



PLANNING COMMITTEE

DATE: Tuesday, 21 December 2021

TIME: 6.00 pm

VENUE: Committee Room - Town Hall,
Station Road, Clacton-on-Sea, CO15
1SE

MEMBERSHIP:

Councillor White(Chairman)
Councillor Bray(Vice-Chairman)
Councillor Alexander
Councillor Baker
Councillor Casey

Councillor Codling
Councillor Fowler
Councillor Harris
Councillor Placey

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DATE OF PUBLICATION: Monday, 13 December 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 - 16)**

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Tuesday 7 December 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 – 21/01257/OUT - LAND TO THE SOUTH OF WEELEY ROAD AND TO THE EAST OF BIRCH AVENUE AND PINE CLOSE GREAT BENTLEY (Pages 17 - 46)**

This application is referred to Planning Committee at the request of the Assistant Director of Planning as the original outline application 17/01881/OUT was refused by the Local Planning Authority and the decision was overturned by the Planning Inspectorate. Within that appeal decision the Planning Inspector included a Planning Condition (no 12) that ensured the 'link' to Birch Avenue from the host site would be 3m wide and a pedestrian and cycle link.

The current application seeks vary condition 12 of application 17/01881/OUT (allowed on appeal APP/P1560/W/19/3231554) to remove the reference within condition 12 which requires the pedestrian/cycle link between the site and Birch Avenue to be 3 metres in width and also allowing for this link between the site and Birch Avenue to be a pedestrian link only. This is because the applicant has discovered there is not 3m between 74 Birch Avenue and 76 Birch Avenue to construct such a link.

6 **A.2 PLANNING APPLICATION - 21/00977/DETAIL - LAND TO THE SOUTH OF WEELEY ROAD AND TO THE EAST OF BIRCH AVENUE AND PINE CLOSE GREAT BENTLEY (Pages 47 - 102)**

This application is referred to Planning Committee at the request of the Assistant Director of Planning as the original outline application was refused by the Local Planning Authority and the decision was overturned by the Planning Inspectorate.

The current application seeks approval of the reserved matters relating to outline planning permission 17/0881/OUT, which granted planning permission for the erection of up to 136 dwellings with access from Weeley Road, informal recreation space, a local area of play and associated development. This application includes details of appearance, landscaping, access, layout and scale which were not included as part of the outline.

7 A.3 PLANNING APPLICATION - 21/00978/FUL - LAND TO THE SOUTH OF WEELEY ROAD GREAT BENTLEY (Pages 103 - 140)

This application is referred to Planning Committee at the request of the Assistant Director of Planning as the original outline application was refused by the Local Planning Authority and the decision was overturned by the Planning Inspectorate.

The current application seeks approval of the engineering operations required in support of application for Reserved Matters submitted on adjacent land Ref: 21/00977/DETAIL (136 dwellings) including attenuation basin, public footpath, access visibility and construction access.

8 A.4 PLANNING APPLICATION - 21/01490/VOC - LAND ADJACENT 2 WIVENHOE ROAD ALRESFORD CO7 8AD (Pages 141 - 152)

This application has been referred to Planning committee as one of the landowners is an employee of Tendring District Council.

The application seeks planning permission for the variation of condition 2 of application 19/01261/FUL to allow for design amendments to plots 2 and 3.

9 A.5 PLANNING APPLICATION - 21/01992/FULHH - 1 MYRTLE COTTAGES THORPE ROAD WEELEY CLACTON ON SEA CO16 9JL (Pages 153 - 160)

The application is before Members as the applicant is a member of staff employed by Tendring District Council.

The proposed extension will be located to the rear of the property and will be shielded from the streetscene by the existing dwelling and garage. The extension is of a single storey nature and is considered to be of a size and scale appropriate to the existing dwelling with the application site retaining adequate private amenity space. The proposal does include the use of differing materials, however due to its rearward location and the variety of materials within the locale, the use of such is considered acceptable in this instance.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Planning Committee is to be held in the Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE at 6.00 pm on Tuesday, 18 January 2022.

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.

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON TUESDAY, 7TH DECEMBER, 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 and Harris
Also Present:	Councillors Land, McWilliams, Scott, Turner and Wiggins.
In Attendance:	Gary Guiver (Acting Director (Planning), Graham Nourse (Assistant Director, Planning), Joanne Fisher (Planning Solicitor), Trevor Faulkner (Planning Manager), Daniel Child (Agency Planner), Emma Haward (Leadership Support Officer), Keith Durran (Democratic Services Officer) and Matthew Cattermole (Communications Assistant).

174. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies were received from Councillors Casey and Placey with no substitutes.

