



PLANNING COMMITTEE

DATE: Tuesday, 23 November 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. 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.

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

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

For further details and general enquiries about this meeting, contact Emma Haward on 01255 686007.

DATE OF PUBLICATION: Monday, 15 November 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 - 34)

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Tuesday, 26th October 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 21/00650/OUT – LAND EAST OF BROMLEY ROAD, LAWFORD CO11 2HS (Pages 35 - 64)

Outline planning permission (all matters apart from access - reserved) was granted on 13th April 2017 for a mixed development of 360 houses and community facilities/open space on 22.76ha of land to the south of Lawford, under application ref. 15/00876/OUT. In 2020, there was a Section 73 approval under planning ref. 20/00458/OUT, to vary condition 9 of 15/00876/OUT relating to the delivery requirement of the spine road and access to Long Road before the 201st occupation.

The application also includes bringing forward the delivery of a mini roundabout at the junction of Wignall Street and Bromley Road to the 180th occupation, as opposed to the 200th occupation as presently required.

In accordance with Members' request, the current submission has been brought to Planning Committee seeking consent with regard to the delaying the provision of access onto Long Road from the 261st occupation on site (73% of the total dwellings on site) to the 360 st occupation on site (99% of the total dwellings on site).

6 A.2 PLANNING APPLICATION 21/00738/FUL – HIGH BEECH, TURPINS LANE, KIRBY CROSS, FRINTON ON SEA (Pages 65 - 82)

The application has been called in by Councillor Anne Davis.

The proposal is for the demolition of the existing dwelling and the construction of four detached bungalows with associated parking and landscaping. It is also proposed to increase the width of the main access way from Turpins Lane. The site is located within the defined Settlement Development Boundary of Frinton-on-Sea and is already considered to be a backland site.

7 **A.3 PLANNING APPLICATION 21/00924/FUL – THE FORMER ERNEST LUFF HOUSE DAY CARE CENTRE, LUFF WAY, WALTON ON THE NAZE, FRINTON ON SEA ESSEX (Pages 83 - 98)**

The application has been referred to the Planning Committee at the call-in request of Councillor Anne Davis, due to concerns over the potential for the proposal to adversely affect the living conditions of neighbouring residents, some of whom are elderly, by virtue of noise and disturbance. Furthermore, she is concerned that fencing around the site is not in keeping with the character and appearance of the area, and there is insufficient parking for the number of residents and staff proposed.

8 **A.4 PLANNING APPLICATION 21/01374/FUL – JOHN WESTON NATURE RESERVE ACCESSED VIA OLD HALL LANE, LOCATED NORTH OF PUMPING STATION, WALTON-ON-THE-NAZE CO14 8LQ (Pages 99 - 108)**

This application is before Members as Tendring District Council is the land owner.

The proposal involves the formation of a number of ponds within the John Weston Nature Reserve in order to provide additional feeding opportunities for waders and increase the biodiversity of the overall site. The nature reserve forms part of 'Hamford Water'.

9 **A.5 PLANNING APPLICATION 21/01707/NMA – LAND ADJACENT TO LOTUS WAY AND BROOKLANDS, JAYWICK SANDS CO15 2JE (Pages 109 - 148)**

This is an application for a Non-Material Amendment (NMA). As the Council is the applicant, and in accordance with our Constitution, the application is referred to Planning Committee for determination.

The description of development above details the proposed changes to the original planning permission. 21/00871/FUL approved 'Proposed business units, covered market, community garden, public WCs and associated public realm' on 9th July 2021 in accordance with Members recommendation at Planning Committee on 6th July 2021 (report Appended for Members' assistance).

Date of the Next Scheduled Meeting

The next scheduled meeting of the Planning Committee is to be held in the Council Chamber - Council Offices, Thorpe Road, Weeley, CO16 9AJ at 6.00 pm on Tuesday, 7 December 2021.

Tendring District Council



PLANNING COMMITTEE MEETINGS PUBLIC SPEAKING SCHEME March 2021

This Public Speaking Scheme is made pursuant to Council Procedure Rule 40 and gives the opportunity for a member of the public and other parties identified below to speak to Tendring District Council's Planning Committee when they are deciding a planning application.

TO WHICH MEETINGS DOES THIS SCHEME APPLY?

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

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

1. The applicant, his agent or representative; or (where applicable) one person the subject of the potential enforcement action or directly affected by the potential confirmation of a tree preservation order, his agent or representative. A maximum of 3 minutes to speak is allowed;
2. One member of the public who wishes to comment on or to speak in favour of the application or someone who produces a signed, written authority to speak on their behalf. A maximum of 3 minutes to speak is allowed;
3. One member of the public who wishes to comment on or speak against the application or someone who produces a signed, written authority to speak on their behalf. A maximum of 3 minutes to speak is allowed;
4. Where the proposed development is in the area of a Parish or Town Council, one Parish or Town Council representative. A maximum of 3 minutes to speak is allowed;
5. All District Councillors for the ward where the development is situated ("ward member") or (if the ward member is unable to attend the meeting) a District Councillor appointed in writing by the ward member. Member(s) of adjacent wards or wards impacted by the proposed development may also speak with the agreement of the Chairman. Permission for District Councillors to speak is subject to the Council's Code of Conduct and the declarations of interest provisions will apply. A maximum of 5 minutes to speak is allowed;

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

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

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

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

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

WHICH MATTERS ARE COVERED BY THIS SCHEME?

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

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

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

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

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

HOW DO I ARRANGE TO SPEAK AT THE MEETING?

You can:-

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

Email: democraticservices@tendringdc.gov.uk

OR

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

If more than one person wants to speak who is eligible under a particular category (e.g. a member of the public within the description set out in numbered paragraphs 2 or 3 above), the right to speak under that category will be on a “first come, first served” basis.

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

WHAT WILL HAPPEN WHEN THE MATTER CONCERNED IS CONSIDERED?

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

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

WHAT SHOULD I SAY AT THE MEETING?

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

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

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

WHO DO I CONTACT FOR MORE INFORMATION?

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

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

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

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

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, 26TH OCTOBER, 2021 AT 6.00 PM
IN THE COUNCIL CHAMBER - COUNCIL OFFICES, THORPE ROAD, WEELEY,
CO16 9AJ**

Present:	Councillors White (Chairman), Bray (Vice-Chairman), Alexander, Baker, Casey, Codling, Fowler, Harris and Placey
Also Present:	Councillors Barry, Coley, Chapman, G Guglielmi, V Guglielmi, Turner, Jennie Wilkinson (Assets Surveyor), James Ennos (Coastal Manager)
In Attendance:	Graham Nourse (Assistant Director, Planning), Joanne Fisher (Planning Solicitor), Jacob Jaarsmar (Planning Team Leader), Susanne Chapman-Ennos (Planning Team Leader), Nick Westlake (Planning Officer), Emma Haward (Leadership Support Officer), Matthew Cattermole (Communications Assistant).

154. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

155. MINUTES OF THE LAST MEETING

It was moved by Councillor Alexander, seconded by Councillor Casey and **RESOLVED** that the minutes of the last meeting of the Committee held on 28 September 2021 be approved as a correct record.

156. DECLARATIONS OF INTEREST

Councillor Fowler declared a personal interest in Planning Application **21/00376/DETAIL - LAND TO THE SOUTH OF RAMSEY ROAD AND EAST OF MAYES LANE RAMSEY CO12 5EW** due to her being a resident of Mayes Lane. She stated that she was pre-determined and had therefore not attended the Committee's site visit for this application. Councillor Fowler also stated that she would withdraw from the meeting at the appropriate juncture and would take no part in the Committee's deliberations on this application.

Councillor Fowler also declared a personal interest in Planning Application **21/01395/LBC - THE HARWICH TREADWHEEL CRANE ST HELENS GREEN HARWICH CO12 3NH** due to her holding the role of Secretary of the Harwich Society. She stated that she was pre-determined and had therefore not attended the Committee's site visit for this application. Councillor Fowler also stated that she would withdraw from the meeting at the appropriate juncture and would take no part in the Committee's deliberations on this application.

Councillor Baker declared a personal interest in Planning Application **LAND TO THE SOUTH OF LONG ROAD AND TO THE WEST OF CLACTON ROAD, MISTLEY CO11 2HN** due to formerly being a Ward Member for that location. Councillor Baker also stated that he would withdraw from the meeting at the appropriate juncture and would take no part in the Committee's deliberations on this application.

Councillor Alexander declared a personal interest in Planning Application **21/01104/FUL 4-8 EDITH ROAD, CLACTON-ON-SEA CO15 1JU** due to his being a Ward Member for that location. He stated that he was not pre-determined and that therefore, he would participate in the Committee's deliberations on this application.

157. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were none on this occasion.

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

Earlier on in the meeting, Councillor Baker had declared a Personal Interest in this application insofar as he was both a former Ward Member for that location and pre-determined. He therefore withdrew from the meeting whilst the Committee considered and made its decision on this application.

It was reported that the host site had 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 to be reserved, other than strategic access points onto the public highway.

The Committee was informed that the current application sought its consent with regards to the reserved matters of landscaping, layout, appearance and scale. Importantly, the application related only to the residential aspect of the development and not the Employment Land in the south east corner, which was expected to be dealt with under a separate Reserved Matters application in the future.

Members were aware that the application had been referred to the Committee for its decision by Councillor Coley for the following reasons:

- *The identification of which dwellings were considered as Affordable Housing & the status of those dwellings;*
- *The developer's commitment to Renewable Energy Facilities;*
- *There was no information at all regarding the Employment Land, although the application title included this area for consideration. It was blank on the maps;*
- *We also had 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 those concerns had been addressed in the Officer report and updated reports and plans had been submitted.

The Committee was advised that the site was outside the defined Mistley settlement boundary of the saved Local Plan but within the settlement boundary of the emerging Local Plan. The principle of residential development had been accepted by the granting of outline planning permission, which had also established the position of the accesses.

It was considered by Officers that, in respect of Access, Appearance, Layout, Scale and Landscaping, the application had demonstrated that the development would be of high quality, would respond to its surroundings and would be sustainable. The detailed plans had complied with the outline requirements, and the usual design parameters (garden sizes, distance between dwellings and level of parking). The reserved matters were considered acceptable with no material harm to visual or residential amenity, or highway safety.

As such, it was the opinion of Officers that the Reserved Matters could 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 plus also the proposed Planning conditions outlined in section 8.2 of the Officer report. The reason the Deed of Variation had been offered was that this would have covered the whole site rather than just the red line area of the host application, ensuring the landscape buffer continued around the whole site.

Members were informed that if the Committee endorsed this recommendation, conditions would be imposed relating directly to the reserved matters under consideration, whilst conditions previously attached to the outline approval would still apply. The legal agreement for the original application which secured 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.

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 (NW) in respect of the application.

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

Amendment to the Title of the Application as follows:-

"A recent Section 73 application was made and approved to alter the access to the site from Clacton Road. This Section 73 application (ref: 21/00213/OUT), extended the straight entrance road into the site from 15m to 22m. As a result, the title of the current application needs to be amended to reflect this altered approved access arrangement. The description of development should therefore include the Section 73 application, 21/00213/OUT and the original outline approval, and read as follows:

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 and separately 21/00213/OUT) 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"

ECC Urban Design's updated comments as of 19/10/21 as follows:

“Overall, following on from a positive pre-application process, there are no major objections to this application from an urban design perspective. It is clear that feedback provided within previous formal comments have been considered and taken on board in regard to the overall layout, connectivity, materials and boundary treatments of the scheme. As a result, the amended scheme would be supported from a design perspective, and we look forward to seeing how it progresses in the future.”

Updates/Clarifications within the officer report as follows:-

“Paragraph 1.2 – The agent has confirmed the site area for the residential aspect including public open space is 92% and the commercial area is 8%

Paragraph 6.7 & 6.8 – The residential element represents approximately 77% of the reserved matters application site

The agent has provided a breakdown of the areas involved which was not available when originally assessed. Including detail calculations of the size of the Suds features.

		As of % of outline scheme
Total size of outline scheme	23.31ha	100%
Commercial area	1.94ha	$(1.94/23.31*100) = 8\%$
		As a % of reserved matters application scheme
Red line application for reserved matters	21.37ha	100%
POS including attenuation	4.83ha	$(4.83/21.37*100)= 23\%$
Attenuation	0.21ha	$(0.21/21.37*100)= 1\%$
POS excluding attenuation	4.62ha	$(4.62/21.37*100)= 22\%$
Development area	16.54ha	$(16.54/21.37*100) = 77\%$

Within the ‘History Section’ there is a pre app 21/30179/PREAPP. This does not relate to the host site and instead relates to the neighbouring Rose Builders site.

Paragraph 6.4 – Correct Timings

- | | |
|-------------------------------|----------------------------|
| 3. Access and Highway Details | Subject to approved plans. |
| 12. Highway Improvements | Prior to Occupation |
| 13. Travel Packs | Prior to Occupation “ |

Anna Chew, the applicant, spoke in support of the application.

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

Matters raised by Members of the Committee:-	Officer’s response thereto:-
A Member of the Committee raised concerns regarding the number of flats.	The Planning Officer that the application was in line with the strategic market housing view and the mix was in line with policy and sustainable.
What amenities would be included in the plans?	The Planning Officer referred Members to section 6.16 of the report whereby the amenity and garden

	space was of acceptable standard.
What was the minimum requirement of open space for the development?	The Planning Officer confirmed that 10% of the development was required for open space, 22% had been allocated for this development.
A Member also asked if the flats would hold electric charging points for vehicles.	The Planning Officer confirmed that the charging points were a condition of the original outline approval. The condition had been complied with across the site. A suggestion had been put forward to the applicant to provide the local authority with a scheme detailing a minimum of 20% of energy achieved through renewable energy by the developer and secured by planning condition.
Were there any conditions that this amenity (shop) must be built as part of the proposal?	The Planning Officer confirmed that the shops stood at Class E-use. The use-Class could be restricted whereby only a shop would be permitted.
Why had Anglian Water not responded to the drainage aspect of the application?	The Planning Officer referred to section 6.56 where the report covered each phase of the development regarding drainage. Details of the drainage arrangement were approved as part of the appeal process in the outline application.
Were there any road safety issues raised?	The Planning Officer confirmed that there were no objections from Essex Highways with regards to access arrangements or safety, and in the event of a breakdown, there would be a greater chance of vehicles residing in the site. The key primary roads were significantly wider than required in a development.

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

a) 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 planning conditions (and reasons) listed below:-

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.

Conditions and Reasons:

- | | |
|----------------------|--|
| 1. 20-3074-050 rev b | Amended house type 1750 - proposed floor plans |
| 20-3074-054 rev b | Amended house type 2014 - proposed elevations |

20-3074-053 rev b	Amended house type 2014 - proposed floor plans
20-3074-056 rev b	Amended house type 2089 - proposed floor plans
20-3074-057 rev b elevations (weatherboard)	Amended house type 2089 - proposed front and side
20-3074-026 a	Amended house type 1110 - proposed floor plans
20-3074-027 a	Amended house type 1110 - proposed elevations
20-3074-024 a	Amended house type 1016 - proposed elevations
20-3074-029 a	Amended house type 1285 - proposed floor plans
20-3074-034 a	House type 1286 - proposed elevations (detached)
20-3074-032 a	Amended house type 1286 - proposed floor plans
20-3074-033 a	Amended house type 1286 - proposed elevations
20-3074-036 a	Amended house type 1331 - proposed elevations
20-3074-035 a	Amended house type 1331 - proposed floor plans
20-3074-038 a	Amended house type 1465 - proposed floor plans
20-3074-039 a	Amended house type 1465 - proposed elevations
20-3074-043 a	House type 1596 - proposed elevations (brick)
20-3074-045 a (weatherboard)	Amended house type 1683 - proposed elevations
20-3074-047 a	Amended house type 1747 - proposed floor plans
20-3074-048 a	Amended house type 1747 - proposed elevations
20-3074-049 a	Amended house type 1747 - proposed elevations (brick)
20-3074-060 a	Amended house type 2200 - proposed floor plans
20-3074-062 c rear elevations	Amended house type 2200 (brick) - proposed side and
20-3074-063 c side and front elevations	Amended house type 2200 (weatherboarding) - proposed
20-3074-063.1 c side and rear elevations	Amended house type 2200 (weatherboarding) - proposed
20-3074-505 a	House type 1016 - part m4(2) compliance floor plans
20-3074-058 rev b elevations (weatherboard)	Amended house type 2089 - proposed rear and side
20-3074-044 rev b	Amended house type 1683 - proposed floor plans
20-3074-051 rev c	Amended house type 1750 - proposed elevations
20-3074-023 a	Amended house type 1016 - proposed floor plans
20-3074-042 a	Amended house type 1596 - proposed elevations
20-3074-041 a	Amended house type 1596 - proposed floor plans
20-3074-058.1 rev a elevations (weatherboard)	Amended house type 2089 - proposed front and side
20-3074-058.2 rev a elevations (weatherboard)	Amended house type 2089 - proposed side and rear
20-3074-046 rev b	House type 1683 - proposed elevations (brick)
20-3074-021 a	Amended house type 910 - proposed elevations
20-3074-020 a	Amended house type 910 - proposed floor plans
20-3074-061 rev b side elevations	Amended house type 2200 (brick) - proposed front and
20-3074-031	House type 1285 - v1 - proposed elevations
20-3074-030 a	Amended house type 1285 - proposed elevations
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	Amended terrace block 1 - proposed front elevation
20-3074-066 a	Amended terrace block 2 - proposed front elevation
20-3074-068 a	Amended terrace block 3 - proposed front elevation
20-3074-070 a	Amended terrace block 4 - proposed front elevation
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	Flat block b - ground floor part m4(3) compliance plan (flat type 1 & 2)
Eds 07-3102.gp b	Small power and lighting arrangement for single transformer substation
2446-lla-gf-00-dr-l-0003-p01	Tram trail link - dog bin and signage strategy plan
Eds 07-3102.01 b	Unit or padmount substation in grp enclosure
Eds 07-3102.ge a	Earthing arrangements for freestanding substations with grp enclosures
2446-LLA-GF-00-DR-L-0004	POS Calculation
2446-LLA-ZZ-XX-DR-L-0301	Landscape Specifications and details Rev P08
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	Amended proposed external levels - sheet 1 of 4
19403-hyd-00-zz-dr-c-7006 06	Amended proposed external levels - sheet 2 of 4
19403-hyd-00-zz-dr-c-7007 06	Amended proposed external levels - sheet 3 of 4
19403-hyd-00-zz-dr-c-7008 06	Amended proposed external levels - sheet 4 of 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 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.

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 "BS 5837: 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.

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 section 106 planning obligation.

**159. A.6 PLANNING APPLICATION 21/01395/LBC - THE HARWICH TREADWHEEL
CRANE ST HELENS GREEN HARWICH CO12 3NH**

Earlier on in the meeting, Councillor Fowler had declared a Personal Interest in this application insofar as she was both Secretary of the Harwich Society and pre-determined. She therefore withdrew from the meeting whilst the Committee considered and made its decision on this application.

It was reported that this application had been referred to the Planning Committee as the applicant was Tendring District Council itself.

The Committee was informed that this application sought Listed Building Consent for repair works, including underpinning, weatherboard and roof covering replacement, and timber and ironwork repairs.

Members were advised that the application site was a Grade II* Listed Building and had been the subject of consultation with the specialist heritage advisors - Historic England and ECC Heritage; neither of whom had raised any objections to the proposed works.

In addition, Harwich Town Council had raised no objections and no letters of representation 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.

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

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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.

160. A.7 PLANNING APPLICATION 21/01450/FUL - THE NAZE PENINSULAR OLD HALL LANE WALTON ON THE NAZE

Members were informed that this application had been referred to the Planning Committee as the development had been proposed by Tendring District Council itself for a section of coastline that was owned by the Council. The site was 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.

It was reported that the application site was located north of Walton-on-the-Naze at the Naze Peninsular at the point the land and sea met. The proposed works would take place between the current extents of the formal flood wall at the northern extent of the Naze Peninsular.

The Committee was informed that the application sought full planning permission for the installation of temporary measures such as sand filled bags as groynes, gabions to cliff face, and clay fill to the earth embankment in order to slow down/prevent coastal erosion in the area. By protecting the sea wall from further damage, the proposals would also protect the surrounding farmland and Anglian Water sewage treatment works that served the surrounding population and other assets such as Hamford Saltmarshes, which included part of the SPA and Ramsar site.

Officers felt that the proposed development, subject to the suggested conditions, would be of a scale and form appropriate for the intended use. The impact on biodiversity had been closely assessed and deemed acceptable. The proposed development would not result in any significant material loss of residential amenities. The works were expected to be completed in 8 weeks from start to finish. The application was, therefore recommended by Officers for approval subject to conditions.

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

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

Conditions and Reasons:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission. 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 16th August 2021

Habitat regulations assessment, Ecology Link 2021
 Outline construction Environmental method plan, Hestur Limited, August 2021
 Outline construction management plan, Hestur Limited, received 13th October 2021
 Ecological method statement, Ecology Link, received 16th 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

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

Earlier in the meeting Councillor Alexander had declared a personal interest in this Planning Application due to his being a Ward Member for that location. He had stated that he was not pre-determined and therefore he participated in the Committee's deliberations on this application.

It was reported that the application was before Members at the request of the Assistant Director (Planning) as there were a minor conflict with policies and guidance relating to what was expected on standards for residential accommodation.

The Committee was advised that the application site was known as Nos. 4, 6 and 8 Edith Road and was located on the east side of Edith Road (Clacton-on-Sea) and close to the junction with Marine Parade. The site lay 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 was 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 surrounded the site.

The development proposal consisted of a change of use to a sui generis for 34 supported living units, including infill extension and other external alterations.

Given the current shortage of affordable homes in the District, Officers considered that facilities such as this played a vital role in providing short-term accommodation for sections of society in need, which was supported by national policy. Furthermore, the site was 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 were 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 was within walking distance of Clacton Railway station providing excellent links to London.

Members were advised that the existing and authorised use on site was 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 consisted of nos. 4, 6 and 8 Edith Road could 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.

It was reported that the principle of supported living units being provided in sustainable urban centres close to shops, services, open spaces and other amenities was supported in both local (emerging and adopted) policies as well as in the NPPF. The proposal would 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 would bring forward functional and appropriate temporary accommodation for 'at risk' people and the vulnerable, which would be, subject to conditions, well managed and in a suitable and sustainable location.

Having regard to the operational fall-back position the proposal was considered by Officers to be acceptable from a residential amenity perspective (subject to conditions). The scheme would result in significant improvements to the buildings and the wider street scene and there were no highways safety or parking implications, and subject to conditions, the development would result in no net loss in biodiversity.

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.

An update sheet had been circulated to the Committee prior to the meeting with details of Tendring District Council Housing Department's comments in support of the application.

Richard Priest, the agent on behalf of the applicant, spoke in support of the application.

Matters raised by Members of the Committee:-	Officer's response thereto:-
A Member of the Committee raised that no response had been received from the Police.	The Planning Officer confirmed that no response had been received with regards to the application.
It was raised by a Member of the Committee concerns regarding the anti-social behaviour within the area. What times would the wardens be on duty?	The Planning Officer confirmed that wardens would monitor the area around 14 hours per day where 24/7 management would be available on call. A condition could be imposed for a Site Management Plan to include details of staffing and support.
What assurances could Members have that nobody is put at risk being in the premises?	The Planning Officer confirmed that the operator was successful in providing the service. They would work closely with TDC's Housing Department.

Following discussion by the Committee, it was moved by Councillor Baker, 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 the following:-

Conditions and Reasons:

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

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

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

- 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 dwelling houses 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.

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

It was reported that this application had been called in to Planning Committee at the request of Councillor Steady and Councillor Barry for the following reasons:-

- *The proposal was contrary to the Development Plan*

- *Highway and Traffic Impact*
- *Adverse impact on ancient woodland*
- *Was outside the development area*
- *The proposal could impact on highway safety at a difficult location and where school children were regularly walking.*

Members were informed that this application sought 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.

The Committee was made aware that the site was located to the rear of the properties known as Strangers Way and Stronvar in Church Road, Brightlingsea. Church Road comprised generally of large detached buildings set on large plots. To the west of the site was a small development which had been granted permission at appeal in 2017 for the erection of 4 detached bungalows to the rear of Homefield, Church Road, Brightlingsea.

The site was 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 had included the site within the proposed Settlement Development Boundary, with no change proposed in the most recent modifications. The Local pPlan was at a very advanced stage of preparation, and should be afforded considerable weight.

Members were further informed that the immediate locality was characterised by a mixture of two storey, one and a half storey and single storey dwellings. They were all detached dwellings and located on large plots, with the exception of a small development of bungalows to the rear of 'Homefield', which was considered to set a precedent for in-depth development in the locality.

The design, layout, access, were considered by Officers to be acceptable. The proposal would result in no significant material harm to residential amenity or highway safety.

It was also considered by Officers that the proposal would not adversely affect the Ancient Woodland or any protected species.

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 (SCE) in respect of the application.

An update sheet had been circulated to the Committee prior to the meeting with details of the following proposed condition in addition to those set out in the Officer's Report:

"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.”

That condition had been agreed with the applicant’s agent.

Amy Hambling, the agent on behalf of the applicant, spoke in support of the application.

Paula Webb, a local resident, spoke against the application.

