changes work well. Urban Design would like to see a formal hedgerow and low fence around the parking square that backs onto the POS and the addition of tree planting in between some of the parking spaces to help break up the line of cars.

#### Connectivity

Urban Design feel that concerns regarding the pathway and the extruded garden for plot AO7 have been met, and are happy with the creation of the small public square adding a nodal point to the widened pathway connection each side of the housing development. Furthermore, Urban Design are pleased with the redesign of the pathway, enabling a larger distance between the pathway and plot 21, ensuring that their front garden remains a viable size.

#### Garden shapes and sizes

Throughout the masterplanning Urban Design highlighted issues with the unusual garden shapes for plot 1, plot 3, plot 4, plot 5, plot 6 and plot 25 due to their unusable nature in accordance with the Essex Design Guide standards. Urban Design are satisfied that these required changes have been met through the redesign of plot 25 and the rearrangement of housing related to plots 1-6 as shown in the updated site drawings.

#### Plot 25

Initial suggestions were for a change in orientation to plot 25 to respond to the streetscape as a traditional corner plot. Satisfied with the changes made to plot 25; this orientation change also further benefits our suggestions in the previous section regarding garden spaces.

#### House Type 6

Amendments of the lower ground window were requested as part of our previous comments. However, whilst amendments have been made to reduce the glass panel size by half, the changes have been detrimental to the overall architectural design of the front of the house type. In addition of an opening solid panel covering half

of the area of the bay window is reminiscent of a standard house front door and is not in keeping with the residential character of the site as we had requested.

Furthermore, realignments of the upper floor windows have been implemented but without any consideration to size and the other housing types. Would suggest upper floor windows to match the alignment of the lower floor bay window and door, similar to house type 8. With reference to the upper floor plan, both B3 and Es would perhaps benefit from the larger window types.

In summary, pleased to see how previous comments have been integrated into the revised layout. Still have concerns regarding the redesign of the front elevation of the bay window of house type 6. Previously liked the contemporary design approach to this house type and commented on the practicality of such a large window design. The latest changes start to depart from the original vision of this contemporary approach which is a shame.

Moving forward, the photo below suggests a potential solution/precedent (Ninewells, Cambridge); large bay window with glazed opening (1/3/2/3 split) to ground level with small plinth detail.

ECC Urban Design  
17.09.2021 (Latest comments – following revisions to design of HT6)

With a last minor change to HT6, from a design perspective now happy with the application.

## 5. Representations

- 5.1 Ramsey & Parkeston Parish Council has not provided comment upon the application.
- 5.2 5 letters of objection have been received outlining the following concerns, an officer response is provided in bold type where required;

- Roof pitches to new properties are too steep and out of character.
- Houses are too close to boundary backing onto existing properties Burr Close to the south. This would result in an adverse impact upon existing levels of privacy.

**(Officer Response – a minimum of 15m is retained from the rear elevations of the new dwellings to the existing boundary. Moreover a minimum of 25m back to back distance is shown between the new properties and existing dwellings. This degree of separation meets the standards outlined in the Essex Design Guide).**

- New bus shelter to Ramsey Road would impact upon visibility when exiting existing access.

**(Officer Response – the position of the new bus shelter has been reviewed by ECC-Highways and agreed as it is set back behind the visibility splays serving both the new development and existing individual accesses on Ramsey Road).**

- Garden sizes are very tight and close to existing boundaries.

**(Officer Response – revised plans have been received re-positioning the properties on plots 3, 4, 5 and 6 to improve the spacing and usability of amenity spaces).**

- Design of properties is basic and out of character.
- Footprint of properties is large meaning areas around properties and open space is reduced.
- Noise and disturbance to existing wildlife.
- Garden Villa is incorrectly shown on the plans.

**(Officer Response – amended plans have been received correctly showing the footprint of Garden Villa and the perimeter of its boundary).**

- Plot 2 is overlooked due to proximity and relationship with Garden Villas.

**(Officer Response – to the orientation of plot 2 and the intervening fencing any impact upon privacy levels for future residents would not be adverse enough to warrant a refusal of planning permission).**

- Open space is not 10% of the total site area.

**(Officer Response – scaled and measured plans received from the architect shown the open space will equate to just over 10% the total site area. Therefore, the size of the open space accords with the requirements of the local plan policy).**

- Cramped and over-development due to large footprints.
- Additional tree planting required to bolster field hedge to south of site

**(Officer Response – revised plans have been received to secure additional mature tree planting along southern boundary of the site).**

- Almshouses too tight to boundary and interrupt wildlife corridor.

**(Officer Response - There is no requirement in Liz Lakes' report from the outline permission that suggests a wildlife corridor be placed to the south of the site. As raised in her point 5.41 she states that 'The site boundaries provide minimal foraging and commuting habitat'. There is of course no plan to remove hedgerows on adjoining owners land. Therefore, the issue with the pinch point is considered mute in relation to this. The developers are introducing a new wildlife corridor through the site supported by new planting to offer seasonal variation and a variety of habitat rich planting).**

- No local context to house types, they are too deep (which results in poor living conditions) and top heavy with large roof spans.
- Large roof spans and bland flat gable faces.

**(Officer Response – following objections from local residents relating to the detailed design of the new properties, ECC-Urban Design Team were consulted and, following discussions, revised plans were submitted to improve the detailed design of certain house types and fenestration styling. ECC-Urban Design Team have confirmed they have no objections to the design and layout of the development.**

## **6. Assessment**

### Site Context

- 6.1 The application site is located on the southern side of Ramsey Road at the western end of the settlement of Dovercourt. The site is located outside of the defined settlement boundary in the saved local plan but following the granting of outline planning permission (Planning Reference – 19/00917/OUT) the site is now included within the defined settlement boundary on the

proposal maps forming part of the emerging local plan. The site falls within the parish of Ramsey & Parkeston.

- 6.2 The site previously consisted of rough grazing land measuring approximately 1.8 hectares in size and is located between Ramsey Road and Mayes Lane. Within the northwest corner of the site previously contained former pig farrowing units and a block of stables. The site has recently been cleared. A vehicular access exists onto Ramsey Road between Michaelstowe House and Garden Villa (two large detached dwellings) and a further gated access is present onto Mayes Lane.
- 6.3 To the east of the site is the former Michaelstowe Farm for which planning permission exists for 14 dwellings. To the south is an estate of 90's housing predominantly consisting of detached family homes. The southern boundary of the site is marked by close-boarded fencing and hedging. To the south-west is the access onto Mayes Lane, which consists mainly of bungalows.
- 6.4 To the north-west of the site opposite Mayes Lane's junction with Ramsey Road is St Michael's Church, which is a Grade 1 listed building. Views of the church are not seen in conjunction with the site due to the presence of extensive trees and hedgerows within the neighbouring land to the west.

#### Proposal

- 6.5 This application seeks approved of the Reserved Matters associated with the granting of planning permission 19/00917/OUT for the construction of 31 dwellings and 10 almshouse type bungalows for older persons and associated open space.
- 6.6 The Reserved Matters relate to the appearance, layout and landscaping elements of the development. Access and scale were approved at outline stage.
- 6.7 The application package also incorporates details to discharge conditions 8 (vehicular access - Ramsey Road), 9 (vehicular access - Mayes Lane), 11 (surface water discharge), 12 (estate roads and footways), 13 (construction method statement), 16 (landscape management plan), 17 (tree protection), 22 (surface water drainage), 24 (archaeology) and 26 (construction phasing) of planning permission 19/00917/OUT.
- 6.8 The proposed housing mix is as follows;
  - 6 x 1 bed almshouses
  - 5 x 2 bed units (4 no. almshouses and 1 no. bungalow)
  - 6 x 3 bed units
  - 17 x 4 bed units
  - 7 x 5 bed units
- 6.9 The majority of the proposed dwellings are two storey in height. However, 3 bungalows are proposed on plots 2, 5 and 6 to reduce the impact of the development upon the adjacent 'Garden Villa' and all the almshouses are single storey in scale.
- 6.10 Public Open Space is proposed to the eastern part of the site measuring 10% the total site area. This area will also accommodate the proposed SUDs basin feature.
- 6.11 Vehicular access to the 31 units on the eastern section of the site is via an enhanced vehicular access onto Ramsey Road. The 10 almshouses will be accessed via a new 6m wide access onto Mayes Lane. These points of access were agreed in principle at outline stage.

### Principle of Development

- 6.12 The principle of residential development on this site has been established by the granting of outline planning permission (planning reference – 19/00917/OUT).

### Appearance

- 6.13 With a mixed character of property type and style in the vicinity, and with the design of the proposal taking some cues from the Essex Design Guide, it is considered that the scheme would respond positively to local character, provide buildings that exhibit individual architectural quality and house-types with well-defined public and private spaces. The public realm through additional landscaping would also assist in creating a sense of place, and provide streets and spaces that are overlooked and active, promoting natural surveillance and inclusive access, as well as including parking facilities that are well integrated as part of the overall design.
- 6.14 The contemporary design approach employed seeks to create high-quality homes which draw inspiration from strong precedents. The simple material palette and design interventions presents an opportunity to provide a strong architectural character to the site. The use of brick detail adds interest and character to the elevations and it is positive to see the use of canopy and protruding elements on the building frontages. A mix of red/orange facing brick work and grey concrete tiles to the roofs of properties is proposed and acceptable for this location. Precise details of exterior materials will be sought via condition.
- 6.15 ECC Urban Design have been consulted and following initial concerns in respect of the fenestration style/size on House Type 6, amended plans have been secured to provide a large bay window with glazed opening (1/3/2/3 split) to ground level with small plinth detail on these house types. Following the submission of these details ECC Urban Design have confirmed no objections to the appearance and detailed design of the properties.
- 6.16 Overall, it is considered that the proposed external design and form of dwellings is appropriate to its setting and provides a sufficient mix and variety of units to create a strong sense of place. Accordingly, the proposal is considered acceptable with respect to paragraph 126 of the National Planning Policy Framework (which sets out the Government's commitment in terms of delivering a wide choice of high quality homes that are beautiful and sustainable) and the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) which sets out the council's commitment to supporting the aims and objectives of the NPPF in terms of Section 1 adopted Policies SP1, SP3 and SP6 (sustainable development) and SP7 (good quality design).