175. MINUTES OF THE LAST MEETING

It was moved by Councillor Bray, seconded by Councillor Baker and **RESOLVED** that the minutes of the last meeting of the Committee held on 23 November 2021 be approved as a correct record subject to amending Minute 169 so that, under the record of public speaking, Councillor G V Guglielmi be now recorded as having spoken 'in favour' of application **A.1 21/00650/OUT – LAND EAST OF BROMLEY ROAD LAWFORD CO11 2HS.**

176. DECLARATIONS OF INTEREST

Councillor Fowler declared a personal interest in **A.2 PLANNING APPLICATION 21/00186/FUL – CROSSWAYS CENTRE FRATING ROAD GREAT BROMLEY COLCHESTER ESSEX** as the applicant was known to her. She stated that she had not attended the site visit and that she would not participate in the Committee's deliberations and decision making on this application.

Councillors Scott and Wiggins, who were present in the public gallery, each declared a personal interest in **A.2 PLANNING APPLICATION 21/00186/FUL – CROSSWAYS CENTRE, FRATING ROAD, GREAT BROMLEY, COLCHESTER** due to being the Ward Members.

Councillor McWilliams, who was also present in the public gallery, declared a personal interest in **A.2 PLANNING APPLICATION 21/00186/FUL – CROSSWAYS CENTRE, FRATING ROAD, GREAT BROMLEY, COLCHESTER** due to being the adjacent Ward Member.

Before the meeting, an update sheet had been distributed to the Committee with details of an update in respect of the Planning Inspectors' final report on the legal compliance and soundness of Section 2 of the emerging Local Plan.

The Acting Director (Planning) summarised the status of the Local Plan and advised that the report had confirmed that, with the inclusion of a number of 'Main Modifications' (which had already been the subject of formal public consultation), the Plan was legally compliant and sound and could now proceed for adoption.

The Chairman advised the Committee and the public gallery that agenda item 6 would be taken first, followed by items 5, 7, 8 and 9.

177. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were none on this occasion.

178. A.2 PLANNING APPLICATION – 21/00186/FUL – CROSSWAYS CENTRE FRATING ROAD GREAT BROMLEY COLCHESTER ESSEX

Councillor Fowler reminded the Committee that she earlier declared a personal interest in **PLANNING APPLICATION 21/00186/FUL – CROSSWAYS CENTRE FRATING ROAD GREAT BROMLEY COLCHESTER ESSEX** as the applicant was known to her and that she would not participate in the Committee's deliberations and decision making on this application.

Councillors Scott and Wiggins had earlier in the meeting, declared personal interests in **A.2 PLANNING APPLICATION 21/00186/FUL – CROSSWAYS CENTRE, FRATING ROAD, GREAT BROMLEY, COLCHESTER** due to being the Ward Members.

Councillor McWilliams had also earlier declared a personal interest in **A.2 PLANNING APPLICATION 21/00186/FUL – CROSSWAYS CENTRE, FRATING ROAD, GREAT BROMLEY, COLCHESTER** due to being the adjacent Ward Member.

It was reported that the Crossways Centre was located in the vicinity of Frating which was a 'Smaller Rural Village'. The site was not a protected or allocated employment site and the proposal was for a B8 storage and distribution use. The site was located outside of the settlement development boundary.

The Committee was informed that the proposal was for a warehouse extension (approximately 762m² in footprint, measured externally), and loading bay extension (approximately 464m² in footprint, measured externally), and extension of the site's service yard area onto adjacent agricultural land.

Members were made aware that the proposal did not meet the criteria for being an acceptable location for an expanded B8 storage and distribution use, and that the proposal by Officers was considered to result in unacceptable highway safety impacts. Although it would not harm the landscape character, it was considered also that the proposal would have a harmful effect on the character and appearance of the area. The proposal would also harm the living conditions of the occupants of neighbouring dwellings.

Whilst the economic benefits of approving the scheme were acknowledged, they were not considered by Officers to outweigh the identified harms. The proposal was considered to be contrary to the development plan, and refusal of planning permission was therefore recommended.

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 refusal.

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

An update sheet had been circulated to the Committee prior to the meeting with details of a letter from the occupants of Junedene to confirm that they had no objection and a further letter of objection received raising concerns which had already been summarised within the Officer report.

Gary Rowe, the applicant, spoke in support of the application.

John Bartington, Chairman of Residents against Crossways Expansion, spoke against the application.

Parish Councillor Fred Nicholls, representing Great Bromley Parish Council, spoke against the application.

Councillor Lynda McWilliams, the adjacent Ward Member for The Bentleys and Frating Ward, spoke against the application.

Councillor Gary Scott, a Ward Member, spoke against the application.

Matters raised by a Committee Member:-	Officer's response thereto:-
A Member of the Committee asked what the lawful use certificate allowed.	The Planning Officer confirmed that not all of the site was covered by the certificate of lawfulness (some parts of a building were excluded), and that some conditions of earlier permissions may continue to apply. Furthermore, the proposal would be more harmful than any fall-back position, and that it should therefore be afforded limited weight.
A member of the Committee raised concerns regarding the use and safety of the premises.	The Planning Officer referred to ER7 requiring satisfactory vehicular access, when replaced by emerging policy highways safety aspects would be covered by other policies of the emerging plan.
Concerns regarding the boundary line was raised by a Member of the Committee. If the site had expanded before the emerging plan was agreed, would it have been drawn around the site?	The Planning Officer confirmed that if the site had already been extended at the time the emerging plan was being prepared, the boundary line would have been drawn around the extended site.