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

Matters raised by Members of the Committee:-	Officer’s response thereto:-
A Member of the Committee referred to LP8, where there was speculative development.	The Planning Officer confirmed that Essex Highways had not submitted any objections to this application. The issue related to the harm of the narrow entry and whether the driveway restricted the privacy of the development.
A Member of the Committee could not see any of the mentioned objections. How could a net gain of biodiversity be measured if trees had been removed?	The Chairman referred Members to section 6.25 of the Officer report whereby ‘at the time the Planning Officers visited the site, it was cleared, there was no potential of any protected species on the site’. Tendring Council’s Solicitor advised Members that the Forestry Commission rulings did not apply to the garden of a property and the site was to be considered as it was before the Committee.
A Member of the Committee referred to issues relating to; dwelling plots appearing cramped, fragmentation of established gardens with a loss of mature landscaping, and infringement of neighbouring amenities.	
Was there a buffer zone in the development?	The developers had utilised the space by including a buffer zone between the development and the ancient woodland.

Following discussion by the Committee, it was moved by Councillor Bray, seconded by Councillor Harris and unanimously **RESOLVED** that, contrary to the Officer’s recommendation of approval, the Assistant Director (Planning) (or equivalent authorised officer) be authorised to refuse planning permission for the development and overturn the recommendation due to the following reasons:-

- Loss of privacy to host dwelling
- Light and noise pollution
- Cramped nature out of character
- No tree preservation orders on the site
- The site was not in a conservation area where notice would need to be given to the Council before removing a tree.

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 Bray, seconded by Councillor Baker and **RESOLVED** that the Committee continue its deliberations.

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

It was reported that this application had been referred to the Planning Committee at the Ward Member's request.

Members were aware that this application involved the erection of a two-bedroom dwelling together with parking and associated landscaping.

The Committee was informed that the site was located within the defined Settlement Development Boundary of Little Bromley in the emerging Local Plan and the proposed modifications had not changed this, and that very significant weight should therefore be afforded this emerging spatial policy consideration. In addition, the proposal would not, in the opinion of Officers, result in harm to the existing character of the area or wider street scene 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.

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.

Alistair Mugford, the agent on behalf of the applicant, spoke in support of the application.

Parish Councillor and Chairman John Buxton, representing Little Bromley Parish Council, spoke against the application.

Matters raised by Members of the Committee:-	Officer's response thereto:-
A Member of the Committee suggested the development was out of character. The Committee Member referred to Item F, LP8.	
Another Member of the Committee raised ownership issues with regards to the right of way.	The Planning Officer confirmed that whether the farmer would provide access would be a civil matter. If the land owner refused access, the matter would become a legal matter. The Planning Officer referred to the Parish Council's comment regarding the width of the access lane.
The Committee asked where in the plan	The Planning Officer advised that

the third bedroom or office was.	amendments had been made to the application to reduce the plans to two bedrooms.
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Following discussion by the Committee, it was moved by Councillor White, seconded by Councillor Placey and **RESOLVED** that the Assistant Director (Planning) (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to a financial contribution towards RAMS and the following:-

Conditions and Reasons:

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

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

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

164. A.5 PLANNING APPLICATION 21/00376/DETAIL - LAND TO THE SOUTH OF RAMSEY ROAD AND EAST OF MAYES LANE RAMSEY CO12 5EW

Earlier on in the meeting, Councillor Fowler had declared a Personal Interest in this application insofar as she was both a resident of Mayes Lane and pre-determined. She therefore withdrew from the meeting whilst the Committee considered and made its decision on this application.

It was reported that this application sought approval 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 had previously resolved to approve the outline planning permission at the Planning Committee's meeting held on 19 May 2020 and had requested that the 'Reserved Matters' application be brought before the Committee.

As established through the granting of outline planning permission (19/00917/OUT) the principle of residential development for up to 41 dwellings (including 10 almshouses) on this site was acceptable.

The detailed design, layout and landscaping were considered by Officers to be acceptable. The proposal would result in no material harm to residential amenity or highway safety and was considered acceptable in urban design terms.

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) had been reviewed by consultees and were acceptable in the opinion of the Officers.

The application was therefore recommended for approval by Officers subject to the conditions outlined at section 8.2 of the Officer report.

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.

An update sheet had been circulated to the Committee prior to the meeting stating that following the publication of the committee report, it had been brought to the officer's attention that contaminated land reports and information previously submitted to the LPA by the Applicant had, due to staff turnover, not been made available to Environmental Protection (EP) colleagues to review.

Environmental Protection (EP) had provided updated comments which included the following:

"As per the Groundsure report, dated 21st April 2021; conclusions of the risk assessment indicated there was a LOW/MODERATE risk associated with the site; Given the references made to PAH's found on the adjoining site, the aforementioned conclusions of the Groundsure report, and in accordance with our standard guidelines, we would request further investigations be undertaken. Consideration have been given to the attached letter and the request for a Watching Brief to be imposed, however given the historical contamination with the locality and the conclusion of the Groundsure report, we are requesting further assessment be undertaken.

Therefore, the EP team requested the following be conditioned on any associated approval or request prior to determination:

Contaminated Land: *In light of the conclusion highlighted in the Groundsure report and in line with our previous comments in April 2021, the EP Team requested a further assessment be performed (Phase Two, Intrusive site investigation), to confirm the presence / absence of contaminants on the site, the relevant risk associated with any presence, and any relevant remediation strategies. Results of which should be submitted for approval to the LPA.*

Asbestos: *An asbestos survey should be carried out prior to any construction works, by a suitably qualified person. A copy of this survey shall be submitted to the LPA and ensure that any asbestos containing materials must be safely removed by a qualified contractor.*

REASON: *to protect the health of site workers and end users.*

TDC Officer Comment: All buildings and structures on site have already been cleared on site and such work is controlled under the Construction Design Management (CDM) regs 2015, and this included matters to do with asbestos handling, as such the asbestos condition was not considered to be necessary."

As a result of this it was recommended by Officers that proposed condition 11 be replaced with a revised condition 11, plus a requirement to include a watching brief to be adhered to throughout the construction phase.

In addition, to form part of the 'watching brief', the Developer also had been made aware of the minimum requirements for dealing with unexpected ground conditions encountered during construction.

A late objection letter had also been received with the officer's response thereto included on the aforementioned update sheet.

In addition, a further two conditions were also recommended by Officers in order to secure electric vehicle charging points for the new dwellings and scheme detailing how a minimum of 20% of the energy needs generated by the development can be achieved through renewable energy sources.

Adam Jackson, the agent on behalf of the applicant, spoke in support of the application.

Matters raised by Members of the Committee:-	Officer's response thereto:-
A Member of the Committee asked what almshouses were.	The Planning Officer confirmed that the almshouses element was defined in the Section 106 agreement that was attached to the outline approval. In summary, it was housing accommodation for occupancy of those aged 65+ years. They would be given to an almshouse provider.
Would the properties have disabled access?	The Planning Officer confirmed that 5% would be available to wheelchair users.

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

Conditions and Reasons:

1. The development hereby permitted shall be carried out in accordance with the following approved 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)
Aboriginal Report – (as prepared by greenlight 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.

The meeting was declared closed at 10.26 pm

Chairman

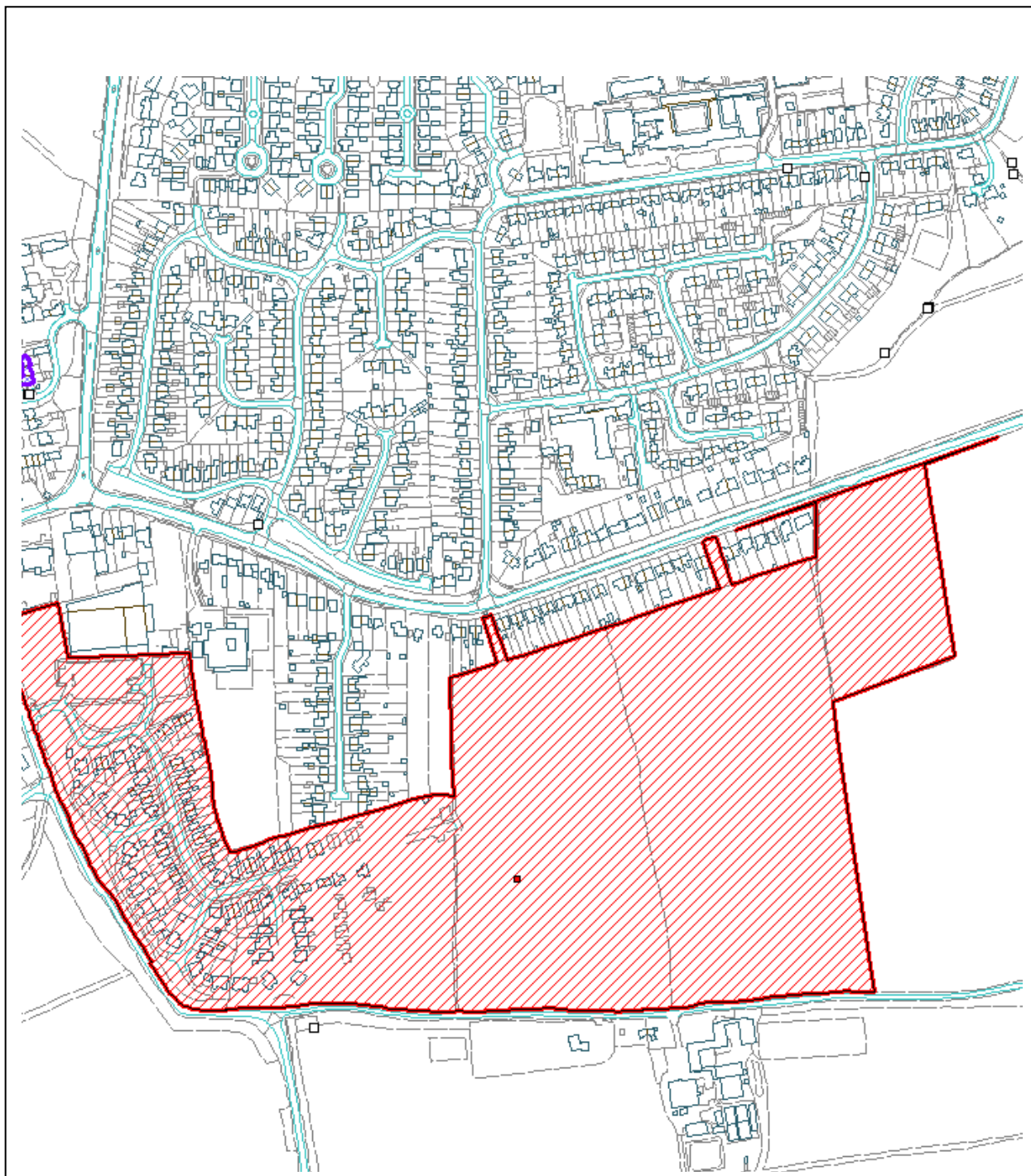
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PLANNING COMMITTEE

23rd November 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.1 PLANNING APPLICATION – 21/00650/OUT – LAND EAST OF BROMLEY ROAD LAWFORD CO11 2HS



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Application: 21/00650/OUT

Town / Parish: Lawford Parish Council

Applicant: Mr Steven Rose - Rose Builders

Address: Land East of Bromley Road Lawford CO11 2HS

Development: Variation of Condition 9 (Delivery of various highways improvement works) of approved application 15/00876/OUT (corresponding Condition 6 of a recently approved variation application 20/00458/OUT).

1. Executive Summary

- 1.1 Outline planning permission (all matters apart from access - reserved) was granted on 13th April 2017 for a mixed development of 360 houses and community facilities/open space on 22.76ha of land to the south of Lawford, under application ref. 15/00876/OUT. In 2020, there was a Section 73 approval under planning ref. 20/00458/OUT, to vary condition 9 of 15/00876/OUT relating to the delivery requirement of the spine road and access to Long Road before the 201st occupation. The application also includes bringing forward the delivery of a mini roundabout at the junction of Wignall Street and Bromley Road to the 180th occupation, as opposed to the 200th occupation as presently required.
- 1.2 In accordance with Members' request, the current submission has been brought to Planning Committee seeking consent with regard to the delaying the provision of access onto Long Road from the 261st occupation on site (73% of the total dwellings on site) to the 360st occupation on site (99% of the total dwellings on site).
- 1.3 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 established through the granting of outline planning permission, which also established the position of the access.
- 1.4 The detailed plans comply with the outline requirements and are considered acceptable with no significant material harm to visual or residential amenity, or highway safety.
- 1.5 A legal agreement, 'Deed of Variation' is required for this application to ensure the new outline approval links into the original Section 106 Agreement.

Recommendation: Outline Approval

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

- a) **Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a deed of variation to the original legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990.**
- b) Subject to the conditions stated in section 8.1
- 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 Deed of Variation of the original s106 planning obligation.

2. Planning Policy

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

NPPF National Planning Policy Framework 2021
National Planning Practice Guidance

Tendring District Local Plan 2007

QL2	Promoting Transport Choice
QL3	Minimising and Managing Flood Risk
QL11	Environmental Impacts and Compatibility of Uses
QL12	Planning Obligations
HG1	Housing Provision
HG3	Residential Development within Defined Settlements
HG4	Affordable Housing in New Developments
COM2	Community Safety
COM4	New Community Facilities (Including Built Sports and Recreation Facilities)
COM21	Light Pollution
COM23	General Pollution
COM26	Contributions to Education Provision
EN1	Landscape Character
EN5	Areas of Outstanding Natural Beauty (AONB's)
EN29	Archaeology
TR1A	Development Affecting Highways
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)

Adopted Policies

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 & Connectivity
SP7	Place Shaping Principles

Emerging Policies

SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP1	Improving Health and Wellbeing
HP2	Community Facilities
HP3	Green Infrastructure
HP4	Safeguarded Local Greenspace
HP5	Open Space, Sports & Recreation Facilities
LP1	Housing Supply
LP5	Affordable and Council Housing
PPL4	Biodiversity and Geodiversity
CP1	Sustainable Transport and Accessibility
CP2	Improving the Transport Network
CP3	Improving the Telecommunications Network

Other Guidance

Essex Design Guide for Residential and Mixed-Use Areas.
Essex Design Guide (2005)
Urban Place Supplement (2007)

Status of the Local Plan

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

Plan. Notably, the housing and employment targets were found sound and have been fixed, including the housing requirement of 550 dwellings per annum.

- 2.4 Paragraph 48 of the Framework allows weight to be given to policies in emerging plans, according to their stage of preparation, the extent to which there are unresolved objections to relevant policies, and the degree of consistency with the policies of the Framework. In this regard 'Proposed Modifications' to the emerging Section 2 of the 2013-33 Local Plan, which contains more specific policies and proposals for Tendring, has been examined and hearing sessions have now closed. The main modifications recommended to make the plan legally compliant and sound were considered at the Council's Planning Policy and Local Plan Committee on 29th June 2021. The Council held a six-week public consultation on the Main Modifications and associated documents which began on 16th July 2021. The consultation closed at 5pm on 31st August 2021 and adoption is expected later this year. Section 2 will then join Section 1 as part of the development plan, superseding in full the 2007 Local Plan. Section 2 of the 2013-33 Local Plan is therefore at a very advanced stage of preparation and should be afforded considerable weight.
- 2.5 In relation to housing supply:
- 2.6 The Framework requires Councils boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, the 'tilted balance' at paragraph 11 d) ii) of the Framework is engaged. This requires applications for housing development be granted permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 2.7 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**

15/30021/PREAPP	Screening Opinion request for mixed use development including community building, school access with drop off and pick up area, village green, parking and residential development (360 dwellings).		06.02.2015
15/00876/OUT	The erection of 360 houses (including Lawford Enterprise Trust Housing), with associated garages on 22.76ha	Approved	13.04.2017

with two vehicular access points, site roads, pedestrian and cycle routes, a new primary school access with off-road pickup and drop-off parking, a community building with public access toilets, a junior camping field, village green, public open space, structural landscaping and playground.

17/01527/DETAIL	Reserved matters application with details of appearance, landscaping, layout and scale pursuant to Phase 1 of outline permission (15/00876/OUT) including 120 dwellings, community building with parking, junior camping field, village green, structural landscaping and playground.	Approved	14.03.2018
18/00304/DISCON	Discharge of conditions 3 (Masterplan), 7 (Construction Management Plan), 12 (Surface Water Drainage Scheme), 13 (Foul Water Strategy), 14 (Hard and Soft Landscaping), 16 (Ecological and Management Plan), 17 (Tree Protection Measures), 19 (Refuse/Storage points, Dwelling External Materials), 20 (construction Management Statement), 21 (Broadband Connection) and 23 (Water, Energy and Resource Efficiency Measures) of approved planning application 15/00876/OUT	Approved	30.10.2018
18/00750/DISCON	Discharge of conditions 18 (Archaeology), 22 (Local Recruitment Strategy), 24 (Contamination) of approved planning application 15/00876/OUT.	Approved	02.07.2018
18/01094/DISCON	Discharge of Condition 19 (street lighting) of 15/00876/OUT.	Approved	17.08.2018
18/01548/DISCON	Discharge of condition 7) Construction Management Plan - to approved Planning Application 15/00876/OUT.	Approved	11.02.2019
19/00211/FUL	Re-location of approved electrical substation (retrospective) and parking spaces.	Approved	07.06.2019

19/00274/DISCON	Discharge of Condition 18C (Archaeological Excavation Report) of application 15/00876/OUT.	Approved	28.03.2019
19/00900/DISCON	Discharge of Condition 14 (Landscaping) of application 15/00876/OUT.	Approved	12.07.2019
19/01475/DETAIL	Reserved matters application with details of appearance, landscaping, layout and scale pursuant to Phase 2 of outline permission (15/00876/OUT) including 140 dwellings, associated hardstanding, boundary treatments, landscaping and drainage.	Approved	09.07.2020
19/01498/NMA	Non Material Amendment to approval of 15/00876/OUT for substitution of "Cornelia" house type for "Barbier" house type at plots 86-87, 90-93, 100-101. Proposed substitution of "Cornelia" house type for "Cornelia Variation" housetype at plots 54-57. Change of rear and side elevations, and internal layout to "Alexander" house type at plots 75-79.		04.11.2019
19/01698/DISCON	Discharge of condition 07 (construction Management Plan) 12 (Surface Water Drainage) 13 (Foul Water Strategy) 14 (soft Landscaping) 16 (Ecological mitigation scheme) 18 (Archaeology WSI) 19 (Refuse and external materials) 20 (construction Method Statement) and 24 (Remediation) of planning permission 15/00876/OUT.	Approved	29.05.2020
19/01751/DETAIL	Reserved matters application following outline permission 15/00876/OUT - Application to substitute "Cornelia" house type for "Barbier" house type at plots 86-87, 90-93, 100-101 as previously approved by 17/01527/DETAIL. Proposed substitution of "Cornelia" house type for "Cornelia Variation" housetype at plots 54-57. Change of rear and side elevations, and internal layout to "Alexander" house type at plots 75-79.	Approved	28.08.2020
20/00178/NMA	Non Material Amendment to approval of 15/00876/OUT for substitution of plots 39, 60 and 81 from	Approved	25.03.2020

	"Braithewaite Variation" house type to "Braithewaite" house type. Hand plot 63.		
20/00458/OUT	Variation of condition 9 of 15/00876/OUT amending the delivery requirement of the spine road before the 201st occupation.	Approved	01.04.2021
20/00480/DETAIL	Reserved matters application with details of appearance, landscaping, layout and scale pursuant to Phase 3 of outline permission (15/00876/OUT) including 100 dwellings, associated hardstanding, boundary treatments, landscaping and drainage.	Approved	04.12.2020
20/00707/DISCON	Discharge of conditions (phase 3) 12 (Surface Water), 13 (Foul Water), 14 (Landscaping), 16 (Ecology Mitigation), 17 (Tree Protection), 19 (Refuse Collections and Materials Only), (phase 3 and 5) 18 (Archaeology) and 24 (Contamination) of planning permission 15/00876/OUT.	Approved	18.06.2020
20/00773/DISCON	Discharge of conditions (phase 3) 12 (Surface Water), 13 (Foul Water), 14 (Landscaping), 16 (Ecology Mitigation), 17 (Tree Protection), 19 (Refuse Collections and Materials Only), (phase 3 and 5) 18 (Archaeology) and 24 (Contamination) of planning permission 15/00876/OUT.		22.01.2021
20/01224/FUL	Proposed children's nursery.	Approved	18.11.2020
20/01337/DISCON	Discharge of condition 17 (tree protection) for phase 2 of planning permission 15/00876/OUT.	Approved	07.12.2020
20/01597/DISCON	Discharge of conditions 7 (Construction Management Plan) and 20 (Construction Method Statement) of the approved planning application 15/00876/OUT, phase 2 only	Approved	26.02.2021
20/01681/DISCON	Discharge of condition 14 (Construction Management Plan) of approved planning application 20/01224/FUL.	Approved	26.01.2021

21/00026/DISCON	Discharge of condition 18 (archaeology) of approved planning application 15/00876/OUT.		16.02.2021
21/00141/NMA	Non-Material Amendment to previously approved 20/01224/FUL - revised railing position.	Approved	25.02.2021
21/00212/DISCON	Discharge of condition 19 (street lighting) of approved planning application 15/00876/OUT for Phase 2 only.	Approved	29.03.2021
21/00741/NMA	Application for a Non-Material Amendment to Planning Permission ref: 15/00876/OUT dated 13/04/2017 for the proposed substitution of the hipped Albertine for the gabled Albertine house type	Approved	26.05.2021
21/00859/DISCON	Discharge of condition 10 (Hard and Soft Landscaping) of approved planning application 20/00458/OUT	Approved	06.07.2021
21/01871/DISCON	Discharge of condition 13 (School travel plan) of application 20/01224/FUL	Current	

4. Consultations

ECC Highways
28.10.2021

The information that was submitted in association with the application has been fully considered by the Highway Authority. It is noted that the variation is associated with condition 9 of 15/00876/OUT (corresponding Condition 6 of a recently approved variation application 20/00458/OUT) and based on and in principle with the revised wording in the Planning Statement (page 12):

The Highway Authority does not object to the proposals as submitted:

No more than 180 dwellings on the development shall be occupied until the following have been provided or completed:

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

No more than 359 dwellings on the development

shall be occupied until the priority junction with right turn lane (with two pedestrian refuge islands) in Long Road to provide access to the proposal site. Priority junction shall have minimum 10.5 metre kerbed radii with dropped kerbs/tactile paving crossing points, a minimum 6.75 metre access road carriageway with one 3 metre footway/cycleway, one 2 metre footway pedestrian/cycle refuge island and a minimum 109 x 2.4 x 120 metre clear to ground visibility splay, as shown in principle with Ardent Consulting Engineers drawing K297-003A.

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.

Informative:

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

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

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

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

5. Representations

5.1 Lawford Parish Council have no objection to this application.

They consider that the provision of a mini roundabout at the junction of Bromley Road and Wignall Street will be better for traffic control in the area.

The Parish has asked for this work to be completed as soon as feasibly possible to minimise delay caused by its construction when the Lawford Green development has more residents causing more traffic.

5.2 Third Party: 14 objections received summarised below:

- Construction of the mini-roundabout and the subsequent increase in volume of, not just domestic vehicles, but of construction traffic in an already congested area.
- Drivers exceed 30mph on Bromley Road
- The Long Road junction would remove this close proximity to the Cox's Hill junction and ease much of the congestion when this does occur. That access was designed to balance out the development.
- There are no public benefits to be gained
- There are concerns for pedestrian safety, especially school children.
- The Bromley Road access will get progressively busier adding to local congestion especially at school movement times
- The length of the queues and delays getting on to the A137 from Bromley Rd which already exist and are already very slow
- This change would mean that all the traffic from 360 houses in Lawford Green and also from the school car park would all come out on to Bromley Road thus joining the other local traffic.
- The present permission mean that traffic flows have the opportunity to self-regulate because drivers will be able to make a choice based on local circumstances at the time - eg at School opening and closing times.
- This variation benefits only the developer and will cause unacceptable congestion to existing residents of Lawford, new residents of Lawford Green and all School users
- The developer's inability to foresee, plan, and manage the expected construction site operational and management implications arising from the new access point is there shortcoming why should residents suffer?
- Dead lane is a single access track unsuitable for construction traffic
- The traffic survey concluded that Bromley Road would be close to or above practical capacity and this is without taking the site compound access into account
- The school has doubled in size to over 400 pupils. Furthermore, having only one access road for traffic to the housing estate and school would result in the junction of

that road with Bromley Road becoming very congested during certain periods of the day.

- The proposals would create a 2-year delay to the Long Road access being built and there are no grounds to support this delay.
- The Long Road access should be used by Construction Traffic
- The statement about mixing residential traffic and construction traffic is a nonsense as having a second access along Long road would minimise the mixing as all site compound traffic would be passing the Bromley Road access
- The Traffic Survey does not take account of post-covid restrictions whereby more people will be working in the office and less from home. Also, the fact the Primary School will be doubled in size.
- No guarantee that the Long Road junction and spine road will ever be constructed.
- This proposed variation should be rejected in favour of the original.