### Layout

- 6.17 Paragraph 130 of the National Planning Policy Framework 2021 states that planning should involve good architecture, layout and landscaping. Policy HG7 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.
- 6.18 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.
- 6.19 The layout largely follows the form and highway framework submitted at outline stage. The layout makes use of the dual frontage afforded to the site by splitting the built form into family houses/bungalows accessed via Ramsey Road and the older person's almshouses accessed via Mayes Lane in the south-western corner of the site.

- 6.20 The layout and scale of the proposed almshouses, along with the spacing to adjacent properties, is considered to represent an appropriate response to the character of Mayes Lane which predominantly consists of bungalows in this location.
- 6.21 The land to the east of the almshouses would accommodate 31 units at a relatively low density of 19 units per hectare, which is comparable to the recent approved scheme directly to the east of this site and consistent with the density of the 1990's estate directly to the south of the site.
- 6.22 ECC Urban Design have been involved in revisions to the layout to secure changes to enhance the overall legibility and layout of the development;
- Revisions to the entrance space to the POS along the road frontage and the provision of a shared surface/raised table parking type square that would act as a gateway space to the POS whilst addressing the traffic calming measures required by highways. Relocation of two car parking spaces to the western end of the private drive and additional landscaping to ensure legible and easy access to the POS
  - Replacing the timber fencing with a brick wall and adding curved elements to guide views and reduce the obtrusive effect within the linked footpath between the dwellings and almshouses. The width of the footpath has also been increased at this location with a bench/landscaped area added to create a 'nodal point' that highlights the connection between the two parts of the site.
  - Amendments to the layout to improve the proportions of the gardens serving plots 3, 4, 5 and 6. The locations of buildings 5 and 6 and the garage have been shifted south to improve the usability of these garden spaces.
  - Amendments to Plot 25 to show a new L-shape house type to provide frontage and define the corner in conjunction with re-orientating the main elevation to overlook the POS and regularise the garden shape.
- 6.23 The requirements of the Essex Design Guide are met in respect of back-to-back distances to existing properties to the south as well as internally within the development. In particular, a minimum of 15m is retained to the existing rear boundaries of those properties in Burr Close and back-to-back distances between the rear elevations comfortably meets the required 25m. As such, existing resident's privacy levels are maintained.
- 6.24 In terms of car parking, the majority will be provided 'on-plot' with only a small pocket of plots provided with 'off-plot' communal parking. Secure and covered cycle storage will be provided within garages, which have also been designed to accommodate further storage. The proposed car and cycle parking accords with the Essex County Council Parking Standards SPD.
- 6.25 Moreover, the site layout has been designed to allow sufficient room for refuse and recycling vehicles to safely and adequately collect waste. ECC Highways has confirmed that the scheme is acceptable from a highways layout perspective.

#### Scale

- 6.26 The scale was agreed at outline stage and this submission is consistent with that approved approach. For example, the almshouses and those properties situated on plots to the side and rear of the existing property known as Garden Villa are to be single storey in nature. The remainder of the proposed properties are to be two-storey in scale.
- 6.27 This arrangement represents an appropriate response to the character and scale of properties in the vicinity and will safeguard existing residents' amenity.

### Highway Safety/Parking

- 6.28 Paragraph 110 of the NPPF (2021) requires Councils to, when making decisions, take account of whether:
- 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.
- 6.29 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.
- 6.30 As stated above the access details were approved at outline stage. The outline permission confirms that the site is to be served by a new bellmouth access from Ramsey Road and an access via Mayes Lane to serve the 10 almshouses. The Highway Authority did not raise any objections to this arrangement.
- 6.31 As part of this submission, precise details of the access specifications and internal highway layout have been submitted for assessment. ECC-Highways have reviewed this information and have no objections subject to securing the submitted details and the provision of a linking footway on Mayes Lane to improve connectivity between the site access onto Mayes Lane and nearby facilities including the local school to the west. Precise details of the estate roads, footways and bus stop relocation has also been agreed with ECC-Highways.
- 6.32 The layout plan shows that each property on the eastern section of the development would be served by a minimum of 2 no. parking spaces either through open bays or garaging. Large driveways are shown serving several of the larger properties which would absorb visitors' parking. A further 8 designated visitor bays are indicated within this element of the scheme. 14 bays are proposed for the almshouses including 2 visitors' spaces. Overall, this provision accords with the requirements of the current parking standards.

### Landscaping

- 6.33 A comprehensive soft landscaping scheme has been provided which shows the retention of the existing hedgerow at the south of the site along with an acceptable range of landscaped features with street trees, shrubbery and front gardens contributing to the character of the site.
- 6.34 The scheme provided will assist in enhancing the appearance of the development from key public views within the site and from Mayes Lane to the south-west and Ramsey Road to the north.
- 6.35 An area of public open space (POS) is proposed within the eastern section of the site. The Urban Design Team at ECC-Place Services reviewed the layout of this element of the scheme and requested revisions. The revised plans show a new arrangement, opening views and access to the POS while reorganising parking as a formal parking square which combines with the spine road as a raised table. Further planting around the rear of the parking square and additional tree planting to help break up this area has also been secured within the revised plans.

- 6.36 Tree/hedgerow protection measures have been provided and the Council's Tree Officer has confirmed that the submitted plans show that the most valuable trees and hedgerows will be retained with sufficient room around them to avoid harm being caused during the construction phase of the development.

#### 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 The proposed layout has been carefully considered and although Officers note the representations raised by residents living in close proximity to the site, the proposed layout plan demonstrates that sufficient spacing to existing properties to the south can be achieved thereby not causing any adverse impacts in respect of loss of light, outlook or privacy. This arrangement is considered to be in accordance with the Essex Design Guide which states that;

*Where new development backs on to the rear of existing housing, existing residents are entitled to a greater degree of privacy to their rear garden boundary. Where the rear faces of the new houses are approximately parallel to those of the existing homes, the rear of the new houses may not encroach any closer than 15m to an existing rear boundary – even though with a closer encroachment, 25m between the rears of the houses could still be achieved.*

- 6.39 The plans demonstrate that a minimum of 15m from the rear elevation of the proposed properties to the southern boundary of the site can be achieved in conjunction with the required 25m back-to-back distances. The distance between plot 18 and the southern boundary of the site falls slightly below the 15m noted above. However, the property proposed on this plot does not sit directly parallel with the rear elevation of any existing dwellings to the south. For this reason, the layout is considered to comply with the requirements of the Essex Design Guide. The presence of a mature hedgerow on the shared boundary also assists in ensuring that resident's privacy is maintained.
- 6.40 The proposed units (2, 5 and 6) to the rear and side of the property known as Garden Villa are to be single story (as secured at outline stage) to safeguard the existing resident's amenity.
- 6.41 The distance shown between the side elevation of the property on plot 31 and the rear elevation of Michaelstowe House, in conjunction with the mature vegetation present on the shared boundary, is sufficient to avoid any outlook/loss of privacy impacts upon the residents.
- 6.42 In terms of the almshouses, these would be situated side on to existing properties in Mayes Lane but due to the spacing shown and the fact these are modest single storey properties any impact on existing resident's amenity would be minimal.
- 6.43 Plot 9 in the south-eastern corner of the site would retain approximately 6m to the side elevation of a new dwelling on the adjacent development under construction to the east. The proposed property on adjacent development contains a large landing window within its facing flank, whereas plot 9 proposes a small bedroom window. Given the intervening distance and due to these windows not serving main habitable rooms, any loss of privacy would be mutual and not significantly harmful to future resident's amenity.

#### Drainage

- 6.44 The scheme has been designed alongside a specialist drainage design consultant to ensure that the scheme is compliant to the regulations set out by the LLFA. This involvement has determined the requirement for a surface water basin at the east of the site which relies on the beneficial percolation rates of the existing soil to allow flood water to dissipate. ECC-SUDs

Team (LLFA) have reviewed the information provided and confirm that they have no objections to the development and the discharge of the associated condition on the outline permission.

- 6.45 A foul sewer connection is available in Mayes Lane and the scheme will incorporate a comprehensive gravity fed drainage scheme.

#### Access/Adaptability

- 6.46 Modified Policy LP3 of the Emerging Plan 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'.
- 6.47 The developer's agent has confirmed that the development has been designed to align with the emerging policy for compliance with M4(2) and M4(3) of The Building Regulations.

#### Conditions Approval

- 6.48 The application incorporates details to meet the requirements of several of the conditions included on the outline permission. These include details of; the vehicular access to Ramsey Road and vehicular access to Mayes Lane, highway drainage system, estate roads and footways details, the construction method statement, landscape management plan, the proposed tree/hedge protection measures, the surface water drainage scheme, archaeology investigation details and construction phasing plans.
- 6.49 The information provided has been assessed as part of the Reserved Matters submission and various consultee comments from ECC-Highways, Environmental Protection, the Council's Trees and Landscaping Officer and ECC-Archaeology Team have confirmed that the details contained within the various reports and plans are acceptable.
- 6.50 ECC-Archaeology have confirmed that the pre-commencement element of the archaeology condition (Condition 24) is satisfied. The post-evaluation report/assessment still needs to be provided to satisfy the condition. This will be communicated to the applicant via an informative on the planning permission.