<p>If the site was refused, could the premises keep operating?</p>	<p>The Planning Officer confirmed that if the application were refused enforcement action would logically be taken, but that the site could continue to operate until a Secretary of State appointed Inspector had determined any appeal(s).</p>
<p>Had a traffic plan been considered or negotiated?</p>	<p>The Planning Officer confirmed that no traffic management plan or off-site highway mitigation works had been proposed by the application or discussed with them.</p>
<p>A Member referred to 6.67 where the business appeared to be successful. What were the benefits of the economy and growth compared to the grounds for refusal?</p>	<p>The Planning Officer confirmed that significant weight should be given to the need to support economic growth in accordance with Paragraph 81 of the National Planning Policy Framework. In response to a question it was clarified to the Committee that there was approximately 500m between the development and the junction of the B1029 with the A133.</p>
<p>A Member of the Committee discussed the requirements of the business to see if there were any other suitable sites for this development. Options were mentioned; Horsley Cross who would welcome the opportunity, and land near Beth Chatto Gardens in Alresford.</p>	
<p>Concerns regarding the rural settlement were raised with regards to overdevelopment and infrastructure.</p>	<p>The Planning Officer referred Members to the harms identified in the report, and clarified the position in relation to Flood Risk; following negotiations and revisions to the proposal the Lead Local Flood Authority had no objections, and the Environment Agency had not commented.</p>
<p>A Member of the Committee referred to the loss of agricultural land, disturbance to neighbours and road, resident and pedestrian safety. On the other hand, the business was successful employing 96 employees and increasing by 45% during the pandemic.</p>	

Following discussion by the Committee, it was moved by Councillor Bray, seconded by Councillor Alexander and unanimously **RESOLVED** that consideration of this application be deferred for up to 6 months to allow for further negotiations on the following:

- “• *Dialogue with the applicant and ECC Highways on a Traffic Management Plan, to include looking at HGV movements/routing plan with particular emphasis on examining/directing traffic to and from the south from the Frating crossroads & any potential improvements to that junction;*
- *Further explore the highways access arrangements and the potential to demolish the front buildings to facilitate two-way movements;*

- *Look at hours of operation and if this could be reduced at night time;*
- *Explore a temporary planning permission for up to 2 or 3 years with the aim of helping to support the applicant in finding a more appropriate site within the District.”*

179. A.1 PLANNING APPLICATION – 20/00307/DETAIL – TURPINS FARM ELM TREE AVENUE KIRBY LE SOKEN ESSEX CO13 0DA

It was reported that this application had been referred to Planning Committee in accordance with its previous request that all reserved matters applications for this site were to be determined by the Planning Committee. Councillor Turner had also requested that this application be ‘called in’ to the Committee.

The Committee was reminded that the current application sought approval of the reserved matters relating to outline planning permission 16/00031/OUT which had granted planning permission for the erection of up to 210 dwellings with access from Elm Tree Avenue, including green infrastructure, children’s play areas, school drop off and parking facility and other related infrastructure. This application included details of the appearance, landscaping, layout and scale which had not been included as part of the outline. Details of the access had been approved as part of the outline consent.

Members were also reminded that, as established through the granting of outline application 16/00031/OUT the principle of residential development for up to 210 dwellings on this site was acceptable.

In the opinion of the Officers, the detailed design, layout, landscaping and scale were considered acceptable. The proposal would result in no material harm to residential amenity or highway safety.

The application was therefore recommended for approval subject to a legal agreement to secure the necessary financial contribution towards RAMS.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval subject to a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990.

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

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

- (1) Paragraph 6.7 of the Officers Report stated that the proposal included 18 gifted affordable properties, this was not correct. The affordable housing requirement was set out in the Section 106 Agreement linked to the outline consent, but was not to be agreed as part of this application. This matter would be dealt with when discharging the obligations of the Section 106 Agreement.
- (2) Revised plans submitted showing that all plots had garden sizes in accordance with Policy HG9 of the Tendring District Local Plan 2007.

Sam Kazman, the agent acting on behalf of the applicant, spoke in support of the application.

Town Councillor Nick Turner, representing Frinton and Walton Town Council, spoke against the application.