6. Assessment

Site Context

- 6.1 The host site, on the southern side of Lawford, is known as “Lawford Green”. It is located on land east of Bromley Road, south of Long Road and north of Dead Lane. The site occupies a broadly rectangular parcel of land 22.6 hectares (55.8 acres) in size. The site was previously used for agricultural purposes, this is currently changing into a housing estate with outline planning permission for 360 houses (Ref: 15/00876/OUT), with associated reserved matters permissions in place.
- 6.2 The construction of the site was spilt into 3 main phases. Phase 1 is to the west, connecting with Bromley Road, Phase 2 centrally positioned and Phase 3 to the east, ultimately connecting with Long Road to the east. A central spine road runs between all three Phases, known as ‘The Avenue’.
- 6.3 Development on Phase 1 of the site is well underway with 129 dwellings constructed, this includes 8 affordable units that have recently been transferred. The housing comprises mostly of detached and semi-detached houses of two-storeys. There is a mixture of material types and colours, including exposed brick, boarding and render. The western side of the wider site resembles a largely finished new housing development. The eastern section remains as undeveloped open countryside.
- 6.4 At present, vehicular access is gained to the site directly from Bromley Road to the west and eventually from Long Road in the north east as the site is developed out. Bromley Road connects Lawford with Little Bromley and the A120 to the south. Long Road is the main road connecting Lawford and Mistley. Dead Lane to the south is a narrow lane,

more rural in its character and provides access to farmers and a small number of dwellings and local businesses.

- 6.5 The site is flat and bounded by perimeter hedgerows and trees marking the field boundaries. The site lies outside the defined settlement boundary of the saved Local Plan but within the settlement boundary of the emerging Local Plan. A public footpath (No. 12) crosses the site, running from Long Road to the north to Dead Lane to the south and forms the western boundary of Phase 2 of the development.
- 6.6 The site is within a Zone of Consideration in relation to a Site of Special Scientific Interest (SSSI) to the north. There is also an Area of Outstanding Natural Beauty (AONB) to the north-west of the site (outside the red line boundary). There are no Listed Buildings or Conservation Areas affected by the proposal and there are no protected trees on site.
- 6.7 Immediately east of the application site is an expanse of open countryside that has planning approval for the erection of up to 485 dwellings, up to 2 hectares of employment land (A2/A3/B1/D1 uses), with associated public open space and infrastructure, via application ref. 17/01181/OUT.

Planning History

- 6.8 Outline planning permission (ref: 15/00876/OUT) was granted in 2017 for *'The erection of 360 houses (including Lawford Enterprise Trust Housing), with associated garages on 22.76ha with two vehicular access points, site roads, pedestrian and cycle routes, a new primary school access with off-road pick-up and drop-off parking, a community building with public access toilets, a junior camping field, village green, public open space, structural landscaping and playground'*. This permission was subject to a raft of planning conditions and S106 agreement. Access was approved as part of the Outline, with appearance, landscaping, layout and scale forming the Reserved Matters.
- 6.9 Reserved Matters applications were approved for Phase 1 (ref: 17/01527/DETAIL) involving 120 dwellings in 2018 and Phase 2 (ref: 19/01475/DETAIL) involving 140 dwellings in 2019 and Phase 3 (ref: 20/00480/DETAIL) that resolved the final 100 dwellings, in 2020. Further to these Reserve Matters applications, there was land left over in the north-eastern corner of the site which has been subject of an additional application for up to 76 dwellings on this remaining land. The application (Ref: 20/00782/OUT) was approved on the 14th May 2021. Therefore, up to 436 dwellings can be built on the site.
- 6.10 The original outline consent issued in 2017 included Condition 9 that required the spine road (and new Long Road junction) to be delivered before the occupation of the 200th dwelling. In 2020, (via application 20/00458/OUT), there was a Section 73 application approved to amend this condition to change the trigger to the 260th dwelling. This application (Ref: 20/00458/OUT) included the delivery of a new mini-roundabout at the Wignall Street/Bromley Road junction at the 200th dwelling.
- 6.11 In the event of this application being positively received, a new Decision Notice shall be issued for the outline site (Ref: 20/00458/OUT for up to 360 dwellings), including where

relevant, the conditions or reserved matters approvals that have been achieved so far on site.

Proposal

6.12 This Section 73 application or 'Variation of Conditions' application seeks to vary Condition 9 (Delivery of various highways improvement works) of approved application 15/00876/OUT (corresponding Condition 6 of a recently approved variation application 20/00458/OUT). This latest proposal seeks to change the trigger for the opening of the access to Long Road before the 359th occupation. Also, the application seeks to delete parts b and c of the existing condition, while bringing forward the mini-roundabout at the Wignall Street/Bromley Road junction at the 180th dwelling.

6.13 The Existing Condition 6 of application 20/00458/OUT reads:

No more than 200 dwellings on the development shall be occupied until the following have been provided or completed:

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

b) Upgrading to current Essex County Council specification of the two bus stops which would best serve the proposal site (either Long Road and/or Wignall Street);

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

d) Upgrade to the Public Right of Way which runs through the proposal site between Long Road and Dead Lane (details shall be agreed with the Local Planning Authority prior to commencement of the development).

No more than 260 dwellings on the development shall be occupied until the priority junction with right turn lane (with two pedestrian refuge islands) in Long Road to provide access to the proposal site. Priority junction shall have minimum 10.5 metre kerbed radii with dropped kerbs/tactile paving crossing points, a minimum 6.75 metre access road carriageway with one 3 metre footway/cycleway, one 2 metre footway pedestrian/cycle refuge island and a minimum 109 x 2.4 x 120 metre clear to ground visibility splay; in accordance with Ardent Consulting Engineers drawing K297-003A.

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

6.14 The Proposed Condition 6 would read:

“No more than 180 dwellings on the development shall be occupied until a mini-roundabout at the junction of Wignall Street and Bromley Road as shown in principle on approved Ardent Consulting Engineers drawings K297-002C has been completed.

No more than 200 dwellings on the development shall be occupied until the upgrade to the Public Right of Way which runs through the proposal site between Long Road and Dead Lane (details shall be agreed with the Local Planning Authority prior to commencement of the development) have been completed.

No more than 359 dwellings on the development shall be occupied until the priority junction with right turn lane (with two pedestrian refuge islands) in Long Road to provide access to the proposal site. Priority junction shall have minimum 10.5 metre kerbed radii with dropped kerbs/tactile paving crossing points, a minimum 6.75 metre access road carriageway with one 3 metre footway/cycleway, one 2 metre footway pedestrian/cycle refuge island and a minimum 109 x 2.4 x 120 metre clear to ground visibility splay; as shown in principle on Ardent Consulting Engineers drawing K297-003A.

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.”

Note – The description of development has changed from that first submitted. Originally, the applicant wanted the removal of parts b), c) and d) of the original Condition 6 of application 20/00458/OUT. However, the applicant dropped the requirement to removal part d) during the course of the application. Essentially this aspect is remaining as was approved. This change of description has not been re-consulted on, as the changes are inconsequential to the development. The retention of part d) of the original condition remains. Furthermore, no comments have been received relating to the possible removal of part d) of the Condition.

To reiterate, part d) of condition 6 of application 20/00458/OUT reads as follows:

No more than 200 dwellings on the development shall be occupied until the upgrade to the Public Right of Way which runs through the proposal site between Long Road and Dead Lane (details shall be agreed with the Local Planning Authority prior to commencement of the development) have been completed.

This will remain as written and this is not being removed or altered as part of this application.

Principle of the Development and Justification

- 6.15 As the outline planning permission was approved in 2015, the principle of having up to 360 dwellings in this location is not contested. Neither is the access for these dwellings from Bromley Road and Long Road as this was approved under the original outline permission. Separately the additional ‘uplift’ application for 76 dwellings was approved

in the north east corner of the site in 2020 also with access from Long Road and Bromley Road. Thus, in total 436 dwellings can be built across this site.

6.16 However, it is not envisaged that any more than 359 dwellings will be occupied before the Long Road access is installed. This is chiefly due to the fact that the 'uplift' application (Ref: 20/00782/OUT) included the following condition 6:

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

a) A priority junction with ghosted right turn lane (with two pedestrian refuge islands) in Long Road to provide access to the proposal site. Priority junction shall have minimum 10.5 metre kerbed radii with dropped kerbs/tactile paving crossing points, a minimum 6.75 metre access road carriageway with two 3 metre footway/cycleways, pedestrian/cycle refuge island and a minimum 109m x 2.4m x 120m clear to ground visibility splay.

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

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

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

6.17 Part a) of the condition above attached to the 'up lift' application (Ref: 20/00782/OUT) ensures that *no dwellings* can be occupied before the Long Road junction is installed.

6.18 The Transport Statement (TA) submitted with the current application shows the highways analysis of existing traffic movements and factors in both pending and consented schemes in the area (including the uplift on site of 76 dwellings via application 20/00782/OUT and the increase in school public numbers at nearby Lawford Primary School). The TA confirms that the existing junction of The Avenue can accommodate the entire quantum of development on the Lawford Green site. The TA also states that the Wignall Street priority T-junction is predicted to operate 'close to or above practical capacity' in the weekday morning peak. However, the mini-roundabout increases the capacity of the Wignall Street/Bromley Road junction to a sufficient extent to accommodate all the additional traffic movements.

6.19 The applicant states that if the spine road to Long Road were to be installed early, it would require extensive flanking security fencing to keep the construction site safe. It would also require constant wheel-washing as deliveries and plant traversed the spine road. Such an arrangement would not be beneficial for health and safety for residents and construction traffic to mix. The construction of Lawford Green seeks to "back-fill" the development from west to east. This strategy ensures that new residents don't have to endure construction traffic along the streets outside their new house.

6.20 As part of this development, Rose Builders have proposed that the mini-roundabout be delivered 20 homes earlier (prior to the 180th occupation). This equates to about 6 months sooner than currently approved. The mini-roundabout will benefit the whole of Lawford and not just residents on the site.

6.21 Parts (b) and (c) of the existing Condition 6 of application 20/00458/OUT are proposed to be deleted for the following reasons:

- Part (b) has already been delivered and is therefore no longer necessary in the condition.
- Part (c) is covered by the wording in the second paragraph of this condition and this element cannot be delivered before the bellmouth of the new Long Road junction is delivered.

Officers accept these reasons and offer no objection.

The applicant has confirmed that Part d) of Condition 6 relating to the Public right of Way crossing the site shall remain unchanged as part of this application.

6.22 For these reasons set out above the applicant wishes to delay the opening of the new junction with Long Road and alter the wording of the existing Planning Condition. There is no technical objection for this proposal and it will include a benefit for the local road network in terms of the early delivery of the mini roundabout. In terms of construction access, this application does not fetter the Local Authorities discretion to deal with any Construction Method Statement for phase 3, which is covered by a separate planning condition and must be discharged before construction starts on phase 3.

6.23 The justification for the proposed delayed opening of the new junction and removal of parts b) and c) is considered reasonable in planning and housing delivery terms.

Highway safety and junction capacity

6.24 Paragraph 108 of the NPPF states, when assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

6.25 Paragraph 109 of the NPPF states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 6.26 Policy QL2 in the adopted Local Plan and Policy CP1 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport. Policy TR1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. Policy CP2 in the emerging Local Plan states proposals which would have any adverse transport impacts will not be granted unless these are resolved, and the development made acceptable by specific mitigation measures.
- 6.27 Of key importance, is whether the existing and proposed highway junctions nearby can deal with the increased traffic flows that the delayed opening of the junction with Long Road would create.
- 6.28 To help in the decision making process, this application has included a Transport Assessment (TA) from Ardent Consulting Engineers. The TA calculated the predicted traffic flows for the weekday morning, school finish and evening peak hours at both the Bromley Road / The Avenue entrance junction and the Wignall Street/Bromley Road nearby main distributor junction. The TA took into consideration the predicted traffic flows of the host development together with other developments in the wider local area including at East Bergholt, Brantham and Mistley. This included the uplift in numbers at the local school as detailed in paragraph 1.18 of the Transport Assessment.
- 6.29 The TA concludes the Bromley Road/The Avenue site access junction without mitigation (in terms of the mini roundabout) would be close to or above practical capacity. However, the proposed mini roundabout at the Wignall Street/Bromley Road junction would increase capacity resulting in the road network being able to accommodate the predicted flows with the development accessed solely from Bromley Road.
- 6.30 Officers are content that there is sufficient justification for the delay in opening the link road to Long Road. Within the original 'reason' for applying Condition 9, the rationale focused on highway efficiency and the delivery of infrastructure to promote sustainable journeys, rather than by private car. The reason is given below:
- Reason - To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.*
- 6.31 Whilst minor delays at the Wignall Street junction will be created, they are deemed to be within acceptable limits. Essex County Council Highways has agreed with the TA findings and have not objected to the current proposal. The earlier provision of a new mini roundabout between Wignall Street/Bromley Road is a significant local benefit that was not previously included in the original 2017 outline permission. The application is considered to protect highway efficiency of movement and safety to an acceptable degree. Given there are no changes to the Public Rights of Way delivery there is no reduction in the promotion of sustainable modes of transport through the build out of the development.
- 6.32 Note - ECC Highways have not commented on the latest revision to the description of development that retains part d) of the original approval, namely:

No more than 200 dwellings on the development shall be occupied until the upgrade to the Public Right of Way which runs through the proposal site between Long Road and Dead Lane (details shall be agreed with the Local Planning Authority prior to commencement of the development) have been completed.

This has not altered from the original and 2020 revised application, therefore the ECC Highways did not need to be consulted again as they have not objected to that trigger point previously.

- 6.33 In view of the above, there are no grounds to object to the application on highways safety grounds since the impact is not “severe” as stated in paragraph 109 of the NPPF. These findings have been accepted by Essex Council Highways.

Residential Amenity

- 6.34 Officers have sympathy with the objectors who raised concerns with regards to additional traffic flows at the Wignall Street/Bromley Road junction and also via the access to the host site via Bromley Road. However, the facts in relation to junction capacity have been demonstrated in the TA and been accepted by Essex County Highways. The impact on residential amenity is considered modest from having traffic using the Bromley Road/The Avenue access and exits points until the 360 dwelling occupation. This is, in effect 160 dwellings more than what was originally intended. Importantly, reaching this decision the earlier provision of the mini roundabout with Wignall Street/Bromley Road (being delivered by the 180th occupation) would allow for a faster easing of congestion at this junction.
- 6.31 Officers would stress that the local area is the beneficiary of a high quality housing development. Such developments shall likely have a positive effect on local jobs and services. Also, it is likely that residents may decide to walk to the nearby Primary School given the site circumstances.
- 6.32 Overall, when taking into account the mini roundabout junction improvements proposed, the wider public benefits outweigh any short / medium term loss of residential amenity from traffic noise and fumes etc. On balance, officers do not consider resisting the proposed variation of condition would be in the wider public interest, especially given the early delivery of the mini roundabout at the Wignall Street/Bromley Road junction.

Other Matters

- 6.33 This application is not considered to have any impact on the appearance, layout, scale or landscape of the site or the wider Reserve Matters approvals on site for each phase.
- 6.34 As a S73 application effectively creates a new planning permission, it is necessary to update all the conditions to reflect where conditions have been discharged, sometimes in whole and sometimes in part.
- 6.35 The original outline application was also approved with a signed Section 106 document to secure:

- On-site Council Housing/Affordable Housing (14 Houses ‘Gifted’ to TDC, these are within Phase 2);
- Education contribution and/or land for school expansion;
- Health contribution;
- Community facilities;
- Completion and transfer of public open space;
- Contribution towards off-site traffic management measures at the A137 railway crossing; and
- Contribution towards monitoring impacts on the Stour Estuary. Access was also considered and approved as part of the outline application

A new Deed of Variation is in the process of being signed that shall ensure the original details in the Section 106 document are honoured.

7. Conclusion

- 7.1 Officers believe the proposal is an acceptable variation of planning condition that will assist in achieving/maintaining a 5-year Housing Land Supply, and the NPPF requirement to significantly boost the provision of housing land within the District.
- 7.2 The application has no impact on the, appearance, layout, landscaping or scale of the approved development. Matters relating to access, namely the delaying of the opening of the access to Long Road, have been adequately been assessed by Officers with regards to amenity impacts and by Essex County Council Highways Department with regards to Highways capacity and safety.
- 7.3 Ultimately, the proposals brings forward much-needed housing in a manner that is considered non-objectionable from a highway safety and capacity perspective. Any impact on residential amenity shall be short lived and temporary in nature.

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 deed of variation to the original legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990.

8.2 Conditions and Reasons

1. All applications for approved reserve matters shall be in accordance with the approved master plan and phasing plan / program agreed under application 18/00304/DISCON unless otherwise previously agreed in writing with the Local Planning Authority.

Reason - The application is in outline and is for a large development likely to be delivered in phases for which the detail will need to accord broadly with the parameters established at outline stage.

2. Approval of the details of the siting, design and external appearance of the dwellings, the means of access thereto and the landscaping of the site (hereinafter called “the

Reserved Matters”) shall be obtained for each agreed phase of the development before any development on such phase is commenced.

The development shall be carried out in accordance with any such approval unless agreed in writing by the Local Planning Authority. To date the development shall be implemented in accordance with the details approved in the following applications:

Phase 1	Reserve Matters Approval 17/01527/DETAIL
Phase 2	Reserve Matters Approval 19/01475/DETAIL
Phase 3	Reserve Matters Approval 20/00480/DETAIL

Also, in association with the following alterations to these approved details within the following applications:

- 19/01498/NMA Non Material Amendment to approval of 15/00876/OUT for substitution of "Cornelia" house type for "Barbier" house type at plots 86-87, 90-93, 100-101. Proposed substitution of "Cornelia" house type for "Cornelia Variation" housetype at plots 54-57. Change of rear and side elevations, and internal layout to "Alexander" house type at plots 75-79.
- 19/01751/DETAIL Reserved matters application following outline permission 15/00876/OUT - Application to substitute "Cornelia" house type for "Barbier" house type at plots 86-87, 90-93, 100-101 as previously approved by 17/01527/DETAIL. Proposed substitution of "Cornelia" house type for "Cornelia Variation" housetype at plots 54-57. Change of rear and side elevations, and internal layout to "Alexander" house type at plots 75-79.
- 19/00211/FUL Re-location of approved electrical substation (retrospective) and parking spaces.
- 20/00178/NMA Non Material Amendment to approval of 15/00876/OUT for substitution of plots 39, 60 and 81 from "Braithewaite Variation" house type to "Braithewaite" house type. Hand plot 63.
- 21/00741/NMA Application for a Non-Material Amendment to Planning Permission ref: 15/00876/OUT dated 13/04/2017 for the proposed substitution of the hipped Albertine for the gabled Albertine house type
- K287-002C Proposed Mini Roundabout Details

Approval of the details of the siting, design and external appearance of the dwellings, the means of access thereto and the landscaping of the site (hereinafter called "the Reserved Matters") shall be obtained for each agreed phase of the development before any development on such phase is commenced. The development shall be carried out in accordance with any such approval.

Reason - The application in outline and detailed matters require approval before development can commence.

3. The development shall be in general conformity with the principles set out on the submitted drawing entitled Land Use Audit, dated 21/01/16 unless otherwise previously agreed in writing with the LPA.

Reason – To establish reasonable limits to the layout of the development in the interests of good design, layout, appearance and residential amenity.

4. The maximum number of dwellings to be contained in the development shall be up to (but no more than) 360 dwellings.

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

5. Unless otherwise agreed in writing with the Local Planning Authority, the Construction Management for Phase 1 and Phase 2 shall be implemented in accordance with the details approved in the following discharge of condition applications:

18/00304/DISCON and 18/01548/DISCON (Phase 1) and 19/01698/DISCON (Phase 2)

Prior to the commencement of development in any other defined phase of the approved development, a construction management plan for that phase, to include but shall not be limited to details of wheel cleaning facilities within the site and adjacent to the egress onto the highway, shall be submitted to and approved in writing by the Local Planning Authority. The relevant phase of the development shall be constructed in accordance with the agreed plan.

Reason - To protect highway efficiency of movement and safety.

6. No more than 180 dwellings on the development shall be occupied until a mini-roundabout at the junction of Wignall Street and Bromley Road as shown in principle on approved Ardent Consulting Engineers drawings K297-002C has been completed.

No more than 200 dwellings on the development shall be occupied until the upgrade to the Public Right of Way which runs through the proposal site between Long Road and Dead Lane (details shall be agreed with the Local Planning Authority prior to commencement of the development) have been completed.

No more than 359 dwellings on the development shall be occupied until the priority junction with right turn lane (with two pedestrian refuge islands) in Long Road to provide access to the proposal site. Priority junction shall have minimum 10.5 metre kerbed radii with dropped kerbs/tactile paving crossing points, a minimum 6.75 metre access road carriageway with one 3 metre footway/cycleway, one 2 metre footway pedestrian/cycle refuge island and a minimum 109 x 2.4 x 120 metre clear to ground visibility splay; as shown in principle on Ardent Consulting Engineers drawing K297-003A.

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

7. Prior to occupation of any defined phase of the approved development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport (in consultation with Essex County Council), to include six one day travel vouchers per household for use with the relevant local public transport operator.

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

8. Unless otherwise agreed in writing with the Local Planning Authority, the surface water drainage scheme for Phase 1, Phase 2 and Phase 3 shall be implemented in accordance with the details approved in the following discharge of conditions application:

18/00304/DISCON (Phase 1) and 19/01698/DISCON (Phase 2) and 20/00773/DISCON (Phase 3)

No other defined phase of the approved development shall take place until a surface water drainage scheme for that phase, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the local planning authority. All phases of the development shall subsequently be implemented in accordance with the approved details.

In particular the drainage scheme shall include:

- Drainage modelling calculations showing how the run-off for all events up to and including the 1 in 100 year plus climate change is controlled within the site.
- Where infiltration techniques are being proposed, and all run-off cannot be infiltrated, attenuation storage must be provided for any overflow volumes calculated.
- Where run-off is proposed to be discharged to a watercourse, discharge should be limited to the greenfield 1 in 1 year rate for all events.
- Where different SuDS features are being proposed, the drainage modelling should show how these are cascaded together and show clearly their combined effect in controlling both the water quantity and improving water quality within the development.
- Account for a 10% urban creep in the calculation of run-off from the development.
- Provide the appropriate number of treatment stages from the different areas of the development.
- Provide the details of the adoption and maintenance of the scheme for the lifetime of the development.
- Provide the Drainage Scheme Layout showing the SuDS features and their dimensions as appropriate.

Reason - To prevent flooding on the proposed site and the local area by ensuring the satisfactory storage of/disposal of surface water in a range of rainfall events and ensure the system operates as designed for the lifetime of the development.

9. Unless otherwise agreed in writing with the Local Planning Authority, the foul water drainage scheme for Phase 1, Phase 2 and Phase 3 shall be implemented in accordance with the details approved in the following discharge of condition applications:

18/00304/DISCON (Phase 1) and 19/01698/DISCON (Phase 2) and 20/00773/DISCON (Phase 3)

No development shall commence on other phases until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied on any defined phase until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.

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

10. Unless otherwise agreed in writing with the Local Planning Authority, the hard and soft landscaping scheme for Phase 1, Phase 2 and Phase 3 shall be implemented in accordance with the details approved in the following discharge of conditions application:

18/00304/DISCON & 19/00900/DISCON (Phase 1), 19/01698/DISCON (Phase 2) and 21/00859/DISCON and 20/00773/DISCON (Phase 3)

No other defined phase of the development shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for that phase, which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction."

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

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

Reason - To ensure that the development provides a satisfactory setting, in the interests of the character and appearance of the landscape and the visual amenity of the site.

12. Unless otherwise agreed in writing with the Local Planning Authority, the ecological mitigation, management and enhancement for Phase 1, Phase 2 and Phase 3 shall be implemented in accordance with the details approved in the following discharge of condition applications:

18/00304/DISCON (Phase 1) and 19/01698/DISCON (Phase 2) and 20/00773/DISCON (Phase 3)

No other defined phase of the approved development shall commence until an Ecological Mitigation Scheme and Management/Enhancement Plan has been submitted to and approved, in writing, by the Local Planning Authority. The document shall include:

i) A survey to confirm (or otherwise) the presence of protected species on the application site.

If protected species are present, the survey shall be accompanied by a scheme of appropriate mitigation measures (including bat protection measures and precise details of the timing and method/s of protection). No development shall be undertaken except in full accordance with any such approved scheme of mitigation.

ii) A management plan to demonstrate how biodiversity within the site will be encouraged by the development.

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

13. Unless otherwise agreed in writing with the Local Planning Authority, the tree protection measures for Phase 1, Phase 2 and Phase 3 shall be implemented in accordance with the details approved in the following discharge of conditions applications:

18/00304/DISCON (Phase 1) and 20/01337/DISCON (Phase 2) and 20/00773/DISCON (Phase 3)

No other defined phase of the development shall commence until details of tree protection measures, including during the construction phase, for that phase, have been submitted to and approved in writing by the Local Planning Authority and such measures as approved shall be implemented fully in accordance with such requirements.

Reason – In order to ensure the protection of trees, in the interests of local and residential amenity.

14. A. The Written Scheme of Investigation for Phase 1, Phase 2 and Phase 3 shall be implemented in accordance with the approved details within the following discharge of condition applications:

18/00750/DISCON (Phase 1) and 19/01698/DISCON (Phase 2) and 20/00773/DISCON and 21/00026/DISCON (Phase 3)

No development or preliminary ground-works within any other defined phase of the development can commence until a programme of archaeological trial trenching for that phase has been secured and undertaken in accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the Local Planning Authority. Following the completion of this initial phase of archaeological work, a summary report will be prepared and a mitigation strategy detailing the approach to further archaeological excavation and/or preservation in situ through re-design of the development, shall be submitted to the Local Planning Authority.

B. The archaeological fieldwork for Phase 1, Phase 2 and Phase 3 has been approved by the Local Planning Authority within application 18/00750/DISCON, 19/01698/DISCON and 20/00773/DISCON. These works have been fully implemented. No development or preliminary groundwork can commence on those other phases of the development site containing archaeological deposits, until the satisfactory completion of archaeological fieldwork, as detailed in the mitigation strategy, which has been signed off by the Local Planning Authority.