#### Legal Obligations

- 6.51 The obligations secured at outline stage comprise the following;
- Health (NHS) - payment of the contribution is required prior to commencement of the development.
  - Affordable Housing – 10 almshouses and 2 no. 3 bed units as affordable housing. Not to occupy anymore than 16 units until the affordable housing units have been constructed and made available for occupation.
  - RAMS Contribution (£125.58p x 41 units).
- 6.52 The unilateral undertaking securing these legal obligations remains in force as part of the outline approval. Consequently no legal agreement is required as part of this Reserved Matters submission.

## **7. Conclusion**

- 7.1 As established through the granting of outline 19/00917/OUT application the principle of residential development for up to 41 dwellings (including 10 almshouses) on this site is acceptable.

- 7.2 The detailed design, layout and landscaping are considered acceptable. The proposal would result in no material harm to residential amenity or highway safety and is considered acceptable in urban design terms.
- 7.3 The various details and technical reports submitted to meet the requirements of certain conditions placed on the outline permission (as outlined within the application description) have been reviewed by consultees and are acceptable.
- 7.4 The application is therefore recommended for approval subject the conditions outlined at 8.2 below.

## **8. Recommendation**

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

### 8.2 Conditions and Reasons

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

IA20/168/1110-P1 – Drainage Details  
 IA20/168/1010-P1 – Drainage Details 1  
 IA20/168/1000-P1 – Drainage Layout  
 IA20/168/1011-P2 – Drainage Details 2  
 0825\_A\_SC\_01A – Construction/Phasing Plan  
 0825\_A\_SC\_17B – Tenure Plan  
 0825\_A\_SC\_14B – Phasing Plan  
 0825\_A\_SC\_10C  
 0825\_A\_SC\_9C  
 0825\_A\_SC\_8C  
 0825\_A\_SC\_7C  
 0825\_A\_SC\_6C  
 0825\_A\_SC\_5C  
 0825\_A\_SC\_4C  
 0825\_A\_SC\_3C  
 0825\_A\_SC\_2C  
 0825\_A\_SC\_21  
 0825\_A\_SC\_19A  
 0825\_A\_SC\_16C  
 0825\_A\_SC\_15C  
 0825\_A\_SC\_13C  
 0825\_A\_SC\_07F  
 0825\_A\_SC\_01E  
 0825 – Accommodation Schedule  
 IA20/168/1140/P4 - Amended Mayes Lane Section 278 Works  
 IA20/168/1130 P3 - Amended Ramsey Road Section 278 Works  
 IA20/168/1122 P2 - Amended Adoptable Highway Long Sections  
 IA20/168/1121 P3 - Amended Adoptable Highway Contours Plan  
 IA20/168/1120 P3 - Amended Adoptable Highway Setting Out  
 IA20/168/1100 P3 - Amended Externals Layout  
 254\_404 P04 - Amended Planting Plan – West  
 254\_402 P03 - Amended Planting Plan - South  
 254\_400 P03 - Amended Structure Planting Plan  
 254\_401 P03 - Amended Planting Plan - North  
 North Essex Homes – Construction Method Statement  
 Written Scheme of Investigation (June 2021 as prepared by L-P : Archaeology)  
 Aborigicultural Report – (as prepared by freemight environmental consultancy)

0825\_A\_SC\_20 – Tree Protection Plan  
254\_D\_001 Landscape Management Plan

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

- 2). All changes in ground levels, hard landscaping, planting, seeding or turfing shown the approved landscaping details drawing no's; 254\_404 P04 - Amended Planting Plan – West, 254\_402 P03 - Amended Planting Plan – South, 254\_400 P03 - Amended Structure Planting Plan and 254\_401 P03 - Amended Planting Plan – North 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 amenity.

- 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 Numbers:

- IA20/168/1100 Rev. P3 Externals Layout.
- IA20/168/1120 Rev. P3 Adoptable Highway setting out
- IA20/168/1130 Rev. P3 Ramsey Road - section 278 works
- IA20/168/1140 Rev. P4 Mayes Lane - section 278 works
- Construction Method Statement.

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 all 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). 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 and in the interests of highway safety.

- 6). The development shall not be occupied until such time as the associated car parking and turning areas have been provided and made available for use in accord with the approved plans. 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). 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.

- 8). 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.

- 9). The tree protection measures outlined on drawing no. 0825\_A\_SC\_20 shall be adhered to throughout the construction phase.

Reason - To ensure the retention of the mature trees/hedges located within the application site in the interests of amenity.

- 10). Notwithstanding the provisions of Article 3, Schedule 2, Part 1, Classes A, B and E 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 and no outbuildings 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.

- 11). No development hereby permitted shall commence until the specific requirements of paragraphs numbered 1 to 3 below have been satisfied. If unexpected contamination is found after development has commenced, no further development shall be carried out on that part of the site affected by the unexpected contamination until the requirements of paragraph 4 have been complied with in relation to such contamination.

1. Site Characterisation - An investigation and risk assessment, in addition to any assessment provided within the planning application, shall be carried out in accordance with a scheme to assess the nature and extent of any contamination of the site. The investigation and risk assessment shall be undertaken by a competent person and a written report of the findings shall be submitted to and approved in writing by the Local Planning Authority. The report shall 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, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments; and
- (iii) an appraisal of options for remediation and a proposal with preferred option(s). This appraisal shall be conducted in accordance with the Environment Agency Model Procedures for the Management of Land Contamination (CLR 11).

2. Submission of Remediation Scheme - A detailed Remediation Scheme to ensure that the site is suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted

to and approved in writing by the Local Planning Authority. The scheme shall include all works of remediation to be undertaken, remediation objectives and criteria, timetable of works and related site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the use of the land after remediation.

3. Implementation of Approved Remediation Scheme - The Remediation Scheme required under paragraph 2 above shall be carried out in accordance with its terms prior to the commencement of any works of construction on site unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority shall be notified in writing a minimum of two weeks prior to commencement of the remediation scheme works of the date that the remediation works will commence. Following completion of the measures identified in such approved Remediation Scheme, a verification report to demonstrate the effectiveness of the remediation carried out shall be submitted to the Local Planning Authority.
4. Reporting of Unexpected Contamination - In the event that contamination is found which was not previously identified, it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall then be undertaken in accordance with the requirements of paragraph 1 above and, where remediation is necessary, a new Remediation Scheme shall be prepared in accordance with the requirements of paragraph 2 above and submitted to and approved in writing by the Local Planning Authority. Following completion of all necessary measures identified in such Remediation Scheme as may be approved, a verification report shall be submitted to and approved in writing by the Local Planning Authority in accordance with paragraph 3 above. In such circumstances, no further works of development shall be carried out to that part of the site until such time as the requirements of this paragraph have been satisfied.

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

### 8.3 Informatives

#### Positive and Proactive Statement

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

#### Highways Informative

Prior to occupation, the development each pedestrian crossing point shall be constructed with a drop kerb and tactile paving on both sides of the road in accordance with the Essex Design Guide.

General note: areas where there is no footway being provided adjacent to the carriageway and the intention is for these areas to be adopted a half a metre 'no build zone' will need to be provided and hard surfaced.

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.

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

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

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

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

#### Section 106 Agreement Informative

The applicant is reminded that the associated outline permission is linked to a planning obligation under Section 106 of the Town and Country Planning Act 1990.

#### Anglian Water Informative

Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement.

Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991 or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

#### Archaeology

Please that Condition 24 (Archaeology) of the outline permission is part satisfied only. A post-evaluation report/assessment needs to be submitted to fully satisfy the requirements of the condition.