Matters raised by a Committee Member:-	Officer's response thereto:-
A Member of the Committee raised concerns regarding the mundane look of the dwellings compared to the view.	The Planning Officer confirmed that the design had been negotiated and was of a form and quality that was considered acceptable in terms of national and local plan policies..
It was raised by a Member of the Committee the location of the car park and whether this could have been replaced with the children's play area.	The Planning Officer confirmed that the school 'drop off and pick-up car park had been agreed in principle at the outline stage and had been sited as close to the school site as possible to ensure maximum usage by parents.
How big was the open space?	In terms of the adopted policy, 10% of open space was required for a development. In this case, provision was over and above the 10% minimum
Where the properties were located on the southern edge, did they get a view?	Some dwellings will have a view of the estuary but this would be shielded by current foliage and the existing hedgerow to be retained.
Would trees be planted as part of the scheme?	In the edges of the northern end of the site, there were some tree-planting proposals.
	In terms of negotiations, the one proposed point of access was an appropriate form of access from Elm Tree Avenue. From a safety point of view, Walton Road was a concern as it is a derestricted road. A separate access for the school drop off/pick-up car park did not form part of the outline permission and would require planning permission in its own right. A separate access could cause some high issues as a number of other access points nearby and opposite.
A Member of the Committee raised concerns regarding the collection of children from the local school. It was expected that those buying homes from the development would consider this.	
Are there any affordable homes?	The Planning Officer confirmed that this scheme includes 18 gifted units which were agreed as part of the outline approval and are covered by the associated Section 106 agreement.
Will the homes or the car park have electric charging points?	The recommendation includes conditions requiring electric charging points for each dwelling and a requirement for 20% of the sites energy needs to be provided through renewable technologies.

A Member of the Committee asked if the 18 gifted dwellings would be of the same quality and design as the remainder of the development.	The Planning Officer confirmed that the scheme would be tenure blind.
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Following discussion by the Committee, it was moved by Councillor White, seconded by Councillor Baker 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 matter:-
 - Financial Contribution towards RAMS
- b) the conditions stated in section 8.2 of the Officer report and reproduced below.
- c) the Assistant Director (Planning) being 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.

Conditions and Reasons:

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

TW024-PL-02 F
 TW024-PL-03 B
 TW024-PL-04 B
 TW024-PL-05 B
 TW024-PL-07 B
 TW024-PL-08 B
 TW024-PL-09 B
 TW024-PL-10 A
 TW024-NA20-01 00
 TW024-NA22-01 00
 TW024-PA25-01 00
 TW024-NA34-01 00
 TW024-PA34-01 00
 TW024-PA34-02 00
 TW024-PT37-01 00
 TW024-NT42-01 00
 TW024-NT42-02 00 Page 34
 TW024-NA44-01 00
 TW024-NA45-01 00
 TW024-NA51-01 00
 TW024-NA51-02 00
 TW024-WOOD-01 00
 TW024-ST-01 00
 TW027-SS-01 00

TW027-GR-01 00
TW027-GR-02 00
21.5136.01 B
21.5136.02 A
21.5136.03 A
21.5136.04 B
21.5136.05 B
21.5136.06 A
21.5136.07 A
21.5136.08 A
21.5136.09 A
21.5136.10 B
21.5136.11 A
21.5136.12 B
2101470-002
2101470-003
2101470-006
2101470-007 A

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

2 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.

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

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

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

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

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

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

7 Prior to the commencement of any above ground development details of cycle parking for those properties without a garage shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details which 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.

8 Prior to above ground works, a scheme for the provision of electric vehicle charging facilities for the new dwellings 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 dwellings.

Reason: In order to promote sustainable transport.

9 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.

Additionally, that upon completion of the development, the Committee undertakes a site visit.

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.

180. A.3 PLANNING APPLICATION – 21/01411/FUL – LAND ADJACENT THORPE CROSS LODGE 26 FRINTON ROAD THORPE LE SOKEN CLACTON ON SEA ESSEX

It was reported that this application had been referred to the Planning Committee by the Ward Councillor for Thorpe-Le-Soken (Councillor Land) for the following reasons:

- Negative impact on urban design/street scene
- Highways impact and/or other traffic issues
- Negative Impact on neighbours

The Committee was informed that this application sought to alter the wording of Conditions 3, 5, and 6 (occupation conditions) of planning application 21/00028/FUL. The development proposed under application 21/00028/FUL was for the erection of 4 holiday caravans and this had been permitted in August 2021.

The imposed conditions and their reason are summarised accordingly:-

Condition	Reason
3 The use hereby permitted shall be solely for holiday accommodation. No person shall occupy the site for more than 28 consecutive days.	To ensure the site is maintained as a tourist location and not for permanent occupation.
5 No caravan shall be occupied between 1 November and 28 February inclusive in any year.	To ensure that the accommodation remains in holiday use in support of planning policies aiming to encourage tourism and does not become a permanent residential use.
6 Occupation of the caravans is prohibited by those detailed in the Management Strategy (received 14th June 2021); namely no pets are allowed, no children under the age of 16 and no large (6+ people) same-sex groups.	To safeguard the amenities of the adjoining premises.

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

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

Harriet Vincett-Wilson, the agent acting on behalf of the applicant, spoke in support of the application.

Parish Councillor Martyn Cooper, representing Thorpe Parish Council, spoke against the application.

Councillor Dan Land, the local Ward Member, spoke against the application.