C. The post-excavation assessment for Phase 1 has been approved by the Local Planning Authority within application 19/00274/DISCON. Following completion of the archaeological fieldwork on other phases, the applicant will submit to the Local Planning Authority a post-excavation assessment (within six months of the completion date, unless otherwise agreed in advance with the Local Planning Authority), which will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

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

15. Unless otherwise agreed in writing with the Local Planning Authority, the lighting, refuse storage/collection point and the manufacturer and types and colours of the external facing and roofing materials for the dwellings in Phase 1, Phase 2 and Phase 3 shall be implemented in accordance with the details approved in the following discharge of condition applications:

18/00304/DISCON & 18/01094/DISCON (Phase 1) and 19/01698/DISCON (Phase 2) and 20/00773/DISCON (Phase 3)

Within any other defined phase of the scheme, no development shall commence until precise details of lighting, refuse storage/collection points and the manufacturer and types and colours of the external facing and roofing materials for the dwellings to be used in the construction of that phase 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.

16. Unless otherwise agreed in writing with the Local Planning Authority, the Construction Management Plans of Phase 1 and 2 shall be implemented in accordance with the approved details within the following discharge of condition applications:

18/00304/DISCON (Phase 1), 19/01698/DISCON (Phase 2) and 20/01597/DISCON

Within any other defined phase of the development, none of the development shall take place before a method statement for the construction of the development within that phase has been submitted to, and approved in writing by, the Local Planning Authority. The demolition and construction works for the relevant phase of the scheme shall be carried out in accordance with the approved method statement.

Details submitted in respect of the method statement, incorporated on a plan, shall provide for wheel cleaning facilities during the excavation, site preparation and construction stages of the development. The method statement shall also include details of the loading and unloading of plant and materials, details of the piling method, hours of construction, dust suppression strategy, means of recycling materials, noise and vibration mitigation techniques, lighting to be used during construction showing light spill to neighbouring properties (with methods to be employed to prevent nuisance if required), the provision of parking facilities for contractors during all stages of the development (excavation, site preparation and construction) and the provision of a means of storage and/or delivery for all plant, site huts, site facilities and materials.

Reason - To ensure that development is carried out in a controlled manner while minimising impacts on the surrounding residential properties and also in the interests of highway safety.

17. Within the hereby permitted development, no dwelling shall be occupied until a high-speed broadband connection is installed utilising resistant tubing to that dwelling. Unless otherwise agreed in writing with the Local Planning Authority, all connections shall be in accordance with the details set out in the GTC letter dated 4 July 2017. If the applicant is unable to achieve this standard of connection, and can evidence through consultation that this would not be possible, practical or economically viable an alternative superfast (i.e. will provide speeds greater than 24mbps) wireless service will be considered acceptable.

Reason - To ensure the development is able to be equipped with high speed broadband to enable opportunities for web-based communication and homeworking.

18. Unless otherwise agreed in writing with the Local Planning Authority, the development shall be built in accordance with the Local Recruitment Strategy documented within approved application 18/00750/DISCON.

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

19. Unless otherwise agreed in writing with the Local Planning Authority, the development shall be built in accordance with the Resource Efficiency Measures Specification Statement documented within approved application 18/00304/DISCON.

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

20. Unless otherwise agreed in writing with the Local Planning Authority, the land contamination and remediation strategy of Phases 1, 2 and 3 shall be implemented in accordance with the approved details within the following discharge of conditions applications:

18/00750/DISCON (Phase 1) and 19/01698/DISCON (Phase 2) and 20/00773/DISCON (Phase 3)

No other defined phase of development shall commence until an assessment of the risks posed by any contamination within that phase, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of any phase of the development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 20 days of the report being completed and approved in writing by the local planning authority.

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

8.1 **Informatives**

Positive and Proactive Statement

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

Highways Informatives

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

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

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

2: 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.

3. This new permission sits alongside the original permission, 15/00876/OUT and Section 73 application 20/00458/OUT, both of which remain intact and unamended. It is open to the applicant to decide whether to implement the new permission or the other two cases.

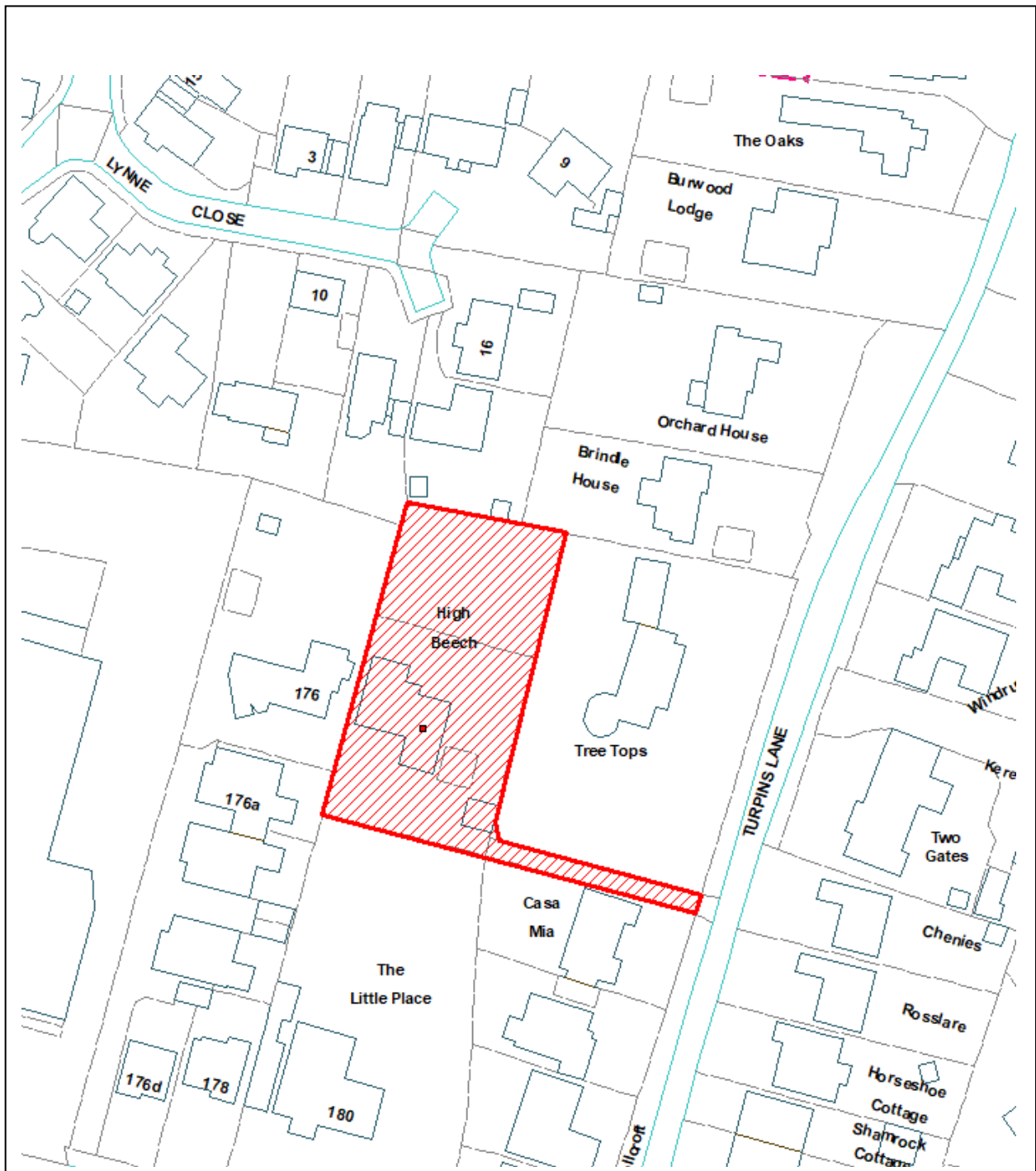
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PLANNING COMMITTEE

23RD NOVEMBER 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.2 PLANNING APPLICATION – 21/00738/FUL – HIGH BEECH TURPINS LANE KIRBY CROSS FRINTON ON SEA



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Application: 21/00738/FUL

Town / Parish: Frinton & Walton Town Council

Applicant: Mr and Mrs Swift

Address: High Beech Turpins Lane Kirby Cross Frinton On Sea CO13 0PB

Development: Erection of 4 no. new bungalows with associated garages and landscaping (following demolition of existing bungalow)

1. **Executive Summary**

- 1.1 The application has been called in by Councillor Anne Davis.
- 1.2 The proposal is for the demolition of the existing dwelling and the construction of four detached bungalows with associated parking and landscaping. It is also proposed to increase the width of the main access way from Turpins Lane. The site is located within the defined Settlement Development Boundary of Frinton-on-Sea and is already considered to be a backland site.
- 1.3 The proposal is considered to be of a size, scale and design in keeping with the overall grain of residential development in the surrounding area. There are no concerns raised regarding the impact on the neighbouring residential properties and subject to conditions is considered to be acceptable in regards to Highways and Parking impacts and would protect the existing TPO tree located adjacent to the proposed accessway.

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**

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

National Planning Policy Framework July 2021 (The Framework)
National Planning Practice Guidance

Adopted Tendring District Local Plan 2007 (part superseded)

QL11	Environmental Impacts and Compatibility of Uses (part superseded)
HG3	Residential Development within Defined Settlements
HG6	Dwelling Size and Type
HG9	Private Amenity Space
HG13	Backland Residential Development
HG14	Side Isolation
COM6	Provision of Recreational Open Space for New Residential Development
COM19	Contaminated Land
COM31a	Sewerage and Sewage Disposal
EN6	Biodiversity
EN11A	Protection of International Sites European Sites and RAMSAR Sites

EN13	Sustainable Drainage Systems
TR1A	Development Affecting Highways
TR7	Vehicle Parking at New Development

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

Relevant Section 1 Policies (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

Relevant Section 2 Policies (emerging)

SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP5	Open Space, Sports & Recreation Facilities
LP1	Housing Supply
LP3	Housing Density and Standards
LP4	Housing Layout
LP8	Backland Residential Development
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL10	Renewable Energy Generation
CP1	Sustainable Transport and Accessibility

Supplementary Planning Guidance:

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
 Tendring Provision of Open Recreational Open Space for New Development SPD 2008 (Open Space and Play SPD)

Status of the Local Plan

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

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

- 2.5 In relation to housing supply:
- 2.6 The Framework requires Councils boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, the 'tilted balance' at paragraph 11 d) ii) of the Framework is engaged. This requires applications for housing development be granted permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 2.7 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

FRW/61/65	Refusal	15 flats. (Plan 6824)
FRW/84/57	Unconditional	(O/L) Erection of 2 det. houses fronting Turpins Lane
FRW/136/63	Refusal	(O/L) Erection of one dwelling. (Plan 6202) APPEAL DISMISSED 28/4/64
FRW/54/68	Unconditional	(O/L) Erection of single storey dwelling house. (Plan 7922)
FRW/54/68/1	Unconditional	Erection of bungalow and 2 garages. (Plan 8043)
FRW/235/72	Unconditional	Ext to bungalow. (Plan 9868)

4. Consultation Responses

Frinton and Walton Town Council 24.05.2021	Objection to development due to backland development, cramped appearance and lack of amenity space, poor access for residents and other vehicles including refuse collection vehicles, lack of parking and impact on openness of streetscene.
ECC Highways Dept 14.07.2021	No objection - Subject to conditions A site visit was undertaken in conjunction with this planning application. The existing access to the host dwelling is a concrete driveway at a width of approximately 2.9 metres, this has been cleared of vegetation and provides a wider access of approximately 5 metres, with an existing pinch point of 3.7 metres adjacent to an established tree near the vehicle access. The verge width at the access is approximately 2.3 metres wide and Turpins Lane is a cul-de-sac classed as a local road in the

County's Route Hierarchy and has an approximate carriageway width of 3.6 metres.

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions and mitigation regarding visibility splays, turning facility, no unbound material, width of private drive, surface water, vehicle and cycle parking, garage sizes, provision of travel packs and the submission of a Construction Management Plan

TDC Environmental
Protection
26.05.2021

No objection subject to conditions regarding contaminated land and the submission of a Construction Method Statement, in order to minimise potential nuisance to nearby existing residents caused by construction works.

TDC UU Open Spaces
09.06.2021

Contribution required

There is currently a deficit of -14.12 hectares of equipped play in Frinton, Walton & Kirby, with one play area to serve Kirby Cross and Kirby Le Soken located in Halstead Road. This play area has very recently been refurbished. There is still a need to try to reduce the deficit with in the catchment of Frinton, Walton & Kirby. The next closet play area is located at Park Playing Fields, Frinton and is widely used by the whole community, and undoubtedly residents of Kirby will travel to this play area. This play area is in need of renovation to cope with any additional development with in this catchment area.

Due to the significant lack of play facilities in the area it is felt that a contribution towards play is justified and relevant to the planning application improvements to the open space and play area at Park Playing Fields Frinton.

TDC Building Control
14.05.2021

No comments at this stage.

TDC Tree & Landscape
Officer
09.06.2021

No objections subject to conditions to protect the TPO tree on site.

The main body of the application site currently forms part of the residential curtilage of the host property. It is set out and is being used as garden.

The narrow access road serving the application site is within the Root Protection Area (RPA) of a mature Poplar previously situated within the grounds of an adjacent property. The position of the garden boundary fence has been re-positioned and the tree is now within the area of land forming the access to the main body of the application site. The tree is afforded formal legal protection by Tendring District Council Tree Preservation Order (TPO) - 13/06/TPO Tree Tops, Turpins Lane, Frinton on Sea.

Any work to the surface of the access road within the Root Protection Area (RPA) of the Poplar has the potential to cause damage and harm to the tree, therefore any proposed works to improve the surface of the access road should be supported by technical details of the construction method to ensure that the

roots of the preserved tree are not harmed by the development. This information should be in accordance with BS5837: 2012 Trees in relation to design, demolition and construction – Recommendations. The use of 'No-Dig' construction techniques with a permeable finish to the surface to allow movement of water and gaseous exchange should be sufficient to avoid causing harm to the tree.

It is considered that the stem of the tree is not at great risk of harm or damage by vehicles using the access road as vehicles will be travelling at low speeds. The RPA of the Poplar should be physically protected for the duration of the construction phase of any consented development. This information should be in accordance with BS5837; 2012 Trees in relation to design, demolition and construction - Recommendations'

The garden of the existing dwelling contains several established shrubs and a few small trees however their position and amenity value is such that they do not merit retention or formal legal protection by means of a TPO.

As the site does not feature in the public realm there is little public benefit to be gained by securing soft landscaping of the site. Nevertheless, it may be desirable to secure details of soft landscaping for the benefit of any future residents of the dwellings.

TDC Waste Management
15.06.2021

No objection - Access road to be wide enough to allow full access to 2.5 meter wide waste collection vehicles. Access road to also be constructed to suitable standard to withstand weight of 26 tonne waste collection vehicles.

5. Representations

5.1 Eight representations have been received following a public consultation which included a site notice posted at the site and neighbouring consultation letters sent out to the adjacent properties.

5.2 Summary of Matters Raised

- Area not included in Tendring new Local Plan
- Disruption for residents during construction
- Access for waste vehicles is too narrow
- Habitat destroyed and damage to TPO tree
- Increase in cars using the existing narrow Turpins Lane and accessing site causing congestion. No footpaths and very little space to pass other vehicles
- Overdevelopment of site and unsuitable backland development
- Increase in traffic in area and exiting onto B1033
- Detrimental impact on residents of Casa Mia and Tree Tops adjacent to site
- Impacts on local infrastructure
- Suitable boundary treatments required to site to screen the development from neighbouring properties and retain privacy as existing trees/vegetation has been removed
- Vehicle parking within site is inadequate, no provision for visitors parking

5.3 All material planning considerations raised will be taken into account within the following assessment of the proposal.

6. Assessment

Site Context

6.1 The application site is located on the western side of Turpins Lane, and is a backland site, with vehicle access from Turpins Lane, running between the properties 'Tree Tops' and 'Casa Mia'. The site currently comprises of a detached bungalow and detached garage set within a plot of some 0.17 hectares, which is laid out as amenity space for the property.

6.2 The surrounding area is residential in nature with a mix of dwellings of varying styles and designs along Turpins Lane. Turpins Lane is a fairly narrow road, despite comprising of a number of residential properties. Small high density cul-de-sacs comprising primarily of bungalows with modest sized rear gardens are seen within the surrounding area, particularly along Hunt Way, The Warrens, Lynne Close, Village Close and between Nos 176 and 178 Frinton Road which are all in close proximity to the site. To the east of the site along Turpins Lane, more two storey dwellings are present. Overall, the surrounding area is considered to be to be very mixed in terms of designs and styles of dwellings.

6.3 The application site lies within the Defined Settlement Development Boundary of Frinton-on-Sea within both the adopted Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). The site is not located with a Conservation Area and is within Flood Zone 1, which has a low risk of flooding.

Proposal

6.4 The application seeks full planning permission to demolish the existing dwelling and garage and construct 4 detached bungalows along with associated parking and landscaping and to widen the existing access road from Turpins Lane.

Principle of Development

6.5 The development plan for Tendring Council comprises of the adopted Tendring District Local Plan 2007 (part superseded) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 (Section 1 Adopted). The site lies within the Frinton-on-Sea Settlement Development Boundary as established within both the adopted and emerging local plans.

6.6 Saved Policy HG3 and Emerging Policy SPL2 both support new development within defined settlement development boundaries and that has regard to amenity, design, density, environmental and highway safety considerations as appropriate, and can take place without material harm to the character of the local area.

6.7 Specifically saved Policy HG13 and emerging Policy LP8 are relevant due to the nature of the development constituting additional backland development. Saved Policy HG13 states that proposals for the residential development of backland sites will only be approved where it meets specific criteria. Emerging Policy LP8 reflects these considerations. The relevant criteria is as follows:

i. the site lies within a defined settlement development boundary and does not comprise land allocated or safeguarded for purposes other than a residential use;

As previously stated the site is within the defined settlement boundary and comprises of a residential dwelling and amenity area.

ii. where a proposal includes existing private garden land which would not result in less satisfactory access or off-street parking arrangements, an unacceptable reduction in existing private amenity space or any other unreasonable loss of amenity to existing dwellings;

The existing dwelling is to be demolished, therefore the proposal would not result in any loss of amenity. The access to the site is already existing.

iii. a safe and convenient means of vehicular and pedestrian access/egress can be provided that is not likely to cause undue disturbance or loss of privacy to neighbouring residents or visual detriment to the street scene. Long or narrow driveways will be discouraged;

The access road to the site is existing and whilst improvements are proposed it is not considered to impact on privacy or result in undue disturbance.

iv. the proposal does not involve “tandem” development using a shared access;

The proposal does not constitute tandem development as both properties adjacent to the access road have their own separate accesses.

v. the site does not comprise an awkwardly shaped or fragmented parcel of land likely to be difficult to develop in isolation or involve development which could prejudice a more appropriate comprehensive development solution;

The site is in an already built up residential area and the proposal is considered to be an efficient use of the site.

vi. the site is not on the edge of defined settlements and likely to produce a hard urban edge or other form of development out of character in its particular setting;

The site is within a defined settlement development boundary and is not considered to be out of character with its current residential setting.

vii. the proposal would not be out of character with the area or set a harmful precedent for other similar forms of development.

6.8 Given the overall grain of the surrounding built environment and regard to the siting of the donor dwelling to the rear of existing properties, there is no objection to additional dwellings in this backland location as this would not significantly alter or harm the current pattern of residential development in the locality.

6.9 Furthermore, there can be no objection to the single storey scale of the proposed dwellings having regard to the mixed character of the area which includes both bungalows and two storey dwellings directly adjacent to the site. The single storey scale is an appropriate response to the character of the area will in fact minimise the visual and neighbouring impact of the development.

6.10 Therefore the site is considered to be an appropriate location for backland development. As such the principle of residential development on the site is acceptable subject to the detailed considerations relevant to this proposal which are set out below.

Appearance, Layout and Scale

6.11 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. (Para 126 NPPF).

- 6.12 Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Emerging Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness. The development should relate well to its site and surroundings particularly in relation to its siting, height, scale, massing, form, design and materials and should respect or enhance local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Saved Policy QL11 supports these considerations.
- 6.13 The proposed development comprises of four detached modest bungalows, which are considered to be of a size, scale and design in keeping with the bungalows to the rear of the site. The external materials are facing brickwork, horizontal boarding, coloured render and clay and blue black slate tiles. The specific details have not been submitted with this application, but can be secured by condition and are considered to harmonise with the mixed palette of external materials and finishes in the surrounding area. The bungalows would be well balanced in terms of symmetry and the hipped-roof design would reduce the bulk and mass of the development in this backland location. The submitted plans demonstrate the layout of the proposed bungalows which allows for a reasonably well-spaced development retaining at least 1 metre distance to both side and rear boundaries when in close proximity to neighbouring dwellings, in line with the standards set out within Saved Policy HG14 of the Tendring District Local Plan.
- 6.14 All new dwellings must also accord with the Technical housing standards – nationally described space standards (2015) which sets out minimum gross internal floor space for new dwellings. A two bedroom, one storey dwelling requires a minimum of 61-70sqm of Gross Internal Floorspace (GIA). There are also requirements for storage and bedroom sizes. From the plans submitted the proposed bungalows meet these requirements. It is also considered that the internal layout is appropriate with all habitable rooms having adequate natural light.
- 6.15 Policy HG9 states that dwellings of two bedrooms or more must have a minimum private amenity space of 75sqm. The submitted plans show in excess of the required amenity space provision for each bungalow.
- 6.16 Therefore, having regard to the above policy considerations, the proposal is considered to be policy compliant in terms of its scale, layout, appearance and design. 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 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.

Impact on Residential Amenity

- 6.17 Paragraph 130 of The Framework maintains that policies and decisions should result in new development that creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. In addition, Policy QL11 of the saved plan states that amongst other criteria 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.18 The application site is neighboured by a number of residential dwellings on all sides and the existing access runs between Casa Mia and Tree Tops, both of which front Turpins Lane.

- 6.19 The proposed development has been designed to minimise any overlooking or loss of privacy issues, with all main habitable rooms located to the front and rear elevations, therefore separated from the shared boundaries by the rear amenity areas. Any side windows which are close to the shared boundaries serve the bathrooms and en-suites to the bungalows and also comprise of a back door to the kitchen. These windows can be conditioned to be obscure glazed to reduce any overlooking or loss of privacy impacts. Given the current sitting of the existing bungalow, the proposal moves the built form further away from the shared boundary with Nos. 176 and 176a Frinton Road, which are the closest dwellings to the development.
- 6.20 The proposed garages to Plots 3 and 4 are set back within the site and as a result are closer to the rear boundary of No 14 Lynne Close, however the garage building is separated from the main bulk of this dwelling by its amenity area.
- 6.21 Therefore, given the proposed orientation of the bungalows, their single storey nature and the existing residential use of the site it is not considered that this development would impact on the residential amenities of these neighbouring occupiers in any regard.
- 6.22 Garden sizes and internal floorspace would be sufficient to meet the needs of future occupants and provide a good level of amenity. Overall, the proposal would comply with saved Policies HG6 and HG9, emerging Policies LP3 and LP4, and the relevant policies of the Framework.

Trees and Landscaping/Biodiversity

- 6.23 Saved Policy EN1 of the adopted Local Plan (2007) relates to landscape character and states that development management will seek to conserve features which contribute to local distinctiveness, which includes important hedgerows and trees. A large part of the application site makes up the residential curtilage of the host property. It is set out and is being used as residential amenity space/garden.
- 6.24 The proposed access road serving the application site is now within the Root Protection Area (RPA) of a mature Poplar, which is subject to a TPO (13/06/TPO). Any works to the surface of the access road within the Root Protection Area (RPA) has the potential to cause damage and harm to the tree.
- 6.25 Therefore, before the commencement of any works on site or to improve the surface of the access road, technical details of the construction method proposed to ensure that the roots of the preserved tree are not harmed by the development must be submitted to and agreed in writing by Local Planning Authority. This should also include any necessary future maintenance of the road and its ability to safely accommodate construction vehicles and post construction, waste collection vehicles up to 26 tonnes. This information should be in accordance with BS5837: 2012 Trees in relation to design, demolition and construction – Recommendations. It is recommended that the use of ‘No-Dig’ construction techniques with a permeable finish to the surface to allow movement of water and gaseous exchange should be sufficient to avoid causing harm to the tree.
- 6.26 Post construction it is not considered that the stem of the tree is at great risk of harm or damage by vehicles using the access road as it is considered that the vehicles will be travelling at low speeds and movements would be minimal in relation to the dwellings on the site. However, a condition should be attached to any grant of planning permission, to ensure that the Root Protection Area (RPA) of the Poplar is physically protected for the duration of the construction phase of the development. This information should also be in accordance with BS5837: 2012 Trees in relation to design, demolition and construction – Recommendations’
- 6.27 The garden of the existing dwelling is to be cleared to make way for the development and some details of the landscaping is shown on the proposed landscape plan (937 07A), however in light of the specific details required for the access road, tree protection and overall lack of

information regarding the materials proposed for the hard landscaped areas, it is appropriate to add a condition to submit full details of a hard and soft landscaping scheme.

Ecology and Biodiversity Implications

- 6.28 Saved Policy EN6 and emerging Policy PPL4 seek to protect and enhance the local biodiversity and geodiversity. The site is not of any specific designation or is it considered to be within a rural setting. The proposed dwellings would intensify the built form within the site, however is currently used as residential garden. Soft landscaping is proposed and the dwellings would all have rear garden areas, therefore it is not considered that there would be a net loss in Biodiversity.