### **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

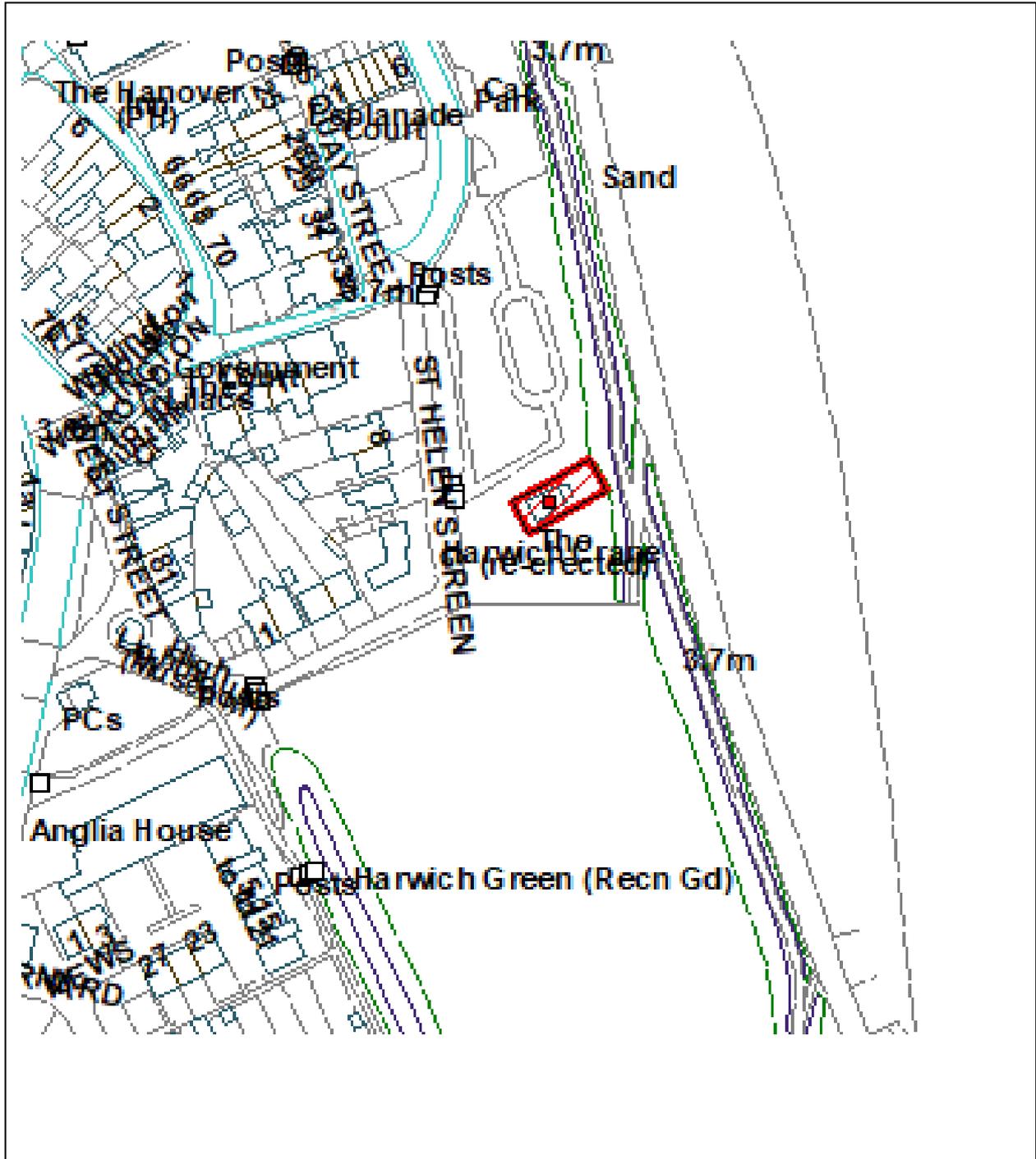
Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

## PLANNING COMMITTEE

26 OCTOBER 2021

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### **A.6 PLANNING APPLICATION – 21/01395/LBC – THE HARWICH TREADWHEEL CRANE ST HELENS GREEN HARWICH CO12 3NH**



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**Application:** 21/01395/LBC

**Town / Parish:** Harwich Town Council

**Applicant:** Tendring District Council

**Address:** The Harwich Treadwheel Crane St Helens Green Harwich CO12 3NH

**Development:** Proposed repair works, including underpinning, weatherboard and roof covering replacement, and timber and ironwork repairs.

## 1. Executive Summary

- 1.1 This application is referred to the Planning Committee as the applicant is Tendring District Council.
- 1.2 This application seeks Listed Building Consent for repair works, including underpinning, weatherboard and roof covering replacement, and timber and ironwork repairs.
- 1.3 The application site is a Grade II\* Listed Building and has been subject of consultation with the specialist heritage advisors - Historic England and ECC Heritage; neither have raised any objections to the proposed works.
- 1.4 Harwich Town Council have raised no objections and there have been no letters of representation 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.

*NPPF National Planning Policy Framework July 2021*

*National Planning Practice Guidance*

*Adopted Tendring District Local Plan 2007 (part superseded)*

EN22 Extensions or Alterations to a Listed Building

*Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) (Section 1 adopted on 26th January 2021)*

*Relevant Emerging Policies*

PPL9 Listed Buildings

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

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).

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 26<sup>th</sup> 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.

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 29<sup>th</sup> June 2021. The Council held a six-week public consultation on the Main Modifications and associated documents which began on 16<sup>th</sup> July 2021. The consultation closed at 5pm on 31<sup>st</sup> 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**

21/01395/LBC	Proposed repair works, including underpinning, weatherboard and roof covering replacement, and timber and ironwork repairs.	Current
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### **4. Consultations**

Essex County Council Heritage  
07.09.2021

The development site is Grade II\* listed as Old Naval Yard Crane (List UID: 1187899) and is also a Scheduled Ancient Monument, scheduled as The Harwich Treadwheel Crane (List UID: 1017202), and is located within Harwich Conservation Area.

ECC Heritage are unopposed to this application however preference would be for the use of limecrete rather than concrete.

The application does not contain any proposals for breaking out the cracked internal concrete floor screed, it would appear that these works present a good opportunity to resolve this and relay the floor in a more sympathetic material.

ECC Heritage are unopposed to the current iteration of the proposals.

Historic England  
27.08.2021

Historic England considers the effect of the proposed works upon the monument to be beneficial for the preservation of the monument, but necessitating disturbance of the historic fabric; the level of harm to the asset has been taken into consideration and weighed against the public benefit of the repairs and is deemed to be acceptable.

## 5. Representations

- 5.1 Harwich Town Council raise no objection to this application.
- 5.2 No letters of representation have been received.

## 6. Assessment

### Site Context

- 6.1 This application relates to the Harwich Treadwheel Crane, which is Grade II\* and also a Scheduled Ancient Monument.
- 6.2 The 'Harwich Treadwheel Crane' listing details are as follows:

*'The monument includes a 17th century harbour crane, relocated in 1932 and now situated near the eastern shore of the Harwich peninsula, towards the northern edge of Harwich Green. The crane, which is Listed Grade II\*, is housed in a rectangular structure, measuring some 8m by 4.5m, with the boom or jib protruding from the eastern (seaward) end. The timber framed housing has four bays (some parts indicating the reuse of ships' timbers), the two eastern bays strengthened with angled supports (inverted kneelers) to carry the weight of the loaded jib, and the two end frames cross braced. Shiplapped weatherboards cover the lower two-thirds of the structure, with open frames (now sealed with mesh to keep out birds) for light beneath the hipped roof. The roof is clad with pantiles over the main section and felt above the jib, replacing wooden boards recorded prior to its relocation. A central north-south axle carries a pair of spoked wooden treadwheels, each 5m in diameter with narrow barrel-staved walkways. During operation, the men turning the wheels would have raised or lowered loads via the iron chain which is still wound around the centre of the axle. This continues through an aperture beneath the eastern gable and along the boom (to which it is now attached). The boom itself is mounted on a vertical pivoting post with a diagonal brace and a strengthened (hanging knee) spandrel. The underside of the boom is carved with scallop and ogee motifs. The crane is thought to have been erected in 1667 on the orders of the Duke of York, as part of a renewed phase of activity in the naval dockyard established at Harwich in 1657. It originally stood some 200m to the north, near the modern pilots' station and the former site of the Napoleonic 'Bathside Bay' battery. The structure was moved to its present location in 1932 for public display when the dockyard area was redeveloped. It was enclosed by a dwarf brick wall and iron railings in the early 1970s. The brick wall and iron railings, two anchors on display within the enclosure, the various internal and external information boards and the bird-screen mesh, are all excluded from the scheduling, although the ground beneath and the structures to which these features are attached are included.'*

### Proposal

- 6.3 This application seeks Listed Building Consent for repair works, including underpinning, weatherboard and roof covering replacement, and timber and ironwork repairs.

### Design and Appearance (including Heritage Impact)

- 6.4 The only consideration as part of this application is the above mentioned amendments on the character, appearance and historic fabric of the curtilage listed building.
- 6.5 Paragraph 194 of the National Planning Policy Framework ("the Framework") requires applicants to describe the significance of any heritage assets affected. This requirement is retained by draft Policy PPL9 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. Paragraph 201 of the Framework adds that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss
- 6.6 Policy EN22 of the Saved Plan states that development involving proposals to extend or alter a Listed Building will only be permitted where; it would not result in the damage or loss of features of special architectural or historic interest; and the special character and appearance or setting of the building would be preserved or enhanced. These requirements are carried forward to Policy PPL9 of the Emerging Publication Draft (June 2017) which also requires the use of building materials, finishes and building techniques that respect the listed building and its setting.
- 6.7 Historic England have been consulted as part of this application and consider the effect of the proposed works upon the monument to be beneficial for the preservation of the monument, but necessitating disturbance of the historic fabric; the level of harm to the asset has been taken into consideration and weighed against the public benefit of the repairs and is deemed to be acceptable.
- 6.8 ECC Heritage have also been consulted on this application and have stated that the development site is Grade II\* listed as Old Naval Yard Crane (List UID: 1187899) and is also a Scheduled Ancient Monument, scheduled as The Harwich Treadwheel Crane (List UID: 1017202), and is located within Harwich Conservation Area. ECC Heritage are unopposed to this application, but would prefer to see the use of limecrete in lieu of concrete. After discussing this with the planning agent, it was confirmed that the concrete is part of the 1932's work when the Treadwheel was moved to its current position. This phase of works introduced a few changes to the structure (such as the pantiles, open lattice to the head of the walls etc.) but is considered by Historic England to be an important part of the history of the building.
- 6.9 Therefore the applicants are keen to retain the concrete and where repairing do this on a like-for-like basis and which HE support. The other measures that are being introduced will improve air flow and thus reduce the risk of further decay.
- 6.10 The application does not contain any proposals for breaking out the cracked internal concrete floor screed, it would appear that these works present a good opportunity to resolve this and relay the floor in a more sympathetic material. Were any revisions to be forthcoming HE would provide updated comments, however they are unopposed to the current iteration of the proposals.

6.11 It is, therefore considered that the proposed works will not cause any harm to the historic fabric or character of the Listed Building, and the proposal is therefore acceptable against this criteria.