Matters raised by a Committee Member:-	Officer's response thereto:-
A Member of the Committee asked if the condition regarding no large same-sex	The Planning Solicitor advised that the Committee, under Section 149 of the

groups was lawful?	Equality Act 2010, must have due regards to eliminate unlawful discrimination against characteristics, particularly a protected characteristic being gender.
It was raised by a Member of the Committee the condition in relation to occupancy for no more than 28 consecutive days. Was there an option for the period to be staggered?	The Planning Officer recommended removing 'consecutive' to allow for a staggered period.
Was the condition for 28 consecutive days of occupancy fair?	The Planning Officer advised that a total of 56 days is suitable which is very much in-line with current national permitted development allowances for temporary uses
A Member of the Committee advised that the application be beneficial for leisure and tourism.	Agreed, the Council supports tourism related development.

Following discussion by the Committee, it was moved by Councillor Harris, seconded by Councillor Bray 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 2nd August 2024.

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:- Y0344-CS-001 REV D, received 23 Dec 2020; Y0344-CS-1250, received 28 Jan 2021; 205687-A-01 REV A, 205687-A-01-AT01, 205687-A-02 REV A received 07 Jun 2021 and the Management Strategy, received 14th June 2021.

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

3 The use hereby permitted shall be solely for holiday accommodation. No person shall occupy the site for more than 56 consecutive days.

Reason - To ensure the site is maintained as a tourist location and not for permanent occupation.

4 The development hereby permitted shall be occupied for holiday purposes only and shall not be occupied as a person's sole or main place of residence. The operators of the site shall maintain an up-to-date register of the names of all occupiers of the holiday let accommodation and of their main home addresses and shall make this information available at all reasonable times to the Local Planning Authority.

Reason - To prevent the use of the site for permanent accommodation in the interests of the tourism economy and local community infrastructure.

5 No caravan shall be occupied for any period of 6 weeks (can be non-continuous) between 1st November and 28th February, in any year.

Reason - To ensure that the accommodation remains in holiday use in support of planning policies aiming to encourage tourism and does not become a permanent residential use.

6 Occupation of the caravans is prohibited by those detailed in the Management Strategy (received 14th June 2021) as submitted and approved by the Council, unless otherwise amended in writing by agreement from the Council.

Reason - To safeguard the amenities of the adjoining premises.

7 Prior to occupation of the development, the road junction / access at its centre line shall be provided with a minimum visibility splay with dimensions of 2.4 metres by 130 metres to the east and 2.4 metres by 121 metres to the west, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

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

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

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

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

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

10 Prior to the occupation of any of the proposed caravans, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Carriageway / Footway / Highway Boundary (no radius kerbs).

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.

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

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

13 The existing access into the site as indicated on block plan (DWG. no. Y0344-CS-001 Rev. D) shall be suitably and permanently closed incorporating the reinstatement to full height of the highway verge / footway / cycleway / kerbing immediately the proposed new access is brought into first beneficial use.

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

14 The public's rights and ease of passage over public footpath no. 14 (Thorpe le Soken_180) 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.

15 Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay. The planting should be retained free of obstruction above 600mm either side of public footpath no. 14 (Thorpe le Soken_180) for the first 5 metres where the internal driveway crosses the PROW.

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.

16 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 if required 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.

17 Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

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

18 Prior to the occupation of the development hereby approved a scheme of soft landscaping shall be submitted to and approved in writing by the local planning authority. The scheme shall incorporate a detailed specification including plant/hedgerow types and sizes.

Reason: To enhance the appearance of the development and in the interests of amenity and privacy.

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

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

Additionally, that condition 5 amended to remove reference to 'continuous' and winter months to be specified by dates rather than generically.

181. A.4 PLANNING APPLICATION – 21/01747/ADV – STARLINGS BLOCK LAND TO THE SOUTH OF HIGH STREET HARWICH ESSEX

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

The Committee was made aware that the application involved the display of four non-illuminated artistic-impressions of the proposed re-development of the site, as approved under application 21/01145/FUL.

Members were informed that the site was within the Dovercourt Conservation Area and an area subject to regeneration. The principle of development was acceptable subject to the detailed consideration below.

The proposal would not result in any material harm to 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.

Following discussion by the Committee, it was moved by Councillor Bray, seconded by Councillor Baker and **RESOLVED** that the Assistant Director (Planning) (or equivalent authorised officer) be authorised to grant advertisement consent, subject to the following conditions and informatives:-

Conditions and Reasons:

1 All advertisement consents are subject to five standard conditions specified in Schedule 2 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 which are as follows: -

1. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

2. No advertisement shall be sited or displayed so as to:

(a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);

(b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or

(c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

3. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

4. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

5. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Additionally all advertisement consents are for a fixed term of 5 years unless this period is varied on the formal decision notice.

Informatives

Application Approved Without Amendment

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

The Highway Authority reserves the right under Section 152 of the Highways Act, 1980 to remove or alter any sign overhanging or adjacent to the highway which is considered to be an obstruction or a hazard to the safe and convenient passage of the public in the highway.