Highway Safety/Parking

- 6.29 Paragraph 110 of the Framework seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SP7 seeks new development to include parking facilities that are well integrated as part of the overall design. The sentiments of these policies are carried forward within emerging Policies SPL3 and CP1. Furthermore, the Essex County Council Parking Standards 2009 set out the parking requirements for new development.
- 6.30 The Local Highway Authority has been consulted on this application and subject to conditions and mitigation regarding visibility splays, turning facility, no unbound material, width of private drive, surface water, vehicle and cycle parking, garage sizes, provision of travel packs and the submission of a Construction Management Plan, the proposal is considered to be acceptable.
- 6.31 The existing access has been widened to some 5m in width, however a pinch point does exist of some 3.7 metres in width adjacent to the Poplar tree. However this is considered to be wide enough to accommodate construction vehicles and refuse collection vehicles.
- 6.32 The Essex County Council Parking Standards 2009 require that dwellings with 2 or more bedrooms be served by a minimum of 2 parking spaces. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied upon to provide a parking space, should measure 7 metres by 3 metres internally. The submitted plans show that each dwelling would be served by a garage and parking space that meets policy requirements. A size 3 turning head is provided to ensure that vehicles entering and leaving the site can do so in a forward gear in the interests of highway safety. Given only the minimum level of parking is proposed, it is considered appropriate to condition the garages to be used for parking purposes only and not converted to habitable accommodation.
- 6.33 Subject to the use of conditions, the proposal would accord with saved Policies TR1, TR3 and TR7, emerging highway related policy requirements, and the Highways and Parking SPDs. The proposal is not therefore considered to result in any unacceptable harm to highway safety or result in residual cumulative impacts on the highway network that would be severe. According to Paragraph 111 of the Framework, planning permission should not therefore be refused on highways grounds.

Legal Obligations - Recreational Impact Mitigation

- 6.34 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.

- 6.35 This new residential development lies within the Zone of Influence. The site is not within or directly adjacent to one of the European designated sites, but is approximately 1800 metres from Hamford Water SAC, SPA and Ramsar. The Council's Habitats Regulation Assessment has concluded that, with the proposed mitigation (which has been secured by means of an executed Unilateral Undertaking), the project would not have an Adverse Effect on the Integrity of the sites included within the Essex Coast RAMS and therefore the proposal is in accordance with the Essex Coast RAMS SPD.

Legal Obligations - Open Space/Play Space Contribution

- 6.36 Policy COM6 of the adopted Tendring District Local Plan 2007 states that for residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built. These sentiments are carried forward within emerging Policy HP5.
- 6.37 The Council has identified a deficit of -14.12 hectares of equipped play in Frinton, Walton & Kirby. There is currently one play area to serve Kirby Cross and Kirby Le Soken which is located in Halstead Road. Although this play area has very recently been refurbished, there remains a need to reduce the deficit within the catchment area of Frinton, Walton & Kirby. The next closest play area is located at Park Playing Fields in Frinton and is considered to be widely used by the whole community. This play area is in need of renovation in order to deal with the increase use from the additional development in this catchment area. Therefore, a financial contribution is recommended.
- 6.38 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 Policy COM6 and emerging Policy HP5 along with the Open Space and Play SPD.

Contaminated Land

- 6.39 It has been identified that there may be potential contamination on the site. The applicant is therefore required to undertake a suitable and sufficient site investigation and any necessary risk assessment to ensure proposed site is free from contamination. This can be secured by the standard contaminated land condition added to any grant of planning permission. Subject to the verification report the site would be suitable for the proposed use, and the development would therefore accord with saved Policy COM19 and Paragraph 183 of the Framework.

Environmental Protection

- 6.40 Prior to any commencement of development a Construction Method Statement, in order to minimise potential nuisance to nearby existing residents caused by construction works, should be submitted to and approved in writing by the Local Planning Authority. This should have regard to noise control, vehicle movements and working hours, use of machinery and mobile plant, piling works and both emission and dust control. This can be secured by condition to any grant of planning permission.

Renewable Energy

- 6.41 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. This can reasonably be dealt with by the use of a planning condition.

7. Conclusion

It is considered that the proposed development is consistent with the National and Local Plan Policies identified above. In the absence of material harm resulting from the proposal the application is recommended for approval.

8. Recommendation

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

8.2 Conditions and Reasons

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

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

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

Drawing No 951/01A – Proposed Site Layout
Drawing No 973/02 – Plot 1 Proposed Elevations and Floorplan
Drawing No 973/03 – Plot 2 Proposed Elevations and Floorplan
Drawing No 973/04 – Plot 3 Proposed Elevations and Floorplan
Drawing No 973/05 – Plot 4 Proposed Elevations and Floorplan
Drawing No 973/06 – Plots 3 & 4 Garage Elevations and Floorplan

Reason: In the interests of proper planning and for the avoidance of doubt.

3. Prior to the commencement of development, a Construction Method Statement shall be 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;
- wheel washing facilities;
- measures to control the emission of dust and dirt during demolition and construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works;
- details of hours of deliveries relating to the demolition and construction of the development;
- details of hours of site clearance or construction;
- a scheme to control noise and vibration during the demolition and construction phase, including details of any piling operations.

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

Reason - In the interests of residential amenity and highway safety and to reduce the likelihood of complaints of statutory nuisance.

4. Prior to the commencement of development hereby permitted, the specific requirements of paragraphs numbered 1 to 3 below must have been undertaken. 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.

5. Prior to the commencement of development hereby approved technical details of the construction method of works to the surface access road proposed and details of the protection measures proposed to physically protect the root protection area of the Poplar tree, subject to TPO - 13/06/TPO Tree Tops, Turpins Lane, Frinton on Sea for the duration of the construction phase must be submitted to and agreed in writing by the Local Planning Authority. This information should be in accordance with BS5837: 2012 Trees in relation to design, demolition and construction – Recommendations.

Reason - To ensure that the roots of the preserved tree are not harmed by the development.

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.

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

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 the adequate retention and maintenance of the approved landscaping scheme for a period of five years in the interests of visual amenity, the quality of the development and the character of the area.

8. 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.

9. Notwithstanding the provisions of Schedule 2 Part 1 Classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no extensions, additions, porches or alterations to the dwellings or their roofs shall be carried out and no outbuildings, enclosures, swimming or other pools shall be erected except in complete accordance with details which shall previously have been approved, in writing, by the Local Planning Authority following the submission of a planning application for such development.

Reason - To ensure that sufficient private amenity space for the dwelling is retained in the interests of residential amenities.

10. All new driveways 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 dwelling.

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

11. There should be no obstruction above ground level within a 2.3 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway either side of the existing vehicle access from Turpins Lane. 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.

Reason: To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety

12. Prior to occupation of the development the vehicular turning facility, as shown on Approved Plan: 951/01A 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

13. No unbound material shall be used in the surface treatment of the vehicular access

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

14. Prior to the occupation of any of the proposed dwellings hereby approved, the proposed private drive shall be constructed to a minimum width of 5.0 metres for at least the first 6 metres from the back the 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

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. The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, has been hard surfaced, and sealed. The vehicle parking area and garages shall be retained in this form at all times and not 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

17. 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

18. The ground floor windows and door on the flank elevations of the dwellings hereby approved, must be obscure glazed to a minimum of Level 4 on the Pilkington scale of privacy or equivalent, and non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.

Reason: To protect the residential amenities of the neighbouring occupiers

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 Informatives

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

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

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

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

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

9 Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and

- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

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

Finance Implications

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

10 Background Papers

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

PLANNING COMMITTEE

23rd November 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.3 PLANNING APPLICATION – 21/00924/FUL – THE FORMER ERNEST LUFF HOUSE DAY CARE CENTRE LUFF WAY WALTON ON THE NAZE FRINTON ON SEA ESSEX



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Superstore

Community
Centre

PC Soken House
Posts Car Park

Triangle
Shopping
Centre

Homelands
Free Church

Homelands
Court

GARDEN

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to

Application: 21/00924/FUL

Town / Parish: Frinton & Walton Town Council

Applicant: Mr D Wylie - Senna House Limited

Address: The Former Ernest Luff House Day Care Centre Luff Way Walton On The Naze Frinton On Sea Essex CO14 8SW

Development: Conversion of existing day care centre to provide 4 one bedroom C2 living units along with associated communal space/office/staff room and external alterations to existing window and door openings.

1. Executive Summary

- 1.1 The application has been referred to the Planning Committee at the call-in request of Councillor Anne Davis, due to concerns over the potential for the proposal to adversely affect the living conditions of neighbouring residents, some of whom are elderly, by virtue of noise and disturbance. Furthermore, she is concerned that fencing around the site is not in keeping with the character and appearance of the area, and there is insufficient parking for the number of residents and staff proposed.
- 1.2 Frinton and Walton Town Council object to the proposal, due to concern over land use conflict with adjacent housing. Essex County Council support the application, and no third-party representations have been received.
- 1.3 The proposal is located within the Settlement Development Boundary and is acceptable in principle, in accordance with the policies of the development plan, and a lawful use certificate has previously been granted for a more intensive C2 Residential Institution use of the site. Some weight should also be given to the policy compliant reuse of a vacant and underused site.
- 1.4 Officers have fully assessed the proposal having regard to the provisions of the development plan and site specific circumstance. Because officers find that the proposal would not have any unacceptable adverse effect on the living conditions of neighbours, or result in demonstrable harm to highway safety or the character and appearance of the area, approval is therefore recommended.

Recommendation:

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

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

2. Planning Policy

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

National:

National Planning Policy Framework 2021 (the Framework)
Planning Practice Guidance

Local:

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

QL2	Promoting Transport Choice
QL3	Minimising and Managing Flood Risk
QL11	Environmental Impacts and Compatibility of Uses (part saved)
QL12	Planning Obligations
HG6	Dwelling Size and Type
HG9	Private Amenity Space
COM1	Access for All
COM2	Community Safety
COM5	Residential Institutional Uses
COM6	Provision of Recreational Open Space for New Residential Development
COM31a	Sewerage and Sewage Disposal
EN6	Biodiversity
EN6a	Protected Species
EN6b	Habitat Creation
EN11a	Protection of International Sites: European Sites and Ramsar Sites
EN13	Sustainable Drainage Systems
TR1a	Development Affecting Highways
TR3a	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
HP1	Improving Health and Wellbeing
HP5	Open Space, Sports and Recreation Facilities
LP1	Housing Supply
LP4	Housing Layout
LP10	Care Independent Assisted Living
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

- 2.2 Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).
- 2.3 The ‘development plan’ for Tendring comprises, in part, the ‘saved’ policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 26th January 2021 Section 1 of the 2013-2033 Local Plan was adopted and now also forms part of the ‘development plan’ for Tendring, superseding some of the more strategic policies in the 2007 Local Plan. Notably, the housing and employment targets were found sound and have been fixed, including the housing requirement of 550 dwellings per annum.
- 2.4 Paragraph 48 of the Framework allows weight to be given to policies in emerging plans, according to their stage of preparation, the extent to which there are unresolved objections to relevant policies, and the degree of consistency with the policies of the Framework. In this regard ‘Proposed Modifications’ to the emerging Section 2 of the 2013-33 Local Plan, which contains more specific policies and proposals for Tendring, has been examined and hearing

sessions have now closed. The main modifications recommended to make the plan legally compliant and sound were considered at the Council's Planning Policy and Local Plan Committee on 29th June 2021. The Council held a six-week public consultation on the Main Modifications and associated documents which began on 16th July 2021. The consultation closed at 5pm on 31st August 2021 and adoption is expected later this year. Section 2 will then join Section 1 as part of the development plan, superseding in full the 2007 Local Plan. Section 2 of the 2013-33 Local Plan is therefore at a very advanced stage of preparation and should be afforded considerable weight.

2.5 In relation to housing supply:

2.6 The Framework requires Councils boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, the 'tilted balance' at paragraph 11 d) ii) of the Framework is engaged. This requires applications for housing development be granted permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

2.7 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

05/01748/FUL	Day centre for elderly	Refused	30.11.2005
06/00518/FUL	Day care centre.	Withdrawn	16.05.2006
06/01396/FUL	Day care centre	Approved	05.10.2006
11/00631/FUL	Extension to guest suite.	Approved	05.08.2011
18/00092/FUL	Construction of 4 almshouse-type one bed dwellings.	Refused	20.07.2018
18/01265/FUL	Construction of 4 almshouse-type one bed dwellings.	Refused	25.09.2018
19/01530/FUL	Proposed conversion of existing building into four 1 bedroom units for elderly persons, with associated parking facilities.	Withdrawn	05.11.2020
19/01867/LUPROP	Proposal to use the building as a Care Home for up to 6 children with	Lawful Use Certificate	04.02.2020

learning disabilities aged 11 to 18. Granted

4. Consultations

ECC Highways Dept
12.08.2021

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.

It is noted that this application is similar to previous applications; 18/00092/FUL and 18/01265/FUL which the Highway Authority did not object to. The proposed off-street parking is the same as the existing and access will be from the current vehicular access as highlighted on drawing PA-10-A, 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. As indicated on drawing no. PA-10-A, the parking spaces / vehicular hardstanding shall be constructed to minimum dimensions of 5.5m x 2.9m and retained thereafter.

Reason: To encourage the use of off-street parking, in the interests of highway safety and in accordance with Policy DM 1 and 8.

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

Informatives:

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

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

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

The 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
21.06.2021

Environmental Protection would recommend the following:

Construction and Demolition

In order to minimise potential nuisance caused by demolition/construction works/Ground Works, Environmental Protection recommend that the following below is conditioned;

1. 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.
2. No materials produced as a result of the site development or clearance shall be burned on site.
3. If there is any asbestos present in the current building or site then adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed. Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.
4. Lighting: Any external lighting on the proposed development shall be located, designed and directed [or screened] so that it does not cause avoidable intrusion to neighbouring residential

properties. The applicant shall demonstrate compliance with the Institute of Lighting Professionals code of practice.
(www.theilp.org.uk)

Adherence to the above conditions 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).

TDC Building Control and Access
Officer
17.06.2021

Depending upon the exact use, the travel distances in one direction may be excessive.

(These concerns related to travel distance for means of escape in the event of fire. Revised plans introducing doorways to units 2, 3 and 4 satisfactorily address this concern).

5. Representations

- 5.1 The application was publicised by way of site notice and immediate neighbours of the site were notified in writing. In response no third-party objections or comments were received.
- 5.2 Ward Councillor Anne Davis has requested the application be referred to the Planning Committee in the event approval is recommended, for reasons which may be summarised as follows:
- Effect on the street scene/character and appearance of the area.
 - Highways impact due to insufficient parking for staff and visitors.
 - Effect on the living conditions of neighbours, with particular regard to residents of Selhurst Court, the occupants of which are elderly and vulnerable.
 - Effect on the living conditions of future occupants, with particular regards to outdoor amenity space.
- 5.3 Frinton and Walton Town Council object to the proposal, due to concern over land use conflict with adjacent housing which is occupied by elderly residents.
- 5.4 Essex County Council's Commissioning Manager has written in support of the application. Support for the proposal may be summarised as follows:
- Representatives of Essex County Council (ECC) have visited the site and viewed the proposed plans to convert the building in to four self-contained flats with a communal lounge and designated staff area.
 - The accommodation would be for adults with a learning disability and/or physical impairment who require a support package to live in the community and will be built with complex needs in mind.
 - There is strong demand locally for this type of accommodation and ECC would support the proposed scheme.

6. Assessment

The Site

- 6.1 The former Ernest Luff Centre is a single-storey, red brick-built former day care centre, located adjacent to Garden Road in Frinton on Sea. Vehicular access to parking areas is obtained via Luff Way to the rear. The roof is clad in red pantile roof tiles. Windows and doors are finished in brown. There is a box hedge behind the footway of Garden Road, behind which a vertically boarded timber fence has been erected. Further timber fencing lines the northern boundary with 112 Garden Road, a two-storey dwelling. A similar fence runs along the site boundary with the access road to the rear, which separates the site from single-storey terraced bungalows to the west. To the south of the site is a car park serving the Triangle Shopping Centre, whereas opposite the site the predominant land use is residential.

The Proposal

- 6.2 Planning permission is sought for internal and external alterations to the building to provide four, one-bedroomed flats, falling within the C2 Use Class (Residential Institutions). Each flat would have one bedroom, a separate kitchen and living area, and an accessible bathroom. Future occupants would be young adults with learning difficulties. A communal room would be provided, together with staff office, kitchen and w/c. A doorway and window on the north elevation and a window on the south elevation would be infilled. Some new and altered window openings would be introduced to facilitate the building's re-use. The facility would be staffed 24 hours a day, although all residents may not need 24 hours support. Skilled staff would be provided, the level of support being based on the needs of the individual.

The Principle of Development

- 6.3 Adopted Part 1 Policy SP3 of the 2013-33 Local Plan sets out the Spatial Strategy for North Essex. The Council's Spatial Strategy is to direct most new housing development to the Strategic Urban Settlements and the Tendring Colchester Borders Garden Community (TCBGC). Frinton, Walton and Kirkby Cross are an identified Smaller Urban Settlement. To encourage sustainable patterns of growth and carefully control urban sprawl, each settlement listed under emerging Part 2 Policy SPL1, with the exception of the TCBGC, is defined under emerging Part 2 Policy SPL2 with a 'Settlement Development Boundary' (SDB). Within SDBs there is a general presumption in favour of new development, subject to detailed consideration against other relevant Local Plan policies, and any approved Neighbourhood Plan (NP).
- 6.4 The site is located within the SDB for Frinton, Walton, Kirby Cross and Gt Holland under the 2007 Local Plan. It remains within the identified SDB under emerging Policy SPL2 (Map B.10 Frinton and Walton), and there is no approved Neighbourhood Plan for the area. The emerging Local Plan is at an advanced stage of preparation, and, following consultation on the main modifications to make the plan legally sound, there are no unresolved objections to the extent of the proposed SDB, or to Policy SPL1. In accordance with Paragraph 48 of the Framework significant weight should therefore be given to these emerging policies.
- 6.5 Under Section 5 'Delivering a sufficient supply of homes', Paragraph 62 of the Framework states that housing needed for different groups within the community should be assessed and reflected in planning policies, including for people with disabilities. The proposal is for a non-custodial residential institution for young adults with learning difficulties; residents would not be locked in their rooms. Saved Policy COM5 Residential Institutional Uses is therefore relevant. Amongst other things, this policy states that outside of the Control of Residential Institutional Uses Areas, applications for changes of use will be considered on

their own merits, subject to meeting other relevant Local Plan policies and the following additional criteria:

a) the site would not be located away from existing Settlement Development Boundaries, in order that support services, facilities and public transport routes can be available. Only in exceptional circumstances may such uses be located outside existing Settlement Development Boundaries;

6.6 The site is located within the SDB for Frinton, Walton, Kirby Cross and Gt Holland under the 2007 Local Plan. It remains within the SDB under emerging Policy SPL2 (Map B.10 Frinton and Walton).

b) the development would not lead to a clustering of similar uses in the locality;

6.7 The proposal would not lead to such a cluster.

c) the development would not create or give rise to a significant material adverse impact on public safety;

6.8 The proposal would not give rise to significant adverse effects on public safety.

d) there would be sufficient external space in the proposal to accommodate the normal recreation and other needs of residents, visitors or employees without impacting on highway safety, or the residential amenities enjoyed by adjoining properties; and

6.9 Saved Policy HG9 requires a minimum of 25 square metres per flat is provided communally. The outdoor amenity space available around the building is 445 square metres, well in excess of this policy requirement. Established boundary fencing would provide a degree of acoustic screening, and would ensure that the proposal would not harm neighbouring residential privacy, or impact on highway safety (see further below).

e) the extent and nature of any alterations/extensions or new separate buildings which may be required for the purposes of the use proposed should not result in the over development of the site.

6.10 No extensions are proposed and alterations are very minor, and it would not therefore constitute over development of the site.

6.11 Where planning permission is granted under Policy COM5, use rights under the provisions of the Use Classes Order 2005 may be withdrawn where there is evidence to suggest that a change of use from that granted to another use within the same Use Class would be inappropriate.

6.12 Emerging Policy HP1 states that the Council will work to improve the health and wellbeing of residents in Tendring, and the proposal is to support young adults with learning difficulties. Emerging Policy LP10 'Care, Independent Assist Living' states, amongst other things, that the Council will support the provision of care homes and extra care housing within settlement development boundaries. Amongst other things, modified Policy LP10 states that:

"To meet the care needs of our future generations and generate growth in the care, independent and assisted living sector in line with the Economic Development Strategy, the Council will support the construction of high quality care homes and extra-care housing in sustainable locations.....", and;

“All new care homes and extra care housing must pay particular attention to landscape character if located outside of settlement development boundaries and offer a high quality, safe, secure and attractive environment for their residents and provide sufficient external space to accommodate the normal recreation and other needs of residents, visitors or employees. Proposals shall have no significant material adverse impact on the landscape, residential amenity, highway safety, or the form and character of nearby settlements and shall be otherwise appropriate in scale and design for their location, having regard to other policies in this Local Plan.”

- 6.13 Having regard to the criteria under Policy LP10, external amenity space is sufficient to meet the needs of future residents and is policy compliant. The proposal would not have any adverse effect on landscape interests, nor is it considered to pose a threat to the residential amenity of neighbours. The effect of the development on the character and appearance of the area and highway safety, and the living conditions of neighbours is considered in more detail below.
- 6.14 For the above reasons, the proposal is policy compliant and acceptable in principle. Furthermore, application reference 19/01867/LUPROP established the lawfulness of the use of the building for a C2 Residential Institutional use (Care Home for up to 6 children with learning disabilities aged 11 to 18). The proposal is for a C2 Residential Institutional use, and would therefore fall within the established lawful use of the site. Significant weight should be given to this consideration.

Character and Appearance

- 6.15 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 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. The emerging plan is at an advanced stage of preparation, there are no unresolved objections to Policy LP4, and the policy is consistent with the policies of the Framework. Substantial weight is therefore given to this policy.
- 6.16 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.
- 6.17 The alterations to the building proposed are minor and would not be harmful to the architectural integrity of the original building or the street scene. The concerns of Ward Councillor Davis in relation to boundary fencing is understood. However, the fencing is of a similar design to that enclosing the rear gardens of the adjacent Selhurst Court and dwellings to the north. It is therefore compatible with the existing pattern of development in the area. Furthermore, fencing around the site, adjacent to Garden Road, is set behind mature box hedging which softens its base. Officers do not find that it had a harmful effect on the character and appearance of the area or the street scene. In any case, fencing around the site does not form part of the application. Nevertheless, in the interests of visual amenity a condition is proposed in the recommendation to require retention of the hedging.

Highway Safety

- 6.18 Two parking spaces for visitors and one for staff would be provided, and further on street parking is available on Garden Road at the front of the site. In raising no highway safety objections, Essex County Council as local highway authority note that the proposal is similar to applications reference 18/00092/FUL and 18/01265/FUL, which, although ultimately refused for other reasons (lack of affordable housing), attracted no highway safety objections either. Having regard to the former day care centre use the proposal is unlikely to generate a significantly greater number of traffic movements or parking demand. Furthermore, the proposed off-street parking is the same as for the former use, and access would be via the current vehicular access. For these reasons, it is not considered that the proposal would give rise to any unacceptable highway safety impacts or residual cumulative impacts on the highway network that would be severe. The proposal would not therefore conflict with saved Policies TR1a, TR3a or TR7. Following Paragraph 11 of the Framework, planning permission should not be refused on highway safety grounds.

Living Conditions of Neighbours

- 6.19 The dwelling to the north is situated at a higher level and separated from the proposal by a bank and high fence, which would adequately protect the occupants' privacy, and act as an acoustic barrier. The site is separated from the adjacent Selhurst Court by a road, either side of which is fenced off. This fencing would provide a suitable barrier to noise transmission towards the elderly occupants, and protect their privacy. In any case, the proposal is for a supported residential scheme, which is compatible with neighbouring residential land uses. As a result of these considerations, the proposal accords with the relevant criteria of saved Policy QL11, adopted Part 1 Policy SP7, and emerging Part 2 Policy SPL3 Part B (e). However, in order to provide comfort in terms of the management of the use, a condition is recommended to require prior approval and subsequent adherence to a management plan, and the agent for the applicant is in agreement.

RAMS

- 6.20 The site is situated within the Zone of Influence of internationally important sites for biodiversity covered by the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) SPD, which requires a financial contribution to fund mitigation measures. The recommendation is therefore subject to the prior completion of the necessary Unilateral Undertaking, in accordance with saved Policy QL12, adopted Policy SP2, and the RAMS SPD. In accordance with the Conservation of Habitats and Species Regulations 2017 the Council has completed the necessary Habitats Regulations Assessment, and concluded that, with the proposed mitigation, the project would not have an Adverse Effect on the Integrity of the sites included within the Essex Coast RAMS.

Other Matters

- 6.21 Public complaint was made to the Council in relation to the condition of the site earlier this year. The proposal would provide the building with a re-use and address the currently disused nature of the site, which renders it vulnerable to potential vandalism and antisocial behaviour. Some weight should therefore be given to a policy complaint re-use of the site which addresses these concerns.
- 6.22 The proposal is for supported accommodation for young adults with learning difficulties. The Framework's definition of people with disabilities includes people with learning difficulties (Annex 2: Glossary). People with disabilities fall within the protected characteristics of the Public Sector Equality Duty, and Members attention is therefore drawn to the further advice in relation to section 149 of the Equality Act 2010 under 'Additional Considerations' below.