## **7. Conclusion**

7.1 The proposed repairs works are considered acceptable and will not cause any harm to the historic fabric or character of the Listed Building.

## **8. Recommendation**

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

### **8.2 Conditions and Reasons**

1 The works hereby permitted shall begin before the expiration of three years from the date of this consent.

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

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

- Drawing No. 21214/01 REV B
- Drawing No. 21214/10 REV B
- Drawing No. 21214/11 REV B
- Drawing No. 21214/12 REV B
- Drawing No. 21214/13 REV B
- Drawing No. 21214/14 REV B
- Drawing No. 21214/15 REV B
- Drawing No. 21214/16 REV B

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

### **8.3 Informatives**

#### **Positive and Proactive Statement**

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

## **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/>.

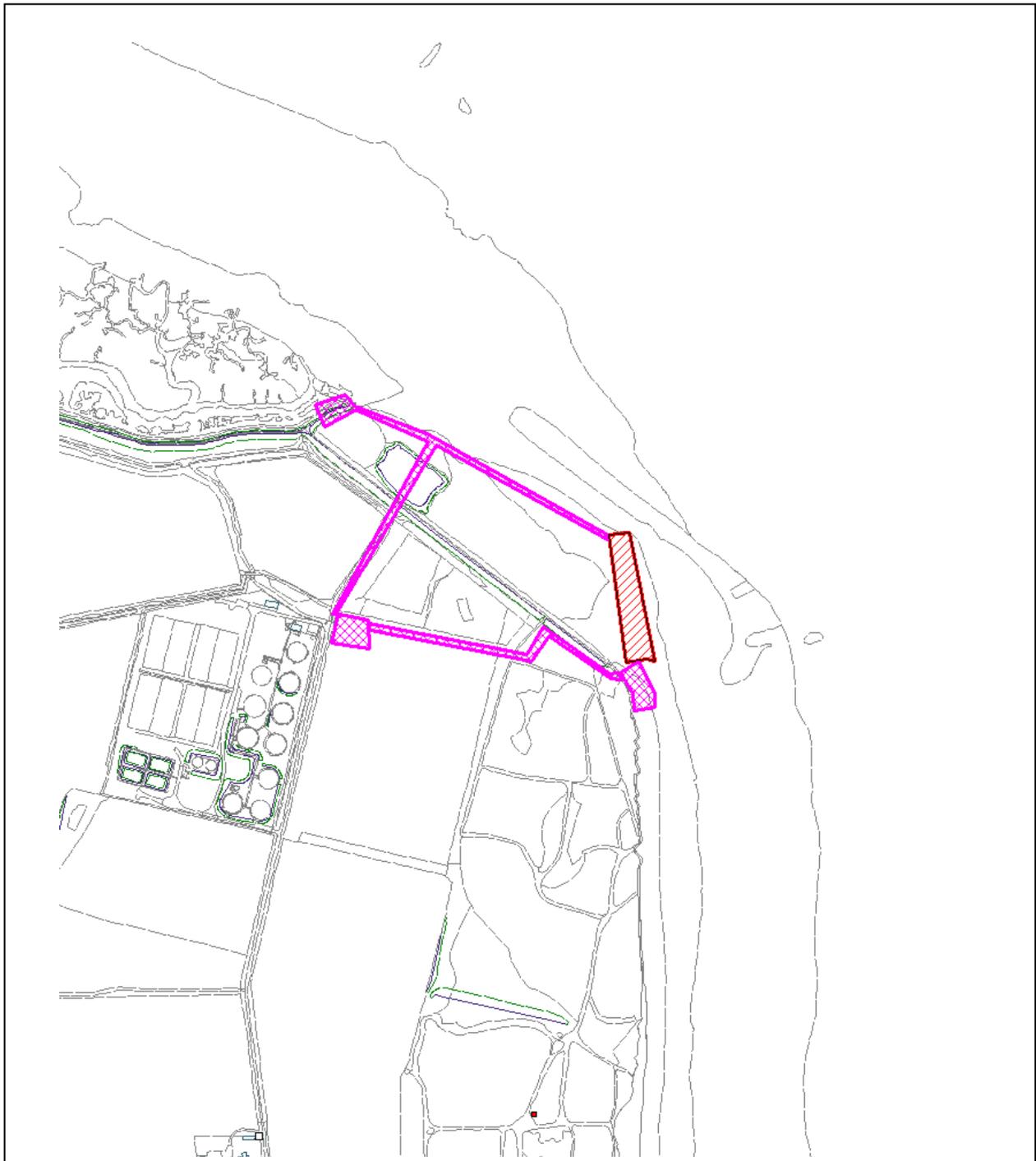
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## PLANNING COMMITTEE

26<sup>th</sup> October 2021

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### **A.7 PLANNING APPLICATION – 21/01450/FUL – THE NAZE PENINSULAR OLD HALL LANE WALTON ON THE NAZE**



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**Application:** 21/01450/FUL

**Town / Parish:** Frinton & Walton Town Council

**Applicant:** Mr James Ennos

**Address:** The Naze Peninsular Old Hall Lane Walton On The Naze

**Development:** Proposed installation of temporary measures such as sand filled bags as groynes, gabions to cliff face, and clay fill to earth embankment to slow down/prevent coastal erosion.

## 1. Executive Summary

- 1.1 The application has been referred to the Planning Committee as the development is proposed by Tendring District Council on a section of coastline that is owned by Tendring District Council. The site is located outside the Development Boundary within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 1.2 The application site is located north of Walton on the Naze at the Naze Peninsular at the point the land and sea meet. The site is located outside any settlement boundary as defined within the emerging and adopted local plans. The proposed works take place between the current extent of the formal flood wall at the northern extent of the Naze Peninsular.
- 1.3 The application seeks full planning permission for the installation of temporary measures such as sand filled bags as groynes, gabions to cliff face, and clay fill to earth embankment to slow down/prevent coastal erosion in the area. By protecting the sea wall from further damage, the proposals will also protect the surrounding farmland and Anglian Water sewage treatment works that serves the surrounding population and other assets such as Hamford Saltmarshes, which includes part of the SPA and Ramsar site.
- 1.4 The proposed development, subject to the suggested conditions, would be of a scale and form appropriate for the intended use. The impact on biodiversity has been closely assessed and deemed acceptable. The proposed development would not result in any significant material loss of residential amenities. The works are expected to be completed in 8 weeks from start to finish. The application is, therefore recommended for approval subject to conditions.

**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
- b) That the Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

**2. Planning Policy**

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

National

*National Planning Policy Framework (NPPF 2021)*  
*National Planning Guidance (Online)*

Local

*Tendring District Local Plan (2007)*

QL3	Minimising and Managing Flood Risk
QL11	Environmental Impacts
COM1	Access for All
COM7	Protection of Existing Recreational Open Space
COM32	Sea Defences
EN1	Landscape Character
EN3	Coastal Protection Belt
EN6	Biodiversity
EN6a	Protected Species
Policy EN11a	Protection of International Sites: European Sites and Ramsar Sites
EN11b	Protection of National Sites: Sites of Special Scientific Interest, National Nature Reserves, Nature Conservation Review Sites, Geological/Geomorphologic sites
TR1a	Development Affecting Highways
TR3a	Provision for Walking

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

- Adopted

SP1	Presumption in Favour of Sustainable Development
SP7	Place Shaping Principles

- Emerging

SPL3	Sustainable Design
PPL2	Coastal Protection Belt
PPL1	Development and Flood Risk
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL4	Biodiversity and Geodiversity
CP1	Sustainable Transport and Accessibility

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

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).

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 26<sup>th</sup> 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.

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 29<sup>th</sup> June 2021. The Council held a six-week public consultation on the Main Modifications and associated documents which began on 16<sup>th</sup> July 2021. The consultation closed at 5pm on 31<sup>st</sup> 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**

96/00223/FUL	(Northbourne Depot, Northbourne Road, Clacton on Sea) Proposed single storey flat roof structure for office use	Approved	29.03.1996
13/60186/HOUENQ	Site 5000 litre red diesel tank.		07.02.2013

18/00111/FUL	Proposed change of use from storage facilities, B8 to new office accommodation, B1(a).	Approved	08.03.2018
19/01189/FUL	Proposed construction of a single storey building to house new dog kennels.	Withdrawn	12.03.2020
20/00160/FUL	Proposed single storey extension to existing storage building, extended compound and relocation of footpath.	Approved	22.06.2020
21/01450/FUL	Proposed installation of temporary measures such as sand filled bags as groynes, gabions to cliff face, and clay fill to earth embankment to slow down/prevent coastal erosion.	Current	
21/30032/PREAPP	Proposed installation of temporary measures such as sand filled bags as groynes and gabions to prevent/slow down erosion.		18.05.2021
21/01450/FUL	Proposed installation of temporary measures such as sand filled bags as groynes, gabions to cliff face, and clay fill to earth embankment to slow down/prevent coastal erosion.	Current	

#### 4. Consultations

Environment Agency  
13/10/2021

Flood Defences

We require further information regarding the proposed development drawing De/01/03/21/100 details improvement works (crest raising and revetment) to an existing groyne at the Western end of the tarmac crested defence wall on the northern side of the Naze defences. The proposals outline how the groyne will be raised and protected but do not show how the new construction will link into the existing defences.

Condition

Prior to the commencement of the works the applicant should provide a detailed scheme to show that the proposed works will not impact on the integrity of the

existing flood defence. This must demonstrate that a weakening of the defence does not occur.

#### Reason for Proposal

To protect the existing flood defences and ensure that the existing level of flood protection is maintained.