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

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

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

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

The proposed works, particularly to the external surface area, directly abuts to the back of the footpath. This is public highway and the construction work must be carried out

The meeting was declared closed at 9.25 pm

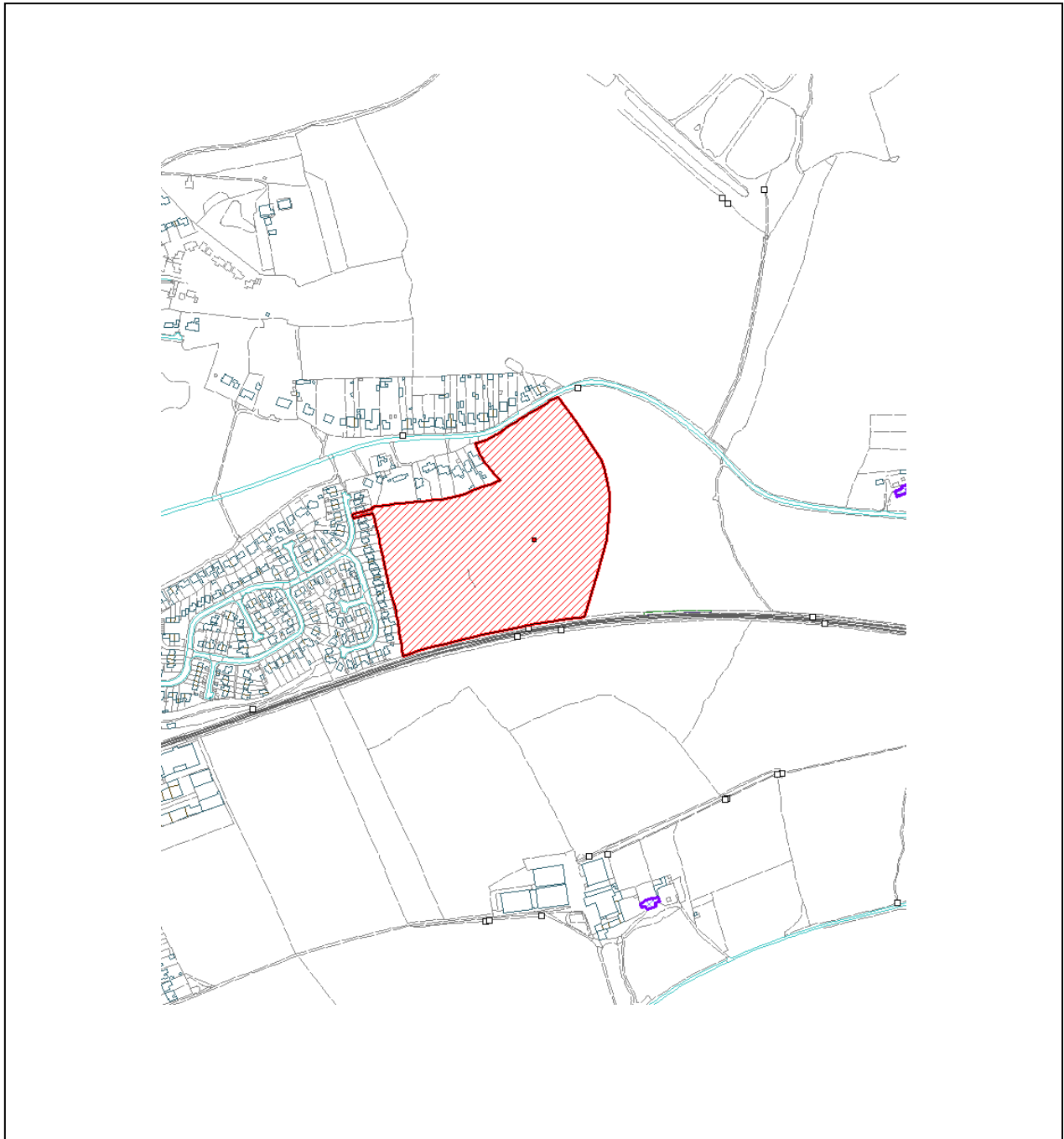
Chairman

PLANNING COMMITTEE

21st December 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.1 PLANNING APPLICATION – 21/01257/OUT – LAND TO THE SOUTH OF WEELEY ROAD AND TO THE EAST OF BIRCH AVENUE AND PINE CLOSE GREAT BENTLEY



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Application: 21/01257/OUT

Town / Parish: Great Bentley Parish
Council

Applicant: Taylor Wimpey London

Address: Land to The South of Weeley Road and to The East of Birch Avenue and Pine Close Great Bentley

Development: Variation of condition 12 of application 17/01881/OUT (allowed on appeal APP/P1560/W/19/3231554) to remove the reference within condition 12 which requires the pedestrian/cycle link between the site and Birch Avenue to be 3 metres in width. Also allowing for this link between the site and Birch Avenue to be a pedestrian link only.