7. Conclusion

- 7.1 The proposal is acceptable in principle in accordance with the policies of the development plan. Furthermore, a lawful use certificate has been granted for a C2 Residential Institution use of the building which the proposal falls within, and significant weight should therefore be given to this consideration. The development would not be harmful to the character and appearance of the area, highway safety, or the living conditions of existing or future occupants. Some weight should also be given to the policy complaint reuse of a vacant and underused site. Taking all these factors into account, planning permission should therefore be granted, in accordance with the presumption in favour of sustainable development under Adopted Part 1 Policy SP1 of the 2013-33 Local Plan, and Paragraph 11 (c) of the Framework.

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.	Prior to first occupation.

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 strict accordance with the following approved plans:

Drawing No. 3499-PA-LOC, Location Plan
Drawing No. PA-10-A, Site Plan
Drawing No. PA-11-B, Proposed Floor Plans and Elevations

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

3. As indicated on drawing no. PA-10-A, the parking spaces / vehicular hardstanding shall be constructed to minimum dimensions of 5.5m x 2.9m and retained thereafter.

Reason: To encourage the use of off-street parking, in the interests of highway safety and in accordance with Policy DM 1 and 8.

4. 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.

Reason: In the interests of protecting neighbouring residential amenity.

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

Reason: In the interests of protecting neighbouring residential amenity.

6. Notwithstanding the terms of the Town and Country Planning (Use Classes) Order 1987 (as amended), or any Act or Order revoking and/or re-enacting the Order, the building shall be use for the purposes describe in the application, and for no other use falling within the C2 Use Class.

Reason: In the interests of proper planning and for the avoidance of doubt, and so as to comply with Saved Policy COM5 of the 2007 Local Plan.

7. The hedge behind the footway along Garden Road shall be retained for the lifetime of the development.

Reason: In the interests of visual amenity.

8. Prior to first occupation a Management Plan for the approved use shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the use shall operate in strict accordance with the approved Management Plan, except as may be agreed otherwise in writing by the Local Planning Authority.

Reason - To ensure the use and facility is appropriately operated and managed, in the interests of protecting neighbouring residential amenity.

Informatives

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

2. This decision is the subject of a legal agreement and should only be read in conjunction with it. The agreement addresses the following issues: RAMS contributions.

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

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

4. 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.

5. 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.

Additional Considerations

Public Sector Equality Duty (PSED)

In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:

- A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.

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

In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.

You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).

It is not considered that the recommendation to 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

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

9. Background Papers

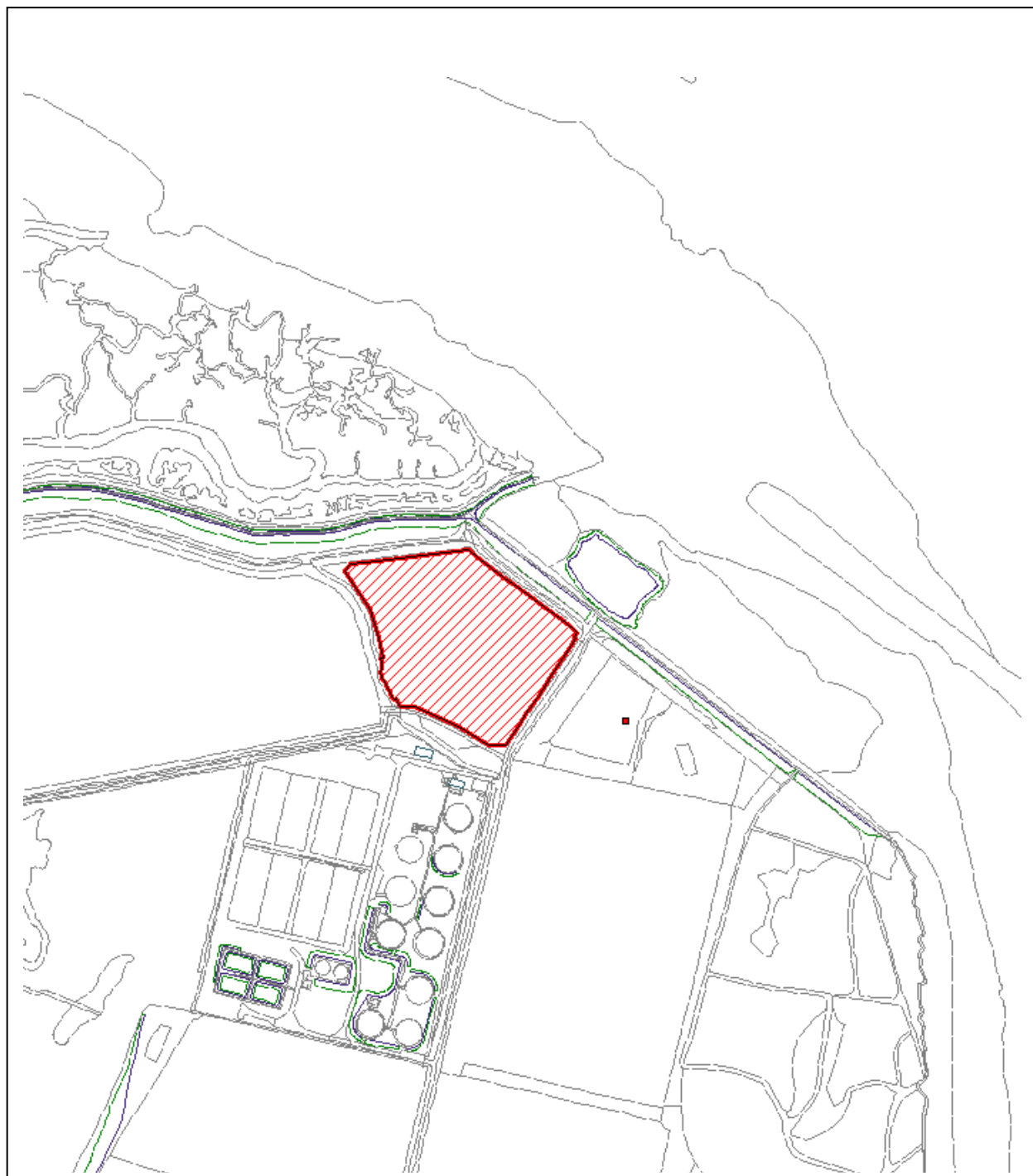
- 9.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

PLANNING COMMITTEE

23RD NOVEMBER 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

**A.4 PLANNING APPLICATION – 21/01374/FUL – JOHN WESTON NATURE RESERVE
ACCESSED VIA OLD HALL LANE LOCATED NORTH OF PUMPING STATION
WALTON-ON-THE-NAZE CO14 8LQ**



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Application: 21/01374/FUL

Town / Parish: Frinton & Walton Town Council

Applicant: Emma Ormond-Bones - Essex Wildlife Trust Limited

Address: John Weston Nature Reserve Accessed Via Old Hall Lane Located North of Pumping Station Walton-on-the-Naze CO14 8LQ

Development: Proposed creation of a network of small ponds (1 - 3) to complement the existing water features on site for the benefit of wildlife.

1. **Executive Summary**

- 1.1 This application is before Members as Tendring District Council is the land owner.
- 1.2 The proposal involves the formation of a number of ponds within the John Weston Nature Reserve in order to provide additional feeding opportunities for waders and increase the biodiversity of the overall site. The nature reserve forms part of 'Hamford Water'.
- 1.3 The proposal is considered to be acceptable and there are no objections from ECC Archaeology, ECC Ecology or Natural England, subject to recommended conditions to ensure biodiversity mitigation and enhancement measures are secured.

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**

- 2.1 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)

QL3	Minimising and Managing Flood Risk
QL11	Environmental Impacts and Compatibility of Uses (part superseded)
EN3	Coastal Protection Belt
EN6	Biodiversity
EN6A	Protected Species
EN6B	Habitat Creation
EN11A	Protection of International Sites European Sites and RAMSAR Sites
EN29	Archaeology
COM33	Flood Protection

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

Relevant Section 1 Policies (adopted)

SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP7	Place Shaping Principles

Relevant Section 2 Policies (emerging)

PPL1	Development and Flood Risk
PPL2	Coastal Protection Belt
PPL4	Biodiversity and Geodiversity
PPL7	Archaeology

Status of the Local Plan

- 2.2 Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).
- 2.3 The 'development plan' for Tendring comprises, in part, the 'saved' policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 26th January 2021 Section 1 of the 2013-2033 Local Plan was adopted and now also forms part of the 'development plan' for Tendring, superseding some of the more strategic policies in the 2007 Local Plan. Notably, the housing and employment targets were found sound and have been fixed, including the housing requirement of 550 dwellings per annum.
- 2.4 Paragraph 48 of the Framework allows weight to be given to policies in emerging plans, according to their stage of preparation, the extent to which there are unresolved objections to relevant policies, and the degree of consistency with the policies of the Framework. In this regard 'Proposed Modifications' to the emerging Section 2 of the 2013-33 Local Plan, which contains more specific policies and proposals for Tendring, has been examined and hearing sessions have now closed. The main modifications recommended to make the plan legally compliant and sound were considered at the Council's Planning Policy and Local Plan Committee on 29th June 2021. The Council held a six-week public consultation on the Main Modifications and associated documents which began on 16th July 2021. The consultation closed at 5pm on 31st August 2021 and adoption is expected later this year. Section 2 will then join Section 1 as part of the development plan, superseding in full the 2007 Local Plan. Section 2 of the 2013-33 Local Plan is therefore at a very advanced stage of preparation and should be afforded considerable weight.

3. Relevant Planning History

06/01049/TPO	Thinning of Elder and Hawthorn among fruit trees.	Approved	07.08.2006
05/00215/TPO	Cut down 10 Hawthorn trees on eastern side and crown lift 5 Poplar trees	Approved	07.03.2005
00/01972/TPO	Coppicing of 20 trees on western boundary of the reserve and 10 Hawthorns in area B on plan (TPO	Approved	21.12.2000

17/77)

99/01285/FUL Replace existing timber building with similar size and type of construction. Building is used as a site hut by the warden and for reserve open days and site a refurbished freight container for use as a secure tool store for mowing equipment Approved 20.10.1999

4. Consultations

Essex County Council Archaeology 20.09.2021 The proposed application site lies within an area of archaeological potential.

Studies along this stretch of coast have uncovered evidence for occupation and activity since Neolithic times, pottery and flints have been recovered and remains of 'red hills', industrial salt making sites, are recorded along this coastline. Elements of military history and possible prehistoric activity are likely to be preserved below ground and may be impacted upon by the proposed development.

There is no objection subject to a condition requiring an Archaeological evaluation to be undertaken.

Essex County Council Ecology 16.09.2021 No objection subject to securing biodiversity mitigation and enhancement measures

The species records and supporting statement relating to the likely impacts of development on designated sites, protected species and Priority species & habitats has been reviewed and 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.

As no mitigation measures are identified in the documents submitted and it is recommended that a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) should be secured as a condition of any consent. This should detail appropriate measures for the protection of the reptile species identified onsite, and appropriate timings for the works to ensure that they will avoid the sensitive timings for the bird species that utilise the site.

The development is within the boundary of the Hamford Water Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC) and the proposals have Natural England consent. Therefore the LPA will not need to prepare a bespoke HRA for this development given that the proposals are "directly connected with or

necessary to the conservation management of the site" as reported by The Habitats and Wild Birds Directives in England report (DEFRA, 2012)

The aim of the proposal is to increase the habitat for wintering and breeding wildfowl and waders, in particular species such as Little Ringed Plover. This should secure measurable net gains for biodiversity, as outlined under Paragraph 174 [d] of the National Planning Policy Framework 2021.

This will enable the 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 a condition requiring a CEMP based on BS42020:2013.

Natural England
10.09.2021

No objection

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected sites.

Hamford Water Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar - Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on the above sites and has no objection to the proposed development. Natural England have already provided consent for this project and have no further comments to make. To meet the requirements of the Habitats Regulations, NE advise the Council to record their decision that a likely significant effect can be ruled out.

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.

Environment Agency
01.10.2021

No objection – proposal subject to standing advice

5. **Representations**

- 5.1 No representations have been received following public consultation, which included a site notice posted close to the site along the access road and neighbouring consultation letters sent out to the adjacent properties. The Frinton and Walton Town Council support the application.

6. **Assessment**

Site Context

- 6.1 The application site relates to the western part of the John Weston Nature Reserve, which is located on the coast, north of the Naze Tower, Walton-on-the-Naze and is in the ownership of Tendring District Council and managed by the Essex Wildlife Trust. The nature reserve is covered by the Hamford Water's designation as both a Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC). These designations reflect the area's significance in terms of breeding waders and migratory over-wintering wildfowl as the site comprises of intertidal mudflats as well as areas of wet grassland.
- 6.2 This western part of the Nature Reserve is managed for the benefit of wildfowl and waders and is made up of a pond, approximately 250 sq. metres in area as well as a small number of low ways and boundary ditch. The site is also located within Flood Zone 3 (protected by sea defences).

Proposal

- 6.3 The application seeks planning permission to construct three additional ponds, each approximately 100 sq. metres in area which will provide additional feeding opportunities for waders as well as increasing the overall biodiversity on site.

Principle of Development

- 6.4 Chapter 6 of the Saved Local Plan outlines the Council's Strategic aim to protect the environment for the benefit of present and future generations and to protect and enhance the natural environment of the District to ensure that the area's biodiversity and landscape are enjoyed by future generations
- 6.5 Saved Policy EN6 states that proposals will not be granted planning permission unless the existing local biodiversity and geodiversity is protected and enhanced, 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. Saved Policies EN11a gives further protection to International Sites: European Sites and Ramsar Sites. However, development directly connected with or necessary to the management of the site for nature conservation is likely to be permitted
- 6.6 Where appropriate the Council will consider the use of conditions and/or planning obligations to provide appropriate mitigation and compensatory measures. Policy SP7 and Emerging Policy PPL4 reflect these considerations.
- 6.7 Therefore, it is considered that the proposal is directly connected with a site for nature conservation and the principle of development is acceptable in this sensitive location, subject to the detailed considerations outlined below.

Main Considerations

- 6.8 The main considerations for this application are: the impacts on the biodiversity, habitats and protected species in this SSSI and SAC location of Hamford Water; the Coastal Protection Belt; flood risk; and, the archaeological potential of the site.

Biodiversity

- 6.9 Paragraph 174 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by: a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan)

- 6.10 Paragraph 179 seeks to protect and enhance biodiversity and geodiversity by promoting the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity and development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.
- 6.11 The application is for the formation of three additional ponds to enhance the natural environment and provide additional feeding opportunities for visiting and breeding wildfowl and waders. The application has been submitted with supporting information with regard to protected species, the stewardship agreement, the capital works proposed and a letter from Natural England granting their consent for the works. Consequently, there is no objection raised from Natural England.
- 6.12 There are no objections to the development raised by ECC Ecology subject to a condition that prior to commencement a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) is submitted as no details have been submitted with regard to mitigation measures proposed. The CEMP should detail appropriate measures for the protection of the reptile species identified on-site, and appropriate timings for the works to ensure that they will avoid the sensitive timings for the bird species that utilise the site.

Archaeological potential of the site

- 6.13 Saved Policy EN29 and Emerging Policy PPL7 relate to the archaeological potential of a site and seek to protect any archaeological remains. In this case, it has been indicated by ECC Archaeology, that there may be archaeological remains within the site area. Studies along this stretch of coast have uncovered evidence of occupation and activity since Neolithic times, pottery and flints have been recovered and remains of 'red hills', industrial salt making sites, are also recorded along this coastline. Furthermore, elements of military history and possible prehistoric activity are likely to be preserved below ground and may be impacted upon by the proposed development. Therefore, prior to the commencement of development a full programme of archaeological investigation is to be undertaken in accordance with a written scheme of investigation and submitted to and approved in writing by the Local Planning Authority.

Impact on Flood Risk and the Coastal Protection Belt

- 6.14 The nature reserve is located within Flood Zone 3, which has the highest risk of flooding, however the majority of the site is protected by flood defences. Saved Policy COM33 and Emerging Policy PPL1 seek to provide development away from areas of high risk of flooding, however given the location and nature of the development the proposal is considered to be acceptable with regard to flooding impacts.
- 6.15 Given the specific nature of the development and its role in improving the diversity on the site, it is not considered that the ponds would significantly harm the landscape character and quality of this area of undeveloped coastline.

7. Conclusion

- 7.1 It is considered that the proposed development is consistent with the National and Local Plan Policies identified above. In the absence of any material harm resulting from the proposal the application is recommended for approval.

8. Recommendation

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

8.2 Conditions and Reasons

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

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

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

2008/00	Site Layout Plan
2008/02A	Proposed Elevations and Floor Plans

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

3. Prior to commencement of the development hereby approved, a construction environmental management plan for biodiversity (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

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

4. 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 written scheme of investigation defined 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). 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 allow proper investigation and recording of the site which is potentially of archaeological and historic significance.

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

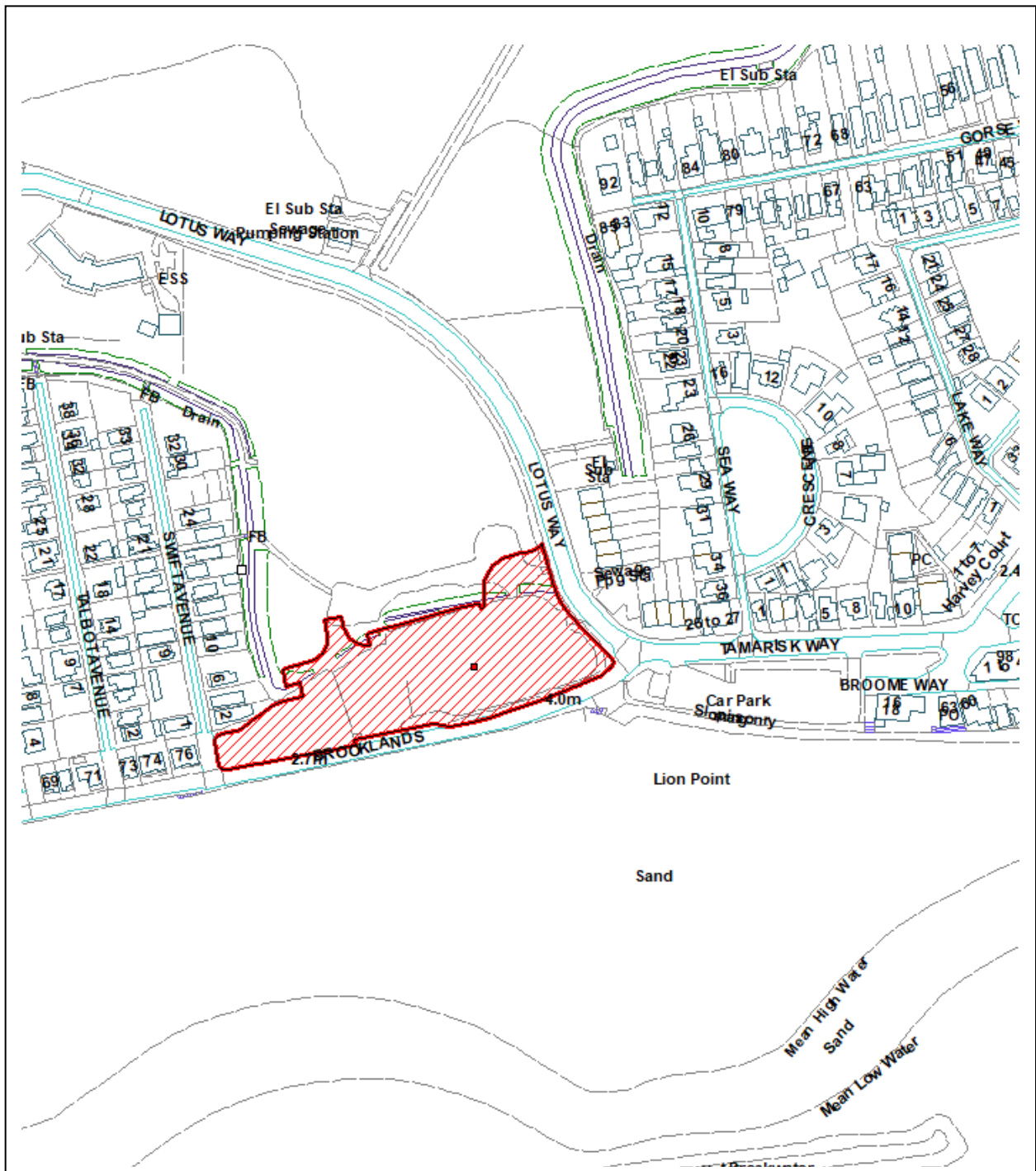
- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

PLANNING COMMITTEE

23RD NOVEMBER 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.5 PLANNING APPLICATION – 21/01707/NMA – LAND ADJACENT TO LOTUS WAY AND BROOKLANDS JAYWICK CO15 2JE



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Application: 21/01707/NMA

Town / Parish: Clacton Non Parished

Applicant: Tom Gardiner - Tendring District Council

Address: Land adjacent to Lotus Way and Brooklands Jaywick CO15 2JE

Development: Non-material amendments to permission 21/00871/FUL sought for access road and carpark landscaping shifted marginally to accommodate larger vehicle loading, with relocation of cycle storage and air source heat pump within landscape. Omission of large planters to south elevation and other minor changes to landscape and external fixtures and furnishings.

Omission of 4No rooflights, repositioning of rooflights and ventilation terminals, access hatch and personal fall protection equipment shown.

Roof level increased by +100mm at highest point and minor changes to canopy, with changes to position of 3No windows on first floor, and unit door arrangement on ground floor level South elevation.

Changes to cafe door arrangement on east elevation with omission of 2No vents on West elevation.

Changes to window arrangement to F.13 on first floor, and door arrangement to Unit G.09 on north elevation and minor changes to openings and facade detail on all elevations.

1. **Executive Summary**

- 1.1 This is an application for a Non-Material Amendment (NMA). As the Council is the applicant, and in accordance with our Constitution, the application is referred to Planning Committee for determination.
- 1.2 The description of development above details the proposed changes to the original planning permission. 21/00871/FUL approved 'Proposed business units, covered market, community garden, public WCs and associated public realm' on 9th July 2021 in accordance with Members recommendation at Planning Committee on 6th July 2021 (report Appended for Members' assistance).
- 1.3 Section 96A of the Town and County Planning Act 1990 says in deciding whether a change is material, a Local Planning Authority must have regard to the effect of the change on the planning permission as originally granted. The Planning Practice Guidance confirms there is no statutory definition of 'non-material'. It will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application.
- 1.4 The key test as to the acceptability of an NMA application is whether the change is material to any development plan policy. If the answer is 'no', as in this case, three further tests should be applied:
 1. Is the proposed change significant in terms of its scale, in relation to the original approval?
 2. Would the proposed change result in a detrimental impact either visually or in terms of amenity?

3. Would the interests of any third party or body who participated in, or were informed of, the original decision be disadvantaged in any way?

It is considered that the answer to all three points above is no and the application is therefore recommended for approval.

Recommendation:

That the Assistant Director for Planning be authorised to approve this non-material amendment for the development subject to:-

- a) The conditions stated in section 8.2

2. Planning Policy

- 2.1 Please see the attached committee report for the original permission 21/00871/FUL.
- 2.2 This proposal relates only to the non-material amendments sought, if approved it would not be a re-issue of the original planning permission, which still stands. The two documents should be read together.

Status of the Local Plan

- 2.3 Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).
- 2.4 The 'development plan' for Tendring comprises, in part, the 'saved' policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 26th January 2021 Section 1 of the 2013-2033 Local Plan was adopted and now also forms part of the 'development plan' for Tendring, superseding some of the more strategic policies in the 2007 Local Plan. Notably, the housing and employment targets were found sound and have been fixed, including the housing requirement of 550 dwellings per annum.
- 2.5 Paragraph 48 of the Framework allows weight to be given to policies in emerging plans, according to their stage of preparation, the extent to which there are unresolved objections to relevant policies, and the degree of consistency with the policies of the Framework. In this regard 'Proposed Modifications' to the emerging Section 2 of the 2013-33 Local Plan, which contains more specific policies and proposals for Tendring, has been examined and hearing sessions have now closed. The main modifications recommended to make the plan legally compliant and sound were considered at the Council's Planning Policy and Local Plan Committee on 29th June 2021. The Council held a six-week public consultation on the Main Modifications and associated documents which began on 16th July 2021. The consultation closed at 5pm on 31st August 2021 and adoption is expected later this year. Section 2 will then join Section 1 as part of the development plan, superseding in full the 2007 Local Plan. Section 2 of the 2013-33 Local Plan is therefore at a very advanced stage of preparation and should be afforded considerable weight.

3. Relevant Planning History

91/00112/FUL	Continued use of Sunday market and car park 1 March to 31 December each year	Approved	03.09.1992
91/00866/FUL	Use of site for Saturday car boot sale and Sunday market 1 March to 31 December each year with ancillary car park.	Approved	03.09.1992
21/00871/FUL	Proposed business units, covered market, community garden, public WCs and associated public realm.	Approved	09.07.2021
21/01743/DISCON	Discharge of conditions 3, (Hard and soft landscaping) 7, (CEMP) 10, (Details of new bus stop) 15 (Details of works to estate roads) and 24 (Details of external lighting) of application 21/00871/FUL.	Current	

4. Consultations

ECC Highways
Dept

The Highway Authority does not object to the proposals as submitted.

Informative:

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

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

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

2: 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.