It should be noted that any damage that occurs to the existing defences during the construction process will be repaired by the applicant. The Environment Agency will not be held responsible for future maintenance of any new structures or improvements described in these proposals.

#### Environmental Permitting Regulations

The applicant is a protected undertaker, as defined by the Environmental Permitting Regulations 2016 Schedule 25 Part 3, Sub-paragraph (2), therefore these works are not considered to be a Flood Risk Activity (according to the previous Schedule, Part 1) and subsequently do not require a Flood Risk Activity Permit.

Natural England  
06.10.2021

#### NO OBJECTION

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

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

#### European sites - Hamford Water Special Area of Conservation Special Protection Area Ramsar

Natural England notes that the Habitats Regulations Assessment (HRA) has not been produced by your authority, but by the applicant. As competent authority, it is your responsibility to produce the HRA and be accountable for its conclusions. We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority.

The assessment concludes that the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination. On the basis of the information provided, Natural England concurs with this view.

Hamford Water Site of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

ECC Highways Dept  
04.10.2021

The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material. The England Coast Path route goes along the top of the seawall here and has been approved by the Secretary of State, but the access rights won't come into effect until probably the end of 2022. The PROW team have confirmed that this is a very popular area to visit and based on the information provided appreciate that without these works the public footpath will be lost so for this reason the proposals are supported. The duration seems quite short at eight weeks so any disruption to walkers will be minimal. It is acknowledged that the visual appearance will change, but faced with the loss of the footpath entirely or it migrates inland the views could be lost anyway, taking these factors into account:

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 works 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 applicant's expense when caused by these works.

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. The public's rights and ease of passage over public footpath no.39 (Frinton and Walton\_164) shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with Policies DM1 and DM11.

3. No works shall take place until temporary signage is put in place either side of public footpath no.39 at the proposed crossing point to warn walkers and drivers that construction traffic and/or walkers will be crossing at this point.

Reason: To ensure the continued safe passage of pedestrians on the public right of way and accessibility in accordance with Policies DM1 and DM11.

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

Informative:

1: Note: Should the applicant need to apply to the TTRO Team (details on Essex Highways website) for a temporary diversion of the PROW during works in good time (currently a 12-week lead-in time).

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

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

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

3: Prior to the commencement of any work on the site a joint inspection of the route to be used by construction vehicles should be carried out by the applicant and the Highway Authority, to include photographic evidence. The

route should then be inspected again, after completion of the development, and any damage to the highway resulting from traffic movements generated by the application site should be repaired to an acceptable standard and at no cost to the Highway Authority.

The Highway Authority may also wish to secure a commuted sum for special maintenance to cover the damage caused to the existing roads used as access by vehicles servicing the application site.

Given the location of the site, a haul route for the delivery of large-scale plant and materials may also be required. Should this prove to be necessary, any route or routes should be agreed in advance with the Local Planning Authority in consultation with the Highway Authority.

TDC  
Environmental  
Protection

EP have reviewed the above application and the construction method statement states that the work will use minimal plant and will take place in daylight hours. With consideration to the urgency of the works EP can confirm that they have no comments to make.

Please note however that if the works are likely to use more heavy machinery and/or is going to operate outside the core construction hours (outside of 08.00 to 18.00 Monday to Friday or 18.00 - 12.00 on Saturday and any time on a Sunday) and likely to cause a noise disturbance then the applicant may want to consider applying for a section 61 consent under the control of pollution act 1974

Essex County Council  
Ecology  
13.10.2021

We are satisfied that the applicant's HRA is sufficiently robust that we can recommend its adoption by TDC.

04.10.2021

No objection subject to securing biodiversity mitigation and enhancement measures

#### Summary

ECC Ecology have reviewed the Proposed Plans and Sections Drg No DE01/03/21/100 (Hestur Limited, May 2021), Planning Statement (Hestur Limited, undated), Ecological Reports for Location 1- Long Wall, Location 2- Groynes and Location 3-Cliff protection (Ecologylink, July 2019), Ecological Method Statement (Ecologylink, undated), HRA stage screening for Coastal Protection Works (Ecologylink, updated August 2021), Outline Construction Environmental Management Plan CEMP (Ecologylink, undated), the consultation response from the MMO (Sept 2021) and our pre-application ecology advice 21/30032/PREAPP (May 2021), relating to the likely

impacts of development on designated sites, protected species and Priority species & habitats.

ECC Ecology note that Natural England reviewed and accepted the HRA screening report (August 2020) as part of the site assessment process and no fundamental changes have been suggested in terms of working area or access.

ECC Ecology also note that Natural England has agreed that the temporary works proposed will not result in any likely significant effects on Hamford Water SPA, SAC or Ramsar either alone or in combination with any plans & projects. Subject to Natural England's formal comments, ECC Ecology agree that there is no need to progress to Appropriate Assessment.

ECC Ecology are therefore 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 Outline Construction Environmental Management Plan (CEMP) (Ecologylink, undated) and Ecological Method Statement for reptiles (Ecologylink, undated), should be secured and implemented in full. This is necessary to conserve and enhance designated sites, protected and Priority species and habitats.

ECC Ecology note that no details were submitted relating to biodiversity enhancements. As all planning applications should secure measurable net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework 2021, ECC Ecology recommend that reasonable biodiversity enhancements should be included in a Biodiversity Enhancement Strategy and secured as a condition of any consent.

This will enable LPA to demonstrate compliance with their statutory duties including the 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 Outline Construction Environmental Management Plan (CEMP) (Ecologylink, undated) and Ecological Method Statement for reptiles (Ecologylink, undated), already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This will 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. WITHIN THREE MONTHS OF CONSENT: BIODIVERSITY ENHANCEMENT STRATEGY

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

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

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

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

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

Essex Wildlife Trust

Anglian Water Services Ltd  
06.10.2021

The Planning & Capacity Team provide comments on planning applications for major proposals of 10 dwellings or more, or if an industrial or commercial development, 500sqm or greater. However, if there are specific drainage issues you would like us to respond to, please contact us outlining the details.

The applicant should check for any Anglian Water assets which cross or are within close proximity to the site. Any encroachment zones should be reflected in site layout. They can do this by accessing our infrastructure maps on Digdat. Please see our website for further information:

<https://www.anglianwater.co.uk/developers/development-services/locating-our-assets/>

Please note that if diverting or crossing over any of our assets permission will be required. Please see our website for further information:

<https://www.anglianwater.co.uk/developers/drainage-services/building-over-or-near-our-assets/>

Marine Management Organisation  
27.09.2021

Please be aware that any works within the Marine area require a licence from the Marine Management Organisation. It is down to the applicant themselves to take the necessary steps to ascertain whether their works will fall below the Mean High Water Springs mark.

The Marine Management Organisation (MMO) is a non-departmental public body responsible for the management of England's marine area on behalf of the UK government. The MMO's delivery functions are; marine planning, marine licensing, wildlife licensing and enforcement, marine protected area management, marine emergencies, fisheries management and issuing European grants.

Marine Licensing

Activities taking place below the mean high water mark may require a marine licence in accordance with the Marine and Coastal Access Act (MCAA) 2009. Such activities include the construction, alteration or

improvement of any works, dredging, or a deposit or removal of a substance or object below the mean high water springs mark or in any tidal river to the extent of the tidal influence. You can also apply to the MMO for consent under the Electricity Act 1989 (as amended) for offshore generating stations between 1 and 100 megawatts in England and parts of Wales. The MMO is also the authority responsible for processing and determining harbour orders in England, and for some ports in Wales, and for granting consent under various local Acts and orders regarding harbours. A wildlife licence is also required for activities that that would affect a UK or European protected marine species.

### Marine Planning

As the marine planning authority for England the MMO is responsible for preparing marine plans for English inshore and offshore waters. At its landward extent, a marine plan will apply up to the mean high water springs mark, which includes the tidal extent of any rivers. As marine plan boundaries extend up to the level of the mean high water spring tides mark, there will be an overlap with terrestrial plans which generally extend to the mean low water springs mark. Marine plans will inform and guide decision makers on development in marine and coastal areas. On 2 April 2014 the East Inshore and Offshore marine plans were published, becoming a material consideration for public authorities with decision making functions. The East Inshore and East Offshore Marine Plans cover the coast and seas from Flamborough Head to Felixstowe. For further information on how to apply the East Inshore and Offshore Plans please visit our Marine Information System. The MMO is currently in the process of developing marine plans for the South Inshore and Offshore Plan Areas and has a requirement to develop plans for the remaining 7 marine plan areas by 2021.

Planning documents for areas with a coastal influence may wish to make reference to the MMO's licensing requirements and any relevant marine plans to ensure that necessary regulations are adhered to. For marine and coastal areas where a marine plan is not currently in place, we advise local authorities to refer to the Marine Policy Statement for guidance on any planning activity that includes a section of coastline or tidal river. All public authorities taking authorisation or enforcement decisions that affect or might affect the UK marine area must do so in accordance with the Marine and Coastal Access Act and the UK Marine Policy Statement unless relevant considerations indicate otherwise. Local authorities may

also wish to refer to our online guidance and the Planning Advisory Service soundness self-assessment checklist.

#### Minerals and waste plans and local aggregate assessments

If you are consulting on a mineral/waste plan or local aggregate assessment, the MMO recommend reference to marine aggregates is included and reference to be made to the documents below:

- The Marine Policy Statement (MPS), section 3.5 which highlights the importance of marine aggregates and its supply to England's (and the UK) construction industry.
- The National Planning Policy Framework (NPPF) which sets out policies for national (England) construction minerals supply.
- The Managed Aggregate Supply System (MASS) which includes specific references to the role of marine aggregates in the wider portfolio of supply.
- The National and regional guidelines for aggregates provision in England 2005-2020 predict likely aggregate demand over this period including marine supply.