1. Executive Summary

- 1.1 This application is referred to Planning Committee at the request of the Assistant Director of Planning as the original outline application 17/01881/OUT was refused by the Local Planning Authority and the decision was overturned by the Planning Inspectorate. Within that appeal decision the Planning Inspector included a Planning Condition (no 12) that ensured the 'link' to Birch Avenue from the host site would be 3m wide and a pedestrian and cycle link.
- 1.2 The current application seeks vary condition 12 of application 17/01881/OUT (allowed on appeal APP/P1560/W/19/3231554) to remove the reference within condition 12 which requires the pedestrian/cycle link between the site and Birch Avenue to be 3 metres in width and also allowing for this link between the site and Birch Avenue to be a pedestrian link only. This is because the applicant has discovered there is not 3m between 74 Birch Avenue and 76 Birch Avenue to construct such a link.
- 1.3 As established through the granting of outline application 17/0881/OUT the principle of residential development for up to 136 dwellings on this site is acceptable. Within this application it is considered acceptable that the footpath link between the host site and Birch Avenue can be under 3m in width and pedestrian only as this shall provide benefits to pedestrian safety when using the link rather than sharing the link with cyclists riding their bikes through. Cyclists will be allowed to use the link although they would be allowed to walk their bikes through the link.
- 1.4 The detailed design and layout is considered acceptable. The proposal would not result in any significant material harm to residential amenity or highway safety and would still support sustainable means to access to the village.
- 1.5 The application is, therefore recommended for approval subject to a legal agreement to secure the management of the footpath link, Public Open Space, Drainage features, landscaping and maintenance of the non-adopted highway network. These latter elements are assessed more fully in the Reserve matters application 21/00977/DETAIL.

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):**

Drainage

- ensuring the drainage feature outside the red line boundary is linked to this application and has to be constructed and fully operational before any dwelling on the host site is occupied.
- the long-term maintenance of the drainage feature outside of the red line boundary

Landscape Management Company to include maintenance of:

- Link Path to Birch Avenue inc fencing
- Non adoptable Highway (roads and pavements)
- Landscaping Buffers and wider landscaping inc pedestrian link to the North East)
- Public Open space

- 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.

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)

QL2	Promoting Transport Choice
QL3	Minimising and Managing Flood Risk
QL12	Planning Obligations
HG3	Residential Development Within Defined Settlements
HG3A	Mixed Communities
HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
COM2	Community Safety
COM4	New Community Facilities (Including Built Sports and Recreation Facilities)
COM6	Provision of Recreational Open Space for New Residential Development
COM21	Light Pollution
COM23	General Pollution
COM29	Utilities
COM31A	Sewerage and Sewage Disposal
EN1	Landscape Character
EN2	Local Green Gaps
EN4	Protection of the Best and Most Versatile Agricultural Land
EN6	Biodiversity
EN6A	Protected Species
EN6B	Habitat Creation
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
EN12	Design and Access Statements
EN13	Sustainable Drainage Systems

- 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) (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)
- SP4 Meeting Housing Needs
- SP6 Infrastructure and Connectivity
- SP7 Place Shaping Principles

Relevant Section 2 Policies (emerging)

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- HP1 Improving Health and Wellbeing
- HP2 Community Facilities
- HP5 Open Space, Sports & Recreation Facilities
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- PPL1 Development and Flood Risk

- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, drainage and sewage
- PPL10 Renewable Energy Generation
- CP1 Sustainable Transport and Accessibility
- CP2 Improving the Transport Network

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Status of the Local Plan

Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).

The 'development plan' for Tendring comprises, in part, the 'saved' policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 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.

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. On 24th November 2021, the Council received the Planning Inspectors' final report on the legal compliance and soundness of Section 2 of the emerging Local Plan. The report has confirmed, that with the inclusion of a number of 'Main Modifications' (which have already been the subject of formal public consultation), the Plan is legally compliant and sound and can now proceed to adoption. The report is due to be considered by the Planning Policy and Local Plan Committee on 11th January 2022 which is likely to recommend adoption of the Section 2 Local Plan to Full Council on 25th January 2022. On adoption, the new Section 2 Local Plan will join the new Section 1 Local Plan to form the 'development plan' for Tendring and the old 2007 Local Plan will be superseded in full.

Now that the Inspectors' final report is received, the Section 2 Local Plan has virtually reached the final stage of preparation, all objections have been resolved and the Inspector

has confirmed that the Plan is sound and therefore in conformity with the Framework. For these reasons, Officers now advise that the emerging Plan should now carry 'almost full weight' in decision making.

Until the new Local Plan is adopted in January 2022, the 2007 adopted Local Plan, legally, will still form part of the 'development plan' and there will still be a requirement to refer to the 2007 Local Plan in decision making. However, the level of weight to be afforded to the policies in the 2007 Plan is reduced to very limited weight given that a more up to date Plan has progressed to such an advanced stage of the plan making process.