3: 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 Tree &
Landscape Officer
15.10.2021

The application site is derelict land with large areas of concreted surfacing and low mounds of rubble and soil. The land has become colonised with rank and ruderal vegetation. It does not contain any trees or other significant vegetation.

Consequently, no trees or other vegetation will be adversely affected by the development proposal

No comments other than to ensure that new soft landscaping is secured to soften, screen and enhance the appearance of the development proposal.

5. Representations

None

6. Assessment

- 6.1 This is an application for a Non-Material Amendment (NMA). Section 96A of the Town and County Planning Act 1990 says in deciding whether a change is material, a Local Planning Authority must have regard to the effect of the change on the planning permission as originally granted. The Planning Practice Guidance confirms there is no statutory definition of 'non-material'. It will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application.
- 6.2 The description of development above details the proposed changes to the original planning permission. The changes proposed include rearrangement of the access road by moving the barrier further into the site and changing the type of barrier. The parking area has very minor changes, with no reduction in the number of spaces. Cycle parking is re-located to accommodate an air source heat pump enclosure. Landscaping at the front of the site to Lotus Way is removed to accommodate the cycle parking (a second area of landscaping remains). Three large planters to the front facing Brooklands are to be removed and there would be very minor change to the location of another area of cycle parking and an equipment store.
- 6.3 Changes to the building comprise an increase in roof level of 10cm at the highest point, and minor changes to the canopy. Removal of four rooflights, and repositioning of rooflights, ventilation terminals, access hatch and fall protection equipment. Changes to the position of three windows on the first floor, and the door arrangement on the ground floor on the South elevation. Changes to cafe door arrangement on the east elevation with omission of two vents on the West elevation. Changes to the window arrangement to F.13 on the first floor, door arrangement to Unit G.09 on the north elevation, and minor changes to openings and facade detail on all elevations.
- 6.4 The key test as to the acceptability of an NMA application is whether the change is material to any development plan policy. The changes detailed above are minor and are not material to any development plan policy as listed in the committee report for 21/00871/FUL, or the latest version of the National Planning Policy Framework (20th July 2021).
- 6.5 The proposed changes are not considered significant in terms of their scale, in relation to the original approval. The most significant change is the increase in height of the roof by up to 10cm (0.1m). In smaller proposals this would be considered material, but for such a large building well separated from its neighbours this is not considered to be a material change in this instance.
- 6.6 The proposed changes would not result in a detrimental impact either visually or in terms of amenity. The loss of the three planters and the planting bed fronting Lotus Way are unfortunate,

but given the large community garden on-site this is not materially harmful. The proposed building would be situated approximately 34 metres from the nearest dwellings to the east of the site and 53 metres from the dwellings located in Swift Avenue to the west. The changes to the building are very minor and would preserve the visual amenity of the development, and the residential amenity of surrounding occupiers.

- 6.7 The provisions relating to statutory consultation and publicity do not apply to NMAs. Therefore, local planning authorities have discretion as to whether they choose to inform other interested parties or seek their views. As by definition the changes sought will be non-material, consultation or publicity are unlikely to be necessary. However in this case the views of the Highway Authority and this Council's Tree and Landscape Officer were sought, and both raise no objection.
- 6.8 No third party comments were received for either this NMA or the original planning application, and there was also no objection to either application from statutory consultees. The comments made in relation to landscaping are covered by the soft landscaping condition on the original permission. The interests of any third party or body who participated in, or were informed of, the original decision would not therefore be disadvantaged in any way

7. Conclusion

- 7.1 The changes proposed are considered to be non-material to the development plan and the original planning permission 21/00871/FUL. The changes would not result in any detriment to visual or residential amenity, or highway safety, and would not disadvantage the interests of any third party who was involved in the original decision.

8. Recommendation

- 8.1 The Planning Committee is recommended to approve this non-material amendment subject to the following condition:

8.2 Conditions and Reasons

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

- 182_HAT_PL_100 P2 (Block Plan)
- 182_HAT_PL_110 P1 (Proposed Ground Floor Plan)
- 182_HAT_PL_111 P1 (Proposed First Floor and Roof Plan)
- 182_HAT_PL_120 P1 (Proposed Streetscene)
- 182_HAT_PL_121 P1 (Proposed East and South Elevations)
- 182_HAT_PL_122 P1 (Proposed West and North Elevations)
- 182_HAT_PL_130 P1 (Proposed Sections)

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

8.3 Informatives

None

9. Additional Considerations

Public Sector Equality Duty (PSED)

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

Human Rights

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

Finance Implications

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

10. Background Papers

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available

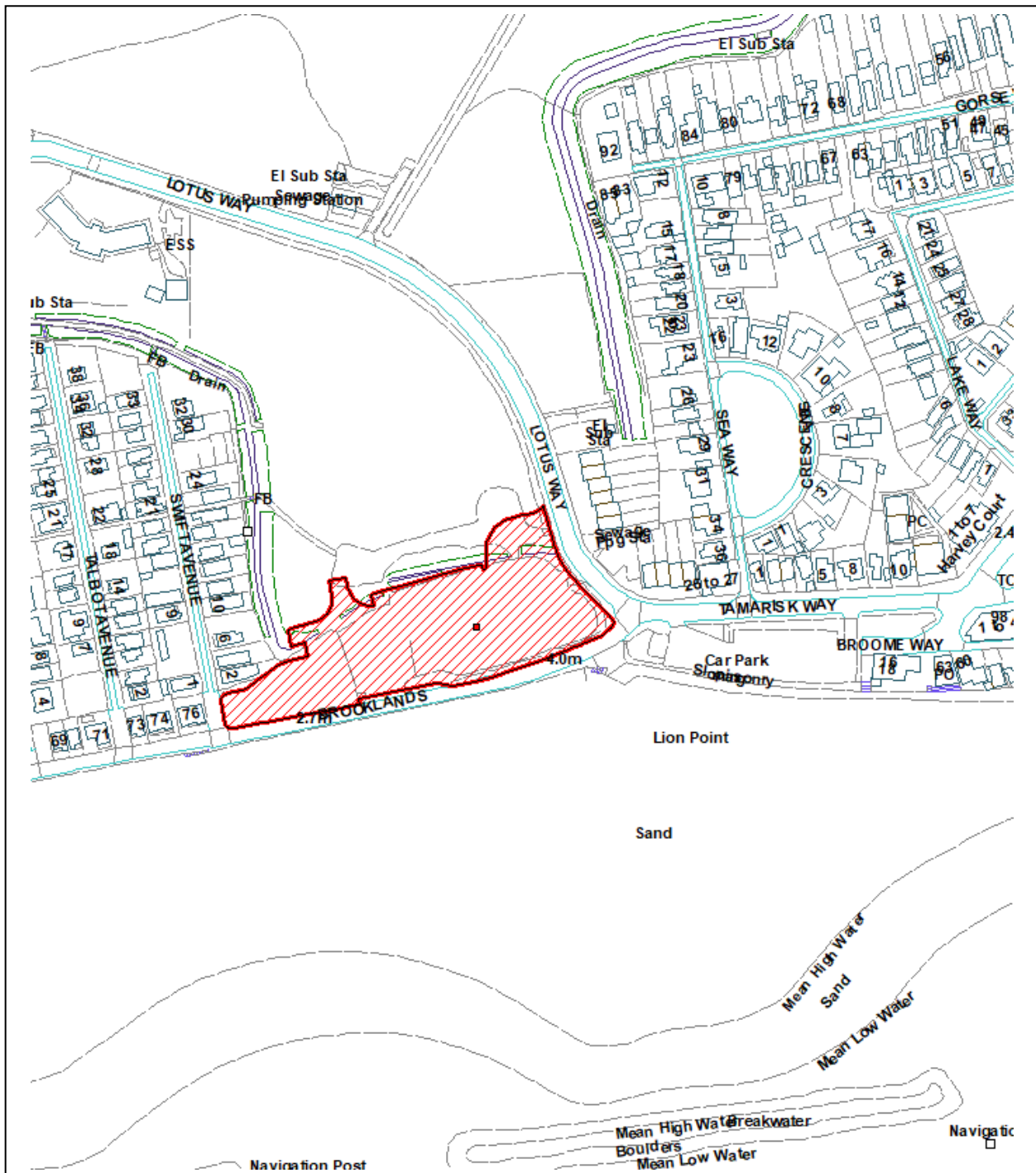
to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

PLANNING COMMITTEE

06 JULY 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.1 PLANNING APPLICATION – 21/00871/FUL – LAND ADJACENT TO LOTUS WAY AND BROOKLANDS JAYWICK CO15 2JE



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Application: 21/00871/FUL

Town / Parish: Clacton Non Parished

Applicant: Tendring District Council

Address: Land adjacent to Lotus Way and Brooklands Jaywick CO15 2JE

Development: Proposed business units, covered market, community garden, public WCs and associated public realm.

1. **Executive Summary**

- 1.1 The development applied for relates to proposed business units, a covered market, a community garden, public WCs and associated public realm on Land Adjacent to Lotus Way and Brooklands, Jaywick. The application is placed before members of the Planning Committee as the applicant is Tendring District Council.
- 1.2 The site is located between the Brooklands and Village parts of Jaywick Sands, on the site of what was formerly the amusements and village centre of Jaywick Sands. The site is currently hardstanding on the central and eastern side of the site and scrubland at the western end. Brooklands, an un-adopted road, runs along the southern boundary, and Lotus Way, an adopted road built in the early 2000s runs to the east of the site.
- 1.3 Saved Policy CL15a (Jaywick Regeneration) of the adopted Local Plan states that *“To facilitate the phased redevelopment of the original Brooklands, Grasslands and Village area of Jaywick in accordance with the Jaywick Masterplan, the Council will allow residential and mixed-use development... on the Land west of Lotus Way and north of Brooklands (mixed-use on southern part of site).* Furthermore, Jaywick Sands is identified under emerging policy PPL4 (Priority Areas for Regeneration) as a priority for focused investment in social, economic and physical infrastructure and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety, accessibility and green infrastructure.
- 1.4 Moreover, the proposed Covered Market and Managed Workspace development responds directly to the corporate priorities identified within the Council’s 2020-2024 Corporate Plan and accords with the Community Leadership and Tendring4Growth themes, which are central to that Plan.
- 1.5 Taking into consideration the three strands of sustainability namely economic, social and environmental considerations the development is considered to represent a sustainable development by: creating local job opportunities; improving Jaywick Sands’ reputation; and the visual appearance of a key site in the community, which will complement the other regeneration projects resulting in raising property values for both commercial and residential properties; improved public realm including community garden and space for outdoor markets and other events; and improved walkability of the area and road safety.
- 1.6 The application and supporting documents/surveys demonstrate that there will be no overriding harm which cannot be mitigated in respect of flood risk, landscaping, ecology or highways considerations.
- 1.7 Subject to the recommended conditions within section 8.2 of this report and the completion of a legal agreement to secure contributions towards highway waiting restrictions and RAMS, the proposal is considered to be acceptable with no material harm to visual or residential amenity,

ecology interests or highway safety, and the application is therefore recommended for approval.

Recommendation:

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

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

- **Financial Contribution towards RAMS**
- **ECC-Highways Contribution towards the introduction of any future parking restriction scheme for the surrounding roads and/or at the junction to the site and junction with Lotus Way/ Brooklands/ Tamarisk Way.**

b) Subject to the conditions stated in section 8.2

c) That the Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

2. Planning Policy

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

NPPF National Planning Policy Framework February 2019
National Planning Practice Guidance

Adopted Tendring District Local Plan 2007 (part superseded)

QL2	Promoting Transport Choice
QL3	Minimising and Managing Flood Risk
QL6	Urban Regeneration Areas
QL11	Environmental Impacts and Compatibility of Uses
QL12	Planning Obligations
ER7	Business, Industrial and Warehouse Proposals
ER16	Tourism and Leisure Uses
ER31	Town Centre Hierarchy and Uses
ER32	Town Centre Uses Outside Existing Town Centres
ER39	Market Trading and Car Boot Sales
COM1	Access for All
COM2	Community Safety
COM4	New Community Facilities (Including Built Sports and Recreation Facilities)
COM23	General Pollution
COM31A	Sewerage and Sewage Disposal
EN1	Landscape Character
EN6	Biodiversity
EN6A	Protected Species
EN11A	Protection of International Sites European Sites and RAMSAR Sites
EN11B	Protection of National Sites SSSI's, National Nature Reserves, Nature Conservation Review Sites, Geological Conservation Review Sites

EN11C	Protection of Local Sites: Local Nature Reserves, County Wildlife Sites, Regionally Important Geological/Geomorphological Sites
EN13	Sustainable Drainage Systems
EN13A	Renewable Energy
EN29	Archaeology
TR1A	Development Affecting Highways
TR3A	Provision for Walking
TR5	Provision for Cycling
TR6	Provision for Public Transport Use
TR7	Vehicle Parking at New Development
CL15a	Jaywick Regeneration

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

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP7	Place Shaping Principles
SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP1	Improving Health and Wellbeing
HP2	Community Facilities
PP1	New Retail Development
PP2	Retail Hierarchy
PP3	Village and Neighbourhood Centres
PP6	Employment Sites
PP14	Priority Areas for Regeneration
PPL1	Development and Flood Risk
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL7	Archaeology
PPL10	Renewable Energy Generation
CP1	Sustainable Transport and Accessibility
CP2	Improving the Transport Network
DI1	Infrastructure Delivery and Impact Mitigation

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

- 2.2 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. In this latter regard, as of 26th January 2021, 'Section 1' of the emerging Local Plan for Tendring (Tendring District Local Plan 2013-2033 and Beyond Publication Draft) has been adopted and forms part of the 'development plan' for Tendring.
- 2.3 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) has been examined by an Independent Planning Inspector who issued his final report and recommended 'main modifications' on 10th December

2020. The Inspector's report confirms that, subject to making his recommended main modifications (including the removal from the plan of two of the three 'Garden Communities' proposed along the A120 i.e. those to the West of Braintree and on the Colchester/Braintree Border), the plan is legally compliant and sound and can proceed to adoption. Notably, the housing and employment targets in the plan have been confirmed as sound, including the housing requirement of 550 dwellings per annum in Tendring.

- 2.4 The Council has now formally adopt Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26th January 2021, at which point it became part of the development plan and carries full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan.
- 2.5 The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will proceed in early 2021 and two Inspectors have been appointed by the Secretary of State to undertake the examination, with the Council preparing and updating its documents ready for the examination. In time, the Section 2 Local Plan (once examined and adopted in its own right) will join the Section 1 Plan as part of the development plan, superseding in full the 2007 adopted plan.
- 2.6 The confirmation from the Inspectors that the Section 2 Local Plan can progress to the next stage of the process is a positive step in the plan-making process that allows the Council to increase further the weight that can be given to the emerging Local Plan when determining planning applications – particularly those policies where either no changes are being recommended or where the changes are relatively subtle. However, where policies are the subject of main modifications that represent a material change in approach, it will be necessary for decision makers, whether Officers or Planning Committee members, to carefully consider how much weight can sensibly be applied to both those policies and the modifications given that the modifications are recommendations and are still subject to consultation and potential further changes ahead of the Council's final decision to adopt.
- 2.7 Where emerging policies are particularly relevant to a planning application and can be given weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices.

3. Relevant Planning History

91/00112/FUL	Continued use of Sunday market and car park 1 March to 31 December each year	Approved	03.09.1992
91/00866/FUL	Use of site for Saturday car boot sale and Sunday market 1 March to 31 December each year with ancillary car park.	Approved	03.09.1992
21/00871/FUL	Proposed business units, covered market, community garden, public WCs and associated public realm.	Current	

4. Consultations

Essex County Council Ecology
07.06.2021

No objection subject to securing biodiversity mitigation and enhancement measures

Summary

We have reviewed the Ecological Impact Assessment (Woodfield Ecology, May 2020) and the Reptile Mitigation Strategy (Woodfield Ecology, March 2021) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats.

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

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

The mitigation measures identified in the Ecological Impact Assessment (Woodfield Ecology, May 2020) and the Reptile Mitigation Strategy (Woodfield Ecology, March 2021) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority Species. As mentioned in the report, a Construction Environmental Management Plan for Biodiversity should be secured as a condition of any consent.

We note that this application will require the LPA to prepare a bespoke project level HRA Appropriate Assessment as the development lies approximately 40m from the Essex Estuaries SAC, and 1km from the Colne Estuary SPA and Ramsar and is within the Zone of Influence (ZOI) for the Essex Coast RAMS.

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, when considered both alone and 'in combination' with other plans and projects. The Ecological Impact Assessment (Woodfield Ecology, May 2020) identifies that there would be no likely significant effects on the adjacent designated sites as a result of the construction phase of the development. However, recreational impacts arising from the operational phase of the development need to be considered in combination with other plans and projects. We recommend that a financial contribution is secured, in line with the Essex Coast RAMS, to mitigate the impacts of recreational pressure on the adjacent designated sites.

We also support the proposed reasonable biodiversity enhancements, which have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 170d of the National Planning Policy

Framework 2019. The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured as a condition of any consent.

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

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

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

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 (Woodfield Ecology, May 2020) and the Reptile Mitigation Strategy (Woodfield Ecology, March 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 COMMENCEMENT: CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN FOR BIODIVERSITY

“A construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority.

The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method

statements).

d) The location and timing of sensitive works to avoid harm to biodiversity features.

e) The times during construction when specialist ecologists need to be present on site to oversee works.

f) Responsible persons and lines of communication.

g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

h) Use of protective fences, exclusion barriers and warning signs.

i) Containment, control and removal of any Invasive non-native species present on site

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority”

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

3. 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).

ECC Highways Dept
11.06.2021

Essex County Council in their capacity as Highway Authority has thoroughly assessed the highways and transportation information submitted in support of the above planning application. The assessment of the application and Transport Assessment was undertaken with reference to the National Planning Policy Framework in particular, the following aspects were

considered: access and safety; capacity; the opportunities for sustainable transport; and highway mitigation measures. It is noted that the application proposes to provide a total of 47 parking spaces, based on the 1,374 sqm internal floorspace; this is off-set by the recommended submission of a workplace travel plan for an anticipated number of 40 full-time employees, together with the provision of 38 cycle parking spaces plus existing local transport and car park facilities close to the site, the conclusions of the Highway Authority are as follows:

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

1. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:
 - i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. wheel and underbody washing facilities

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, a financial contribution of £3,000 (index linked) towards the introduction of any future parking restriction scheme for the surrounding roads and/or at the junction to the site and junction with Lotus Way/ Brooklands/ Tamarisk Way subject to any scheme being put forward by the North Essex Parking Partnership. The contribution (£3,000) will be returned to the applicant if a scheme is not forthcoming or required at the end of the 5-year period, from the date of first occupation.

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

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

3. The opening of the development shall not take

place until the following have been provided or completed:

- a) A priority junction off Lotus Way to provide access to the proposal site with Kerb radii measuring a minimum of 8 metres with a 2- metre-wide footway provide around each kerb radii and extended to the nearest crossing point and provided with appropriate drop kerb/ tactile paving.
- b) The access road shall have a minimum width of 6.75 metres for the first 15 metres.
- c) Improvements to footway to an affective width of 2 metres across the entire site frontage with Lotus Way.
- d) Where possible provision of pedestrian drop kerb at appropriate crossing point(s) from the District Council Car Park off Tamarisk Way to the main site entrance including the provision of appropriate tactile paving.
- e) To current Essex County Council specification, the upgrade of the two closest bus stops or provide a new stop(s) which would best serve the proposed site (details shall be agreed with the Local Planning Authority prior to commencement of the development).
- f) Appropriate vehicle visibility splays in accordance with current policy standards.

Reason: To protect highway efficiency of movement and to make adequate provision within the highway for the movement and safety of the additional pedestrian traffic generated as a result of the proposed development in accordance with policy DM1 and DM9.

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

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

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

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

6. The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are

related to the use of the development unless otherwise agreed with the Local Planning Authority.

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

7. Any barrier provided at the vehicular access shall be set back a minimum of 15 metres from the back edge of the footway / cycleway or where no provision of footway/cycleway is present, the carriageway.

Reason: To enable vehicles using the access to stand clear of the carriageway whilst the barrier is being opened and closed and to allow parking off street and clear from obstructing the adjacent footway/cycleway/carriageway in the interest of highway safety in accordance with policy DM1.

8. 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.

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

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

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

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

post to:

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

2: Although not a requirement based on the supporting information and anticipated number of full-time employees, consideration should be given to producing a Workplace Travel Plan, prior to first occupation of the proposed development. The Developer may wish to contact the Travel Plan team via: Travel.PlanTeam@essex.gov.uk to seek some advice in the interests of reducing the need to travel by car and promoting sustainable development and transport as indicated in the Design and Access Statement.

3: 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.

Natural England
15.06.2021

NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

European sites

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development. To meet the requirements of the Habitats Regulations, we advise you to record your decision that a likely significant effect can be ruled out.

Sites of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development.

ECC SuDS Consultee

No comments received

Anglian Water Services Ltd

No comments

TDC Environmental Protection

Contaminated Land:

15.06.2021

With reference to the submitted Contaminated Land report, Environmental Protection confirm that they agree with its findings and would like to highlight the below is adhered to throughout the development phase –

- Drainage: As recommended within the report the surface water run-off must be discharged to mains drainage.
- Gas Monitoring: Gas monitoring found relatively high methane levels and elevated levels of carbon dioxide, therefore appropriate gas protection measures will be required at the site. Details of the proposed gas protection measures, evidencing gas levels are reduce to acceptable levels, must be submitted to the local authority for approval.
- Soil Remediation: The report states and Environmental Protection agree that there may be zones of contamination within the site which were not encountered. Therefore the Environmental Protection team recommend further soil samples are taken at the proposed community garden, in order to identify any potential contamination and any necessary remedial measures if required.
- Site Workers: Due to some findings of asbestos at the site, risks to construction workers will need to be addressed in the site Health & Safety Plan.
- Watching Brief: A watching brief is recommended during the groundworks to ensure that any potential contaminated soil encountered is disposed of in a safe and controlled manner.

Demolition & Construction Method Statement: The applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Environmental Protection, this document should include, but not be limited to the following information –

- Noise Control

- 1) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.
- 2) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00(except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.
- 3) The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228.
- 4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).

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

- Emission Control

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

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

3) All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.

4) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit. Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974)

Lighting:

Any car park or external lighting shall not trespass beyond the property boundary and into neighbouring residential property. The applicant shall demonstrate compliance with the Institute of Lighting Engineers code of practice.

Essex County Council Archaeology
10.06.2021

The proposed development lies within a region of high potential for both Palaeolithic archaeological remains and early prehistoric archaeological remains. Sediments from a former river channel laid down by the ancestral Thames before it was diverted have yielded internationally significant Palaeolithic remains and Pleistocene faunal remains within the area. In addition findspots from along the foreshore have yielded Mesolithic and Neolithic remains which suggest early prehistoric settlement and activity within the immediate area.

A Desk-based assessment has been submitted with the application which highlights the high potential of the site for significant archaeological remains and geoarchaeological deposits. The site investigation report also records that peat deposits have been recorded in boreholes, these deposits may hold significant palaeoenvironmental evidence. Samples from the site investigation work have been briefly assessed and further work has been recommended to determine the nature of the deposits within the site. A brief has been written and provided for the geoarchaeological evaluation of the site, once the evaluation is complete the significance of the geoarchaeological deposits can be determined.

A historic sea wall runs through the site, now evident as a low bank which separates the area of concrete hardstanding with an area of grass and gravel. Drawings indicate that much of the site will be built up, including the area across the historic sea wall, however it is unclear what groundworks may be required in the area of the new access.

Any groundworks within the area of the historic sea wall and access area will require archaeological investigation, details of the groundworks required within these areas will need to be provided once consent is granted to determine the impact of the development upon historic and potential archaeological remains.

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

RECOMMENDATION: A Programme of Archaeological and geoarchaeological evaluation

1. No development or preliminary groundworks of any kind shall take place until a programme of archaeological and geoarchaeological 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.

No objection to this planning application, providing that the local planning authority have taken into account the flood risk considerations which are your responsibility.

We have highlighted these in the flood risk section below.

Flood Risk

Our maps show the site lies within tidal Flood Zone 3a defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for Proposed business units, covered market, community garden, public WCs and associated public realm., which is classified as a 'less vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. Therefore, to comply with national policy the application is required to pass the Sequential and Exception Test (s) and be supported by a site specific Flood Risk Assessment (FRA). To assist you in making an informed decision about the flood risk affecting this site, the key points to note from the submitted FRA, referenced 61121 and dated May 2021, are:

Actual Risk

- The site lies within the flood extent for a 0.5% (1 in 200) annual probability event, including an allowance for climate change.
- The site does benefit from the presence of defences. However they would overtop in a 0.5% (1 in 200) annual probability design flood event therefore the site is at 'actual' risk of flooding.
- Finished ground floor levels have been proposed at 3.50 m AOD. This is above the 0.5% (1 in 200) annual probability flood level including climate change of 5.15 m AOD and therefore at risk of flooding by 1.65 m depth in this event.
- Flood resilience/resistance measures have been proposed.
- The site level is a minimum of 2.10 m AOD and therefore flood depths on site are 3.05 m in the 0.5% (1 in 200) annual probability flood event including climate change.
- Therefore assuming a velocity of 0.5m/s the flood hazard is danger for all including the emergency services in the 0.5% (1 in 200) annual probability flood event including climate change.
- Therefore this proposal does not have a safe means of access in the event of flooding from all new buildings to an area wholly outside the floodplain (up to a 0.5% (1 in

200) annual probability including climate change flood event). We have no objections to the proposed development on flood risk access safety grounds because an Emergency Flood Plan has been submitted by the applicant but you should determine its adequacy to ensure the safety of the occupants.