The NPPF informed MASS guidance requires local mineral planning authorities to prepare Local Aggregate Assessments, these assessments have to consider the opportunities and constraints of all mineral supplies into their planning regions - including marine. This means that even land-locked counties, may have to consider the role that marine sourced supplies (delivered by rail or river) play - particularly where land based resources are becoming increasingly constrained.

TDC Tree  
& Landscape Officer  
29.09.2021

The application site is on the seaward side of the existing seawall and does not contain any significant trees or other vegetation.

In terms of the impact of the development proposal on the local landscape character it should be noted that the application site is within the Hamford Water Marshes Landscape Character Area (LCA) as defined and described in the Tendring District Council Landscape Character Assessment.

The landscape is noted for its wild 'remote' character with high ecological value. The area is unsuitable for built development as it would be likely to compromise the existing qualities of the landscape.

With regard to the development proposal it is considered that the coastal defence works will be unlikely to significantly compromise the overall quality of the local landscape character.

## **5. Representations**

- 5.1 Frinton and Walton Town Council supports the application. No public comments were received.

## **6. Assessment**

- 6.1 The main planning considerations are:

- Principle of Development
- Design and visual impact
- Impact on natural environment
- Residential amenity
- Highway Safety and Parking
- Other matters

### Site Context

- 6.2 The application site is located north of Walton on the Naze at the Naze Peninsular at the point the land and sea meet. The site is located outside any settlement boundary as defined within the emerging and adopted local plans. The proposed works take place between the current extent of the formal flood wall at the northern extent of the Naze Peninsular. The plans also include a storage compound some 200m inland. The storage area is located adjacent to an existing Anglian Water sewage treatment works. A track runs alongside the treatment works down to the coastline.
- 6.3 Ownership of the land in question belongs to Tendring District Council. This site is the only area the Local Authority is responsible for without formal flood defences. The existing nearby flood wall is the responsibility of the Environment Agency, and not Tendring District Council. The area around the planning application site comprises of public open space adjacent to the coastline, there are no residential dwellings in the immediate locality the nearest being some 900m away.
- 6.4 The area to the southwest of the formal flood wall also consists of Local and National Nature Reserves including John Weston Nature Reserve. The area provides important habitat to migratory birds, and rare flora and fauna. This is recognised with the foreshore, mudflats, saltmarsh, tidal ponds and area to the immediate southwest of the host site as an international designation, known as the Hamford Water (SPA) Special Protection Area, Hamford Water Special Area of Conservation (SAC) and the site is also known as a RAMSAR location again internationally designated.
- 6.5 These areas relate to the following:
- Special Areas of Conservation (SACs) – animal and plant habitats designated under the Habitats Directive
  - Special Protection Areas (SPAs) – wild bird habitats designated under the Wild Birds Directive

- Ramsar sites – wetlands of international importance.
- 6.6 Furthermore, the area is protected by a national designation as a Site of Special Scientific Interest (SSSI) ‘The Naze’ to the south and John Weston Nature Reserves and The Naze Nature Reserve. A footpath (number 39) runs adjacent to the coastline in the local area. The site also falls within the Coastal Protection Belt under local policy EN3.

### Background

- 6.7 The Naze is a low-lying area of land and as such is at risk from coastal flooding. To reduce the risk, the area is protected by an existing sea wall (known as the Short Wall) which extends to the northern limit of the London Clay cliffs.
- 6.8 The current Essex and Suffolk Shoreline Management Plan identifies the policy relating to the wall as being Htl+ (Htl + being Hold the Line with + identifying that the policy is to maintain, or upgrade, the current Standard of Protection) for Epoch 1 (Present day to 2025) and Epoch 2 (2025 to 2055). The sea wall was put in place as part of the ‘Hold the Line’ policy needed to protect assets inland, such as the Anglian Water sewage treatment works and protected nature reserves nearby. In 2017, a clay embankment was built to provide the land behind the sea wall some additional protection against tidal surge and erosion.
- 6.9 The area of the natural cliffs immediately to the south of the formal wall is identified as having the policy of NAI (No Active Intervention) over the same period, allowing the cliff to realign as part of the natural process. These ‘soft’ cliffs are actively eroding at an average rate of 1.03m/year. The aim of these currently proposed works is to manage the coastal erosion at this point.

### Proposal

- 6.10 The purpose of the proposal is to protect the existing sea wall, which is being degraded by the action of the sea whilst a longer-term solution is determined for the area. By protecting the sea wall from further damage, the proposals will also protect the surrounding farmland, Anglian Water sewage treatment works that serves the surrounding population and other assets such as Hamford Saltmarshes, which includes part of the SPA and Ramsar site.
- 6.11 The Plans indicate three specific locations for the works named ‘Location 1, Location 2 and Location 3’. Location 4 involves the storage area and the access routes. In total the completion of works will take 8 weeks start to finish. There are expected to be 6 staff working on the project during daylight hours only. There is no external lighting required to deliver these works. Materials will be dropped off at the compound then transported via dump trucks to the coastal locations. The works at each location are expected to last 5 years without maintenance; with maintenance they should last 20 years. The principle, however, is that they are ‘temporary measures’, while future policy is decided upon and allow the current area to be defended from coastal erosion.
- 6.12 The specific works at each location are as follows:

- **Location 1:** This is the Short Wall, some 250m north of the storage compound and 400m west of the other coastal work locations. It is proposed to simply reinstate the profile of the wall by infilling the erosion that has occurred to its core and to reinstate the external slopes. It is not proposed to extend the wall, simply restore its integrity.
- **Location 2:** It is proposed to install five new groynes using Soiltain (sand filled) bags. The sand will be transported into the area via road, stored at the compound area and moved to the beach via low pressure dump trucks. The three groynes closest to the sea wall will be 15m long and the two furthest out will be 20m long. The typical bag will measure some 1.5m wide and 0.5m in height. The overall site area given is 25m in width and 125m in length for this work.
- **Location 3:** This extends along the base of the cliff for 75m. The proposed works involve the installation of gabion baskets at the toe of the cliff. The gabion baskets will be filled with rock brought into the area by road. Additionally, concrete from the loss of the sea wall and collapsed path will be broken up and placed behind the gabion baskets, to provide additional robustness to the gabions whilst also clearing up the foreshore. The gabions measure 2m in height and consist of three sections forming a stepped nature opposite the cliff toe.
- **Location 4:** Is the storage compound and access route to the work areas. The storage compound area measures some 40 metres by 30 metres. Within this area shall be a temporary staff compound 4.9m (l) x 2.74m (w) x 2.5m (h), in blue, known as the 'Ecologic 250'. This will house a toilet and small canteen, and lockers. The site compound is to be enclosed with Herras fencing.

#### Principle of Development

- 6.13 The National Policy Planning Framework sets out within paragraphs 170 to 173 the policies for the protection of areas at risk from Coastal change. As the proposed works are fundamentally designed to improve coastal defences and stabilise the coast, the works fall within the remit of what is permitted to take place in such places.
- 6.14 With respect to the ecology and biodiversity protection in the NPPF, these areas are covered within Chapter 15, in particular paragraphs 179 to 182. The application includes a number of supporting documents relating to these matters. Furthermore, the Local Planning Authority has undertaken consultation with amongst others, Natural England and Essex County Council Ecology. Subject to the findings of the technical reports and associated mitigation strategies being acceptable, the application would adhere to the requirements of NPPF to protect and enhance both biodiversity and geodiversity in such internally designated sensitive areas.
- 6.15 At a local level, the adopted Local Plan 2007 covers such coastal and geophysical protection within policies; COM32 (Sea Defence), EN3 (Coastal Protection Belt), EN11a (Protection of International Sites) and EN11b Protection of National Sites. The emerging plan reflects these policies areas in policies PPL2 (Coastal Protection Belt), PPL1 (Development and Flood Risk) and PPL4 (Biodiversity and Geodiversity). While the adopted local plan assesses the amenity and highway related impacts via policies QL11 (Environmental Impacts) and TR1a (Development Affecting Highways). With

emerging policies SPL3 (Sustainable Design) and CP1 (Sustainable Transport and Accessibility) support these goals.

- 6.16 The area is located within a sensitivity landscape for ecological, geological and recreational reasons. However, the works are proposed by the Tendring District Council in relation to their responsibility for coastal protection. By protecting the sea wall from further damage, the proposals will protect the surrounding farmland, Anglian Water sewage treatment works that serves the surrounding population and other assets, namely Hamford Saltmarshes, which includes part of the SPA and Ramsar site. The justification is accepted, although Officers accept there will be a modest level of deterioration to the visual amenity of the area.

#### Appearance, Layout and Scale

- 6.17 The three development sites are critical to the coastal defence infrastructure. Subject to height limitations given in the plans, Officers do not object to visual impact of the proposals. The area is remote from the nearby built-up area of Walton on the Naze to the south and not heavily used as a recreational beach. In both locations, the beach slopes away from the sea wall and cliff, thus the overall height of the proposed revetments would appear proportionate at both high and low tide. Also, in the case of the gabions, they are already on the beach. This work extends their use, therefore the works will ultimately not look particularly incongruous once completed within the existing setting of the beach.
- 6.18 Therefore, the critical flood defence measures are accepted despite their robust appearance.
- 6.19 Also, of importance from the visual perspective is the positioning of the rock store and temporary staff cabins while the works are being undertaken. The site chosen is some 250m inland next to the existing Sewage Treatment works. There is no objection to the use of this area, especially given the temporary 8 week timeframe proposed.
- 6.20 There is a public footpath which the works will need to cross to get the materials to the shore, however this is accepted given the alternative could be a total loss of the coastal path.
- 6.21 The detailed design, appearance, layout and scale is considered acceptable.

#### Highway Safety/Parking

- 6.22 In relation to Highway Safety and Parking. ECC Highways have been consulted on this application and offered no objections. The total number of vehicle movements to deliver materials for the duration of the proposed works is considered to be 70 movements. These vehicles will be 22 tone vehicles at a maximum of 3 vehicles per day over an initial period of 5 days at the start of the works, then for a further 20 days later in the process also at (3 per day) as the works progress.
- 6.23 The submitted plans show sufficient room for turning of the trucks to the site via the compound and similarly sufficient room for parking. A public footpath (footpath 39) will be crossed to get the goods to the shore, however this is considered acceptable given the vital works involved.

6.24 Overall, there are no objections to the scheme on Parking or Highway Safety grounds.

Landscaping/Biodiversity

6.25 A key policy under this consideration is Policy EN11a (Protection of International Sites: European Sites and Ramsar Sites) This policy states, *“Development, which may affect a European Site, a proposed European Site or a Ramsar site, will be subject to the most rigorous examination.”* In particular, developments resulting in any likely significant or unascertainable effects on the sites will not be permitted unless there is no alternative solution or that there are, “imperative reasons of over-riding public interest”.

6.26 Equally, Policy EN11b states, *“Development in or likely to affect Sites of Special Scientific Interest will be subject to special scrutiny. Where such development may have an adverse effect, directly or indirectly on the special interest of the site it will not be permitted unless the reasons for the development clearly outweigh the nature conservation value of the site itself and the national policy to safeguard such sites.”*

6.27 In support of the application, the applicant has submitted a Stage 1 Habit Regulations Assessment (Ecology Link, Aug 2020) together with associated Planning and Transportation Statements, relating to the likely impacts of development on designated sites, protected species and Priority species & habitats. These reports provide certainty for the LPA of the likely impacts on protected and priority species & habitats. ECC Ecology has confirmed no objection subject to securing biodiversity mitigation and enhancement measures. ECC Ecology have confirmed there is no need to progress to Appropriate Assessment.

6.28 Natural England have reviewed and accepted the HRA screening report (August 2020) as part of the site assessment process and no fundamental changes have been suggested in terms of working area or access. Natural England has also agreed that the temporary works proposed will not result in any likely significant effects on Hamford Water SPA, SAC or Ramsar either alone or in combination with any plans & projects. The Environment Agency have offered no objections subject to a condition on the wellbeing of the existing sea wall being demonstrated. The applicant has accepted this condition and at the time of writing was in the process of getting the required information together for the Environment Agency for the suggested planning condition.

6.29 Overall, the HRA screening/likely significance test undertaken concludes that there will be no likely significant effects as a result of the construction or operation of the proposed scheme on any qualifying features of the European Sites. Subject to planning condition as stated above, the application would adhere to Policy EN11a and Policy EN11b and the associated NPPF guidance on such matters.

Policy COM32 – Sea Defences and Policy EN3 - Coastal Protection Belt

6.30 These adopted policies set out the requirements on coastal protection works which may be permitted. The type of defence appropriate for a location will depend on a number of factors, including the type of erosion, nature of the land effected, nature of the land effected, nature conservation and length of coast concerned.

- 6.31 The proposal is essential for ensuring the continued effectiveness of the sea defence infrastructure. Also, the works would ensure protection of the sewage works and nature reserves nearby. In this case, the use of 'soft engineering' is not considered an appropriate measure due to the imminent threat of tidal flooding. The 'hard' revetments features are deemed essential to ensure public safety. As such, no objection to this policy is being raised.

#### Impact on Residential Amenity

- 6.32 With regards to the revetments on the beach themselves, they shall have no demonstrable impact upon residential amenity. The methods of construction and associated vehicle movements is likely to have some impact on the on the amenity of nearby residents. However, the vehicle movements are relatively limited in number and during daylight hours only.
- 6.33 The nearest residential dwelling is some 900m away so it is unlikely that noise would be a significant problem. A Construction Management Plan (CMP) has been provided and accepted by the Council's Environmental Protection Team. Overall, given the physical separation distance to residential dwellings and temporary nature of the disturbance, this would not be considered a reason to object to the development. Although the CMP was accepted by Environmental Protection; ECC Highways required some further input, this has been received in an updated CMP received on the 13/10/2021. Therefore, ECC Highways have removed their request for an update to this document, as the required information has been provided.
- 6.34 The use of warning signs for pedestrians using the coastal path is considered acceptable when passing the construction access routes.

#### Other Matters

- 6.35 The applicant shall require a licence from the Environment Agency as they are working in close proximity to one of their assets (the existing Flood Wall). In addition, a licence may be required from the Marine Management Organisation. However, these are separate to the Planning process and are dealt with independently via the aforementioned external bodies.

### **7. Conclusion**

- 7.1 Notwithstanding the short-term disruption to local residents and recreational users of the Naze Peninsular during the construction process, this scheme is undoubtedly in the public interest due to its importance in ensuring the continued effectiveness of the sea wall providing protection from tidal surges and extreme weather events.
- 7.2 The impact on biodiversity and ecology has been assessed by both EC Ecology and Natural England who have no objections subject to planning conditions. TDC Environmental Protection and ECC Highways have both offer no objections also subject to planning conditions.
- 7.3 Overall, Officers fully support this proposal subject to the conditions detailed below.

## 8. Recommendation

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

### 8.2 Conditions and Reasons

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission. The proposed works shall take place between the months of September and March only.

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. In the interest of residential amenity.

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

De01/03/21/100 Proposed plans and sections  
De01/03/21/101 Existing plans and sections  
Tdc01/03/19/104 a Location 2 - proposed plans and sections  
Tdc01/03/19/107 Block plan  
Tdc01/03/19/100 a Location 4 access works  
Tdc01/03/19/105 a Location 3 - existing plans and sections  
Tdc01/03/19/103 a Location 2 - existing plans and sections  
Tdc01/03/19/106 a Location 3 - proposed plans and sections  
Ecologic 250 unit information (including plans) received 12 October 2021  
Location plan received 16<sup>th</sup> August 2021

Habitat regulations assessment, Ecology Link 2021  
Outline construction Environmental method plan, Hestur Limited, August 2021  
Outline construction management plan, Hestur Limited, received 13<sup>th</sup> October 2021  
Ecological method statement, Ecology Link, received 16<sup>th</sup> August 2021  
Pre-habitat regulations assessment, Ecology Link, August 2020

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

3. The public's rights and ease of passage over public footpath no.39 (Frinton and Walton\_164) shall be maintained free and unobstructed at all times.

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

4. No works shall take place until temporary signage is put in place either side of public footpath no.39 at the proposed crossing point to warn walkers and drivers that construction traffic and/or walkers will be crossing at this point.

Reason: To ensure the continued safe passage of pedestrians on the public right of way and accessibility.

5. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Outline Construction Environmental

Management Plan (CEMP) (Ecologylink, undated) and Ecological Method Statement for reptiles (Ecologylink, undated), already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

6. Within Three Months of Consent, a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority.

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

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

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

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

7. No external lighting shall be permitted unless agreed in advance with the Local planning authority.

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).

8. This permission gives the approval for the Soiltian bags at location 2 to be filled with sand only.

Reason: In the interests of good planning and to allow for a fuller assessment of more permanent sea defence features in this location.

9. Prior to the commencement of the works the applicant should provide a detailed scheme to show that the proposed works will not impact on the integrity of the existing flood defence. This must demonstrate that a weakening of the defence does not occur.

Reason: To protect the existing flood defences and ensure that the existing level of flood protection is maintained

10. Within 3 months of the date of commencement, unless otherwise agreed in writing by the Local Planning Authority. All the plant, machinery, temporary portacabin, security fencing and any excess debris from the development, shall be removed from the site /s and the land restored to its previous natural state.

Reason: In the interests of visual amenity

### 8.3 Informatives

#### Positive and Proactive Statement

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

- Highways

1: Note: Should the applicant need to apply to the TTRO Team (details on Essex Highways website) for a temporary diversion of the PROW during works in good time (currently a 12-week lead-in time).

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

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

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

3: Prior to the commencement of any work on the site a joint inspection of the route to be used by construction vehicles should be carried out by the applicant and the Highway Authority, to include photographic evidence. The route should then be inspected again, after completion of the development, and any damage to the highway resulting from traffic movements generated by the application site should be repaired to an acceptable standard and at no cost to the Highway Authority.

The Highway Authority may also wish to secure a commuted sum for special maintenance to cover the damage caused to the existing roads used as access by vehicles servicing the application site.

Given the location of the site, a haul route for the delivery of large-scale plant and materials may also be required. Should this prove to be necessary, any route or

routes should be agreed in advance with the Local Planning Authority in consultation with the Highway Authority.

- Environment Agency

It should be noted that any damage that occurs to the existing defences during the construction process will be repaired by the applicant. The Environment Agency will not be held responsible for future maintenance of any new structures or improvements described in these proposals.

### Environmental Permitting Regulations

The applicant is a protected undertaker, as defined by the Environmental Permitting Regulations 2016 Schedule 25 Part 3, Sub-paragraph (2), therefore these works are not considered to be a Flood Risk Activity (according to the previous Schedule, Part 1) and subsequently do not require a Flood Risk Activity Permit.

## 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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