- Compensatory storage is not required.

TDC Building Control and Access Officer

Discussions had with applicant prior to submission.

TDC Waste Management
24.05.2021

No comments.

TDC Tree & Landscape Officer
02.06.2021

The application site is derelict land with large areas of concreted surfacing and low mounds of rubble and soil. The land has become colonised with rank and ruderal vegetation. It does not contain any trees or other significant vegetation.

Consequently no trees or other vegetation will be adversely affected by the development proposal.

In terms of soft landscaping the Proposed Block Plan shows a new area of landscaped open space and other incidental planting that appears to be aimed at softening the appearance of the development. The aims and purpose of the open space/community garden are described in some detail in the Design and Access Statement submitted in support of the application.

Should planning permission be likely to be granted then a condition should be attached to secure details of the indicative planting shown on the above plan.

Essex Police
11.06.2021

It is noted that the TBC Tree & Landscape Officer has highlighted as a potential planning condition to review the indicative planting to this development. Essex Police concur, effective landscaping could mitigate the perceptions of crime in and around the main building and the community gardens and we would like to review the landscaping and future maintenance details.

Essex Police, provide a no cost, impartial advice service to any applicant who request this service; we are able to support the applicant to achieve the requirements to gain the nationally acknowledged Secured by Design accreditation and would invite the them to contact Essex Police via designingoutcrime@essex.police.uk

5. Representations

5.1 No third party representations have been received.

6. Assessment

Site Context

- 6.1 The site is located between the Brooklands and Village parts of Jaywick Sands, on the site of what was formerly the amusements and village centre of Jaywick Sands.
- 6.2 The site is currently hardstanding on the central and eastern side of the site and scrubland at the western end. Brooklands, an un-adopted road, runs along the southern boundary, and Lotus Way, an adopted road built in the early 2000s runs to the east of the site. The site reaches Swift Avenue at the western end, and is partly bounded by residential properties on the north-west.
- 6.3 The sea wall lies on the other side of Brooklands, with steps over the wall at either end of the site. Brooklands does not have a pavement on either side and a bus stop is located just west of the site, between Swift Avenue and Talbot Avenue.
- 6.4 The site is prominent and has good road access from Lotus Way. It is adjacent to the public car park which provides visitor car parking, and a small cluster of commercial premises.

Proposal

- 6.5 This planning application proposes to create a range of new facilities on this site in Jaywick Sands, those facilities include:
 - Workspace units ranging from small office and kiosk type units to larger light industrial (Use Class E);
 - Training space for provision of business support services;
 - Covered market and events hall;
 - New public WCs to replace the existing poor quality WCs;
 - Outdoor hard landscaped public realm for markets and events;
 - Community garden
- 6.6 The application also proposes ancillary facilities to be created include parking and cycle parking, refuse storage, market equipment storage and loading/servicing space. The project will also create a safe pavement along Brooklands from Swift Avenue to Lotus Way as part of the public realm works.
- 6.7 The proposal is for Use Class E commercial uses and has been designed to be flexible so that a wide variety of potential uses could be accommodated depending on demand. The building itself and the letting of units will be run by an operating partner to be appointment by the Council.
- 6.8 Car parking provision in the proposal is 45 car parking spaces, including fully accessible parking bays. It is proposed that five (5) double car charging points are provided. Car parking spaces are 5m x 2.5m, and fully accessible spaces have an additional 1.2m clear on two sides.
- 6.9 Cycle parking provision is for 34 cycles (17 Sheffield stands) in covered parking areas, and space for 18 cycles (9 Sheffield stands) in uncovered parking areas.

Principle of Development/Policy Considerations

- 6.10 Under emerging policy SPL1 (Managing Growth) Jaywick is included within the Clacton-on-Sea settlement boundary, which is ranked as one of the highest Strategic Urban Settlements in the Settlement Hierarchy. Unlike in the 2007 Local Plan, the settlement boundary is drawn to include the area north of Brooklands and in between Brooklands and the Village, but not the

'Tudor Fields' area that lies within the Place Plan boundary. The policy states that there is a presumption in favour of new development within settlement boundaries, and outside of settlement boundaries, the Council will consider any planning application in relation to the Settlement Hierarchy and any other relevant policies in this plan.

- 6.11 Policy PP3 Village and Neighbourhood Centres three areas of Jaywick Sands - Broadway, Tudor Parade and the junction of Tamarisk Way/Broadway are defined as neighbourhood centres to be protected and enhanced.
- 6.12 Saved Policy CL15a (Jaywick Regeneration) of the adopted Local Plan states that: *'...to facilitate the phased redevelopment of the original Brooklands, Grasslands and Village area of Jaywick in accordance with the Jaywick Masterplan, the Council will allow residential and mixed-use development on the Land west of Lotus Way and north of Brooklands (mixed-use on southern part of site).'*
- 6.13 Furthermore, Jaywick Sands is identified under emerging policy PPL4 (Priority Areas for Regeneration) as a priority for focused investment in social, economic and physical infrastructure and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety, accessibility and green infrastructure.
- 6.14 Moreover, the proposed Covered Market and Managed Workspace development responds directly to the corporate priorities identified within the Council's 2020-2024 Corporate Plan and accords with the Community Leadership and Tendring4Growth themes, which are central to that Plan.
- 6.15 The proposed development responds to a number of priorities in the Corporate Plan as set out below:
- Support existing businesses
 - More and better jobs
 - Develop and attract new businesses
 - Maximise our coastal and seafront opportunities
- 6.16 The Project has been identified by Council's Cabinet as a Key Priority Action for 2021/22 with milestones to deliver against the Corporate Plan and will be included within its corporate performance monitoring report.
- 6.17 As such, the proposed development aligns with the strategic vision for the Council's emerging Local Plan (2013 – 2033) which seeks to create resilient, successful mixed communities that address issues of deprivation and support a thriving local economy. Jaywick Sands is identified under Policy PP14 Priority Areas for Regeneration as a priority for focused investment in social, economic and physical infrastructure and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety, accessibility and green infrastructure.
- 6.18 The development of the site for the purposes outlined within the application is therefore acceptable in principle. Matters now turn to the detailed considerations of the scheme including the layout, design, highway, ecology considerations and flood risk issues.

Layout/Design

- 6.19 Adopted Policy SP7 of the Tendring District Local Plan 2013-2033 and Beyond Section 1 states all new development should reflect the following place shaping principles, and where applicable, respond positively to local character and context to preserve and enhance the

quality of existing places and their environs; and provide buildings that exhibit individual architectural quality within well-considered public and private realms.

- 6.20 Paragraph 124 of the NPPF (2019) states that the creation of high-quality 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.
- 6.21 Given the linear shape of the site the proposed building would take on a linear footprint that provides an active frontage to Brooklands with the parking and servicing areas located to the rear. At either end of the building, areas of public realm are proposed. At the eastern end, a hard landscaped space is proposed to create a forecourt to the building with the opportunity for outdoor seating, small stalls or pop-ups such as an ice-cream van or similar, with some ancillary planting. At the western end, there would be hard and soft landscaping and a larger area of hard landscaping along the front and to the side of the building would create the opportunity for more extensive outdoor events, markets, performances and seasonal activities. The covered market space, has been positioned on the west side of the building, so that markets and events can take place both indoors and outdoors.
- 6.22 The building itself is two storey in scale and would consist of an extensive gabled roof. The supporting Design and Access Statement confirms that the '*...proposal draws on the heritage of other waterfront buildings that have long frontages and simple, bold forms, such as ship sheds and arcades*'. This design approach is considered to be represent an appropriate response to the character and appearance of buildings in the vicinity.
- 6.23 The building would be clad in a powder-coated sinusoidal aluminium in different colours to provide a vibrant and resilient finish. As stated above the elevations have been composed to create active frontages to the public realm. The ground floor units have extensive shopfront glazing with perforated roller shutters for security.
- 6.24 At the western of the application site, a community garden area is proposed. This area would consist of:
- Raised berms at the rear of the garden using spoil from the groundworks required for the building. This will create shelter and wind protection for the garden, as well as the opportunity for views from the top of the berm;
 - Bench seating in different configurations to suit larger and smaller groups as well as individuals;
 - Grassed areas for informal use, sized for picnics and exercise but not for formal games;
 - Wildlife pond (with safety features to prevent accidents);
 - Natural play features (rocks for climbing); and
 - Planted areas.
- 6.25 The detailed planting specification is proposed to reflect the coastal location and to create a variety of habitats that support local biodiversity.
- 6.26 In terms of carbon reduction, the building has been designed to ensure that the orientation, layout, design and construction technology used passively reduces the amount of carbon needed to heat and light spaces, as well as lowering the energy required to maintain the building. The building is also designed as an all-electric building to allow renewable energy sources to be used. Air source heat pumps form a primary heat source.
- 6.27 Overall the design approach and layout of the development would result in a significant enhancement to the character and appearance of the locality. The layout and landscaping proposed to the areas of public realm are well-considered and the proposed building would respond positively to the local character.

Highway Safety/Parking

- 6.28 Paragraph 108 of the NPPF requires Councils, when making decisions to ensure:
- a) appropriate opportunities to promote sustainable transport modes can be, or have been, taken up, given the type of development and its location;
 - b) safe and suitable access to the site can be achieved for all users; and
 - c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 6.29 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 The site will be accessed from the rear with vehicle access off Lotus Way which is adopted highway, as Brooklands is an un-adopted private road and therefore not suitable for access. The existing access will be widened and reconfigured to meet ECC Highways standards and will be controlled by an access barrier positioned to prevent unauthorised access to the site. This barrier will be positioned so that vehicles can pull off the highway fully while waiting for the barrier to be raised.
- 6.31 The development also proposes to create a safe, well-lit pavement all the way along the Brooklands frontage from Swift Avenue to Lotus Way.
- 6.32 Essex Council Highways have reviewed the submitted information and have no objections subject to conditions/legal agreement securing the following:
- the vehicular/pedestrian access configuration, vehicular turning areas and parking provision shown on the submitted plans being provided prior to first use of the building;
 - the submission of a Construction Method Statement prior to commencement;
 - a £3000 financial contribution towards the introduction of any future parking restriction scheme for the surrounding roads and/or at the junction to the site and junction with Lotus Way/ Brooklands/ Tamarisk Way;
 - upgrade of the two nearest bus stops;
 - no surface water discharge to the highway;
 - any barrier provided at the vehicular access shall be set back a minimum of 15 metres from the back edge of the footway;
 - cycle/two wheeler powered vehicle parking provided prior to first use of building; and
 - precise details of the access road and footways (including layout, levels, gradients, surfacing and means of surface water drainage and any lighting requirements) being provided prior to commencement.
- 6.33 These details are to be secured via conditions outlined below in section 8.2. The financial contribution towards to potential waiting restrictions will be achieved by the completion of a legal agreement.
- 6.34 The application proposes to provide a total of 47 parking spaces, based on the 1,374 sqm internal floorspace; this provision is considered to be acceptable given the recommended submission of a workplace travel plan for proposed employees, together with the provision of 38 cycle parking spaces plus existing local transport and car park facilities close to the site.

Biodiversity

- 6.35 Paragraph 170 of the NPPF requires Councils, when determining planning applications, to minimise impacts on and providing net gains for biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission. Saved policies EN6 of the adopted Local Plan and emerging policy PPL4 of the emerging Local Plan give special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for.
- 6.36 An Ecological Impact Assessment (Woodfield Ecology) has been submitted and accompanies this application. This provides a summary overview of the site and identifies the habitats on site and the potential further survey work that might be required. The appraisal concludes the following:
- The site lies entirely on previously developed land, with much (c. 60%) of it comprising bare tarmac/concrete and compacted aggregate, with mosaics of tall ruderal, semi-improved grassland, ephemeral/short perennial vegetation present on mounds of spoil and rubble and areas of un-compacted aggregate. Habitats recorded were considered to be commonly occurring across the UK and throughout Essex, and given their small size, are considered to be of below local importance.
 - Based on the findings of the detailed surveys, the site was assessed to be of negligible importance for foraging bats, breeding birds, wintering birds and Great Crested Newt, and of below local importance for reptiles and invertebrates.
 - While no impacts on designated sites are considered likely, precautionary control measures, including the production of a CEMP (Construction Environmental Management Plan), to further reduce any risk of pollution events during construction are proposed.
 - A reptile mitigation strategy has been prepared and agreed in advance for the capture and translocation of reptiles from the Site to a pre-prepared receptor site at the Brook Country Park.
 - To address potential impacts on invertebrates, specific features and habitats of value to invertebrates would be created within the Community Garden. The production of and implementation of a long-term management plan would ensure all habitats created would be maintained and long-term biodiversity benefits maximised.
- 6.37 ECC-Place Services (Ecology) have reviewed the submitted information and conclude that there is sufficient ecological information available for determination and that this provides certainty for the Local Planning Authority of the likely impacts on protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.
- 6.38 The mitigation measures identified in the Ecological Impact Assessment (Woodfield Ecology) should be secured and implemented in full. These requirements are secured via condition and request the submission of a construction environmental management plan (CEMP) and a detailed biodiversity enhancement plan.
- 6.39 A HRA/AA (Habitats Regulations Assessment/Appropriate Assessment) has been prepared by the Council which rules out any adverse impacts upon nearby designated sites. This assessment outlines the mitigation measures noted above along with a financial contribution due to potential recreational impacts arising from the operational phase of the development when considered in combination with other plans and projects. A financial contribution is therefore to be secured via a legal agreement, in line with the Essex Coast RAMS, to mitigate the impacts of recreational pressure on the adjacent designated sites.

- 6.40 Natural England have reviewed the application details and confirm that they have no objections in respect of the impact of the development upon statutorily protected nature conservation sites or landscapes.

Impact on Residential Amenity

- 6.41 The NPPF at paragraph 127 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.
- 6.42 The proposed building would be situated approximately 34m from the nearest dwellings to the east of the site and 53m from the dwellings located in Swift Avenue to the west. This degree of separation combined with the height of the building ensures that any impacts upon residential amenity in terms of outlook, privacy and light would be minimal.
- 6.43 Opening hours of 7am to 9pm are proposed for the units and in respect of the events area it is intended that these would be controlled via the licensing system. Although it is envisaged that one-off events could last until 11pm on occasion. Given the degree of separation to local residences and the infrequent nature of events these timings are considered to be acceptable.
- 6.44 The Council's Environmental Protection Team have requested the details to control noise and emissions during the construction phase. These details are to be secured through a condition requiring the submission of a construction method statement prior to works commencing.

Flood Risk/Drainage

- 6.45 The NPPF (paragraph 155) states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future) should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.
- 6.46 The site is located within Flood Zone 3. New development in this part of the settlement of Jaywick can help enhance or maintain the vitality of a community and this is a key objective of the Council's overarching strategic objective and the NPPF. Therefore, for this area which is entirely within Flood Zone 3 as defined by the Environment Agency's Flood Map, the area for the purposes of the sequential test is the area within flood zone 3 only and inside the settlement boundary of Jaywick. This approach follows discussions with the Councils leadership team and will ensure that regard is still given to flood risk but will also allow some regenerative development to be approved in this part of Jaywick to maintain and enhance its vitality.
- 6.47 So in terms of the Sequential Test, it is considered that the geographical area over which the test should be applied in this instance is the area as identified above, rather than the district as a whole. Given that the site falls with Flood Zone 3 and there are no other sites in the sequential search area at lower risk of flooding, it is considered that the site passes the sequential test.
- 6.48 With regard to the exception test, part one of the test requires the application to demonstrate that the development provides wider sustainable benefits to the community to outweigh the flood risk. In this instance, the proposal would provide much needed employment opportunities for the area and represents a regeneration led development that would provide significant community benefits. As such, it is considered that the development passes this part of the test.

- 6.49 The application is also accompanied by a flood risk assessment that demonstrates that the mitigation measures, such as the building being designed so that, in the event of flooding, the building fabric and services are flood resilient. This will include non-return valves to drainage; robust finishes; and ensuring that, where possible, electrical services are located above the 100year+CC 0.5% AEP flood datum, combined with the fact that site benefits from Environment Agency protection ensures that the proposal is safe in terms of flood risk. The Environment Agency were consulted on the proposal and offer no objection to the development on flood risk grounds, therefore the proposal is considered to pass part two of the exception test.
- 6.50 Taking into account the above, and having passed both the sequential test and the exception test, it is considered that the principle of commercial development on this site is acceptable and in line with the relevant local and national policies and objectives on flood risk.
- 6.51 In terms of surface water management, the redevelopment of the existing site will provide a new surface water drainage outfall location. The site provides attenuation, therefore this will create a betterment to the existing sewer serving the area. It is proposed to discharge surface water to the Anglian Water surface water sewer within Lotus Way, as compliance with the surface water hierarchy.
- 6.52 The surface of the site will be graded in such a way as to divert extreme event flows away from the buildings, into the permeable asphalt and landscaped areas.
- 6.53 To improve the quality of the surface water run-off - which will be collected by the proposed drainage system serving the new development - the surface water run-off will pass through permeable asphalt, providing the required treatment indices as set out in the CIRIA SuDS manual.
- 6.54 It is proposed to collect foul flows on site and gravitate to the west and connect into the existing Anglian Water foul sewer within the site. Anglian Water have confirmed through discussions with the applicant that the Jaywick Water Recycling Centre currently has capacity to treat the flows from the proposed development.

Archaeology

- 6.55 ECC-Place Services confirms that the proposed development site lies within a region of high potential for both Palaeolithic archaeological remains and early prehistoric archaeological remains.
- 6.56 Consequently, they recommend a programme of archaeological and geoarchaeological evaluation works prior to commencement of the development. These evaluation works will be secured, via condition as set out below.

7. Conclusion

- 7.1 The development is considered to represent sustainable development and when having regard to the three strands of sustainability as set out within the National Planning Policy Framework the overarching benefits of the development include:

Economic Benefits

- Around 40 FTE jobs will be directly created and brought into the area with an additional economic impact to the local economy of £1.7m per annum;
- Indirect and induced impacts are estimated to comprise around 16 FTE jobs;
- Improving Jaywick Sands' reputation, and the visual appearance of a key site in the community, which will complement the other regeneration projects resulting in

raising property values for both commercial and residential properties. Raising values will increase the viability of development and redevelopment of sites in private and public ownership and this will be a significant catalytic impact;

- Encouraging wider entrepreneurship in the local community and a mutually supportive local business network, leading to an increased rate of start-up of businesses in the community, and a higher survival rate for businesses;
- Creating training opportunities leading to higher average earnings among Jaywick Sands residents, and therefore increased consumer spend locally supporting business growth among local shops and services; and
- Increased tax receipts to local and national government through increased income and commercial activity locally and rising values.

Social Benefits

- Increased employment opportunities leading to a reduction in deprivation due to unemployment and involuntary exclusion from the labour market, and a reduction in deprivation caused by low income;
- Increased training opportunities leading to a rise in skills and employability, and a rise in aspiration among young people in particular; and.
- Access to a wider range of fresh food creating positive health impacts across age groups.

Environmental Benefits

- Improved public realm including community garden and space for outdoor markets and other events; and
- Improved walkability of the area and road safety.

7.2 In conclusion, the proposed development aligns with the strategic vision for Jaywick Sands as set out in both the Council’s saved Local Plan (2007) and emerging Local Plan (2013–2033) which seek to create a resilient, successful mixed community that address issues of deprivation and support a thriving local economy. Jaywick Sands is identified under both saved and emerging policies as a Priority Area for Regeneration as a priority for focused investment in social, economic and physical infrastructure and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety, accessibility and green infrastructure.

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 section 106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Financial contribution towards RAMS.	Financial contribution towards RAMS. Contribution amount TBC.
ECC-Highways financial contribution	£3000 financial contribution towards the introduction of any future parking restriction scheme for the surrounding roads and/or at the junction to the site and junction with Lotus Way/ Brooklands/ Tamarisk Way

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:

- 182_HAT_PL_100 Revision P1 (Block Plan)
- 182_HAT_PL_110 (Proposed Ground Floor Plan)
- 182_HAT_PL_111 (Proposed First Floor and Roof Plan)
- 182_HAT_PL_120 (Proposed Streetscene)
- 182_HAT_PL_121 (Proposed East and South Elevations)
- 182_HAT_PL_122 (Proposed West and North Elevations)
- 182_HAT_PL_130 (Proposed Sections)

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

3. Prior to the commencement of any above ground works, a detailed scheme of hard and soft landscaping works for the site (aside from the community garden) 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.

4. 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 enhance the visual impact of the proposed works.

5. Prior to the commencement of works to the community garden a detailed scheme of hard and soft landscaping works for this aspect of the development 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. 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.

Reason – To enhance the visual amenity of the proposed works.

6. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Impact Assessment (Woodfield Ecology, May 2020) and

the Reptile Mitigation Strategy (Woodfield Ecology, March 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).

7. A construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.
- a) Risk assessment of potentially damaging construction activities.
 - b) Identification of "biodiversity protection zones".
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
 - d) The location and timing of sensitive works to avoid harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.
 - f) Responsible persons and lines of communication.
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - h) Use of protective fences, exclusion barriers and warning signs.
 - i) Containment, control and removal of any Invasive non-native species present on site

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

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

8. 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).

9. 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
- details of construction noise mitigation methods (including for any proposed piling)
- dust suppression techniques
- details of a waste/demolition removal management plan

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

10. The opening of the development shall not take place until the following have been provided or completed:

- a) A priority junction off Lotus Way to provide access to the proposal site with Kerb radii measuring a minimum of 8 metres with a 2 metre-wide footway provide around each kerb radii and extended to the nearest crossing point and provided with appropriate drop kerb/ tactile paving.
- b) The access road which shall have a minimum width of 6.75 metres for the first 15 metres.
- c) Improvements to footway to an affective width of 2 metres across the entire site frontage with Lotus Way.
- d) Where possible provision of pedestrian drop kerb at appropriate crossing point(s) from the District Council Car Park off Tamarisk Way to the main site entrance including the provision of appropriate tactile paving.
- e) To current Essex County Council specification, the upgrade of the two closest bus stops or provide a new stop(s) which would best serve the proposed site (details shall be agreed with the Local Planning Authority prior to commencement of the development).
- f) Appropriate vehicle visibility splays in accordance with current policy standards.

Reason - To protect highway efficiency of movement and to make adequate provision within the highway for the movement and safety of the additional pedestrian traffic generated as a result of the proposed development.

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.

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

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

13. The Cycle/Powered Two-wheeler parking shall be provided in accordance with the EPOA Parking Standards prior to the first use of the development. 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.

14. The barrier provided at the vehicular access shall be set back a minimum of 15 metres from the back edge of the footway/cycleway or where no provision of footway/cycleway is present the carriageway, in perpetuity.

Reason - To enable vehicles using the access to stand clear of the carriageway whilst the barrier is being opened and closed and to allow parking off street and clear from obstructing the adjacent footway/cycleway/carriageway in the interest of highway safety.

15. Prior to the commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage and any lighting requirements) 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.

16. No development or preliminary groundworks of any kind shall take place until a programme of archaeological and geoarchaeological 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 protect potential archaeological and geoarchaeological heritage assets.

17. The hereby approved units shall only be open to the public between the following hours;

7am – 9pm (All week).

18. The hereby approved events area shall only be used for events between the following hours;

7am – 11pm (All week).

19. No development shall take place until a drainage strategy and associated detailed design, management and maintenance plan of surface water drainage for the site using SuDS methods has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved Sustainable Drainage Strategy prior to the use of the building commencing and maintained thereafter for the lifetime of the development.

Reason - To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal is incorporated into the design and the build and that the

principles of sustainable drainage are incorporated into this proposal and maintained for the lifetime of the proposal.

20. Prior to the first use/occupation of the development a Flood Warning & Evacuation Plan shall be submitted to and approved, in writing, by the Local Planning Authority. The Flood Warning Evacuation Plan shall remain in force for the duration of the lifetime of the development and shall remain a live document and be updated where required.

Reason - The site lies within flood zones 3 and a detailed evacuation plan is essential to safeguard occupiers of the development.

21. The development shall be carried out in full accordance with the recommendations contained within the submitted 'Site Investigation Report' (as prepared by Soil Consultants – Report Reference 10607/JRCB). This includes the submission of the following details prior to commencement;

- Details of the proposed gas protection measures, evidencing gas levels are reduced to acceptable levels;
- Soil samples taken at the proposed community garden, in order to identify any potential contamination and any necessary remedial measures if required; and
- Details of a watching brief during the groundworks to ensure that any potential contaminated soil encountered is disposed of in a safe and controlled manner.

These details shall be submitted to the Local Planning Authority and approved, in writing, prior to the commencement of works. The approved details shall then be adhered to during the construction phase.

Reason – To safeguard against potential contaminates on site.

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

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

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

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

Although not a requirement based on the supporting information and anticipated number of full-time employees, consideration should be given to producing a Workplace Travel Plan, prior to first occupation of the proposed development. The Developer may wish to contact the Travel Plan team via: Travel.PlanTeam@essex.gov.uk to seek some advice in the interests of reducing the need to travel by car and promoting sustainable development and transport as indicated in the Design and Access Statement.

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.

Crime Prevention Informative

Essex Police, provide a no cost, impartial advice service to any applicant who request this service; they are able to support the applicant to achieve the requirements to gain the nationally acknowledged 'Secured by Design' accreditation and would invite the applicant to contact Essex Police via designingoutcrime@essex.police.uk

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/>.