In relation to housing supply:

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

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

3. Relevant Planning History

17/01881/OUT	Outline planning permission for up to 136 dwellings, informal recreation space, a local area of play and associated development.	Refused	21.12.2018
20/01176/OUT	Removal of condition 4d for planning application 17/01881/OUT (allowed at appeal APP/P1560/W/19/3231554) as off-site works no longer required.	Approved	30.11.2020
21/30012/PREAPP	Pre-application for Reserved Matters further to Outline Planning Permission reference APP/P1560/W/19/3231554 in relation to 17/01881/OUT for the residential development for up to		10.03.2021

	136 dwellings, informal recreation space, a local area of play and associated development.	
21/00977/DETAIL	Proposed application for approval of all reserved matters including access, layout, scale, appearance and landscaping in relation to outline planning application for up to 136 dwellings, allowed on appeal (ref APP/P1560/W/19/3231554) dated 15/05/2020.	Current
21/00978/FUL	Proposed engineering operations required in support of application for Reserved Matters submitted on adjacent land (136 dwellings) including attenuation basin, public footpath, access visibility and construction access.	Current
21/01257/OUT	Variation of condition 12 of application 17/01881/OUT (allowed on appeal APP/P1560/W/19/3231554) to remove the reference within condition 12 which requires the pedestrian/cycle link between the site and Birch Avenue to be 3 metres in width. Also allowing for this link between the site and Birch Avenue to be a pedestrian link only.	Current
21/01947/DISCON	Discharge of Conditions 11 (Noise survey) and 13 (Bat survey) of application APP/P1560/W/19/3231554 (17/01881/OUT)	Current
21/01949/DISCON	Discharge of Condition 10 (Contamination assessment) of application APP/P1560/W/19/3231554.(17/01881/OUT)	Current
21/02025/DISCON	Discharge of conditions 6 (foul water strategy) and 7 (detailed surface water drainage scheme) of application 17/01881/OUT,	Current

allowed on appeal
APP/P1560/W/19/3231554.

4. Consultations

Natural England
16.11.2021

Natural England is not able to fully assess the potential impacts of this proposal on statutory nature conservation sites or protected landscapes or, provide detailed advice on the application. If you consider there are significant risks to statutory nature conservation sites or protected landscapes, please set out the specific areas on which you require advice.

The lack of detailed advice from Natural England does not imply that there are no impacts on the natural environment. It is for the local authority to determine whether or not the proposal is consistent with national and local environmental policies. Other bodies and individuals may provide information and advice on the environmental value of this site and the impacts of the proposal on the natural environment to assist the decision making process.

ECC Highways
09.12.2021

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 and lengthy discussions with the Local Planning Authority. The residential dwelling has always been in third party ownership and we cannot insist on its demolition, the previous driveway to this property is only in the control of the developer who has maximised what is in its ownership and it is believed that this latest design does achieve this by providing a 2.5-metre-wide link for the majority of its length; the Essex Design Guide does stipulate that where new footways are provided, they should be a minimum 2 metres in width. Where shared footway/ cycleways links are deemed appropriate, they should be a minimum 3 metres wide, where the link is bounded by a building, wall of fence, it should be widened on that side by 0.5 metres, considering these factors:

It is noted that this application concerns variation of Condition 12 only, as such the Highway Authority does not object to the proposals as submitted in accordance with amended drawing no. 48737/C/006 Rev. L.

Note: It is on the understanding that the Highway Authority will not be adopting the link between the development and Birch Avenue.

Informative 1:

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

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

SMO1 – Development Management Team

Ardleigh Depot,

Harwich Road,

Ardleigh,

Colchester, CO7 7LT

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

Essex Police
16.11.2021

The applicant and the Essex Police have been involved in constructive consultation; Essex Police is content the ethos of Crime Prevention Through Environmental Design (CPTED) is being addressed adequately within this development.

5. Representations

5.1 Great Bentley Parish Council object to the application for the following reasons:

The Planning Inspector specified that it was a fundamental condition of appeal for the pedestrian/cycle link between the site and Birch Avenue to be 3 metres in width as a matter of safety. This Council feels that appeal conditions should not be ignored.

5.2 19 letters of objection have been received which raise the following concerns regarding the proposal:

- The plans continue to show the pedestrian / cycle link downgraded to a 1.9m pedestrian footpath. This is contrary to what the Planning Inspector requested.
- The link to Birch Avenue should be wide enough to provide a safe and convenient route for all users, pedestrians, cyclists, prams, mobility scooters.
- Visibility is a major safety issue for this access
- The chicane would restrict prams, mobility vehicles and wheel chairs
- There is no footpath along Weeley Road and no safe cycle routes
- The fence either side of the path is intimidating
- Cyclists will ignore the request to dismount
- The path is below National and County Highway Standards for a footpath and below levels for cyclists
- Visibility is restricted when large vehicles park on the neighbouring driveways
- The neighbours will be unable to access their drains or services by the side of their houses
- The neighbouring proprietaries will not be able to complete any maintenance to their houses
- There is not sufficient space in front of 74 Birch Avenue to park a car off street
- How will Covid social distancing be maintained via a 2m path
- Lack of security
- Vandalism in the local area
- Reduction in the levels of enjoyment of residential dwellings nearby
- Does not meet the Planning Inspectors objectives
- A Restrictive Covenant is in place for 74 and 76 preventing any fencing beyond the front elevation of the houses
- The 3 metre access within 74 is unachievable unless Taylor Wimpey carry out changes to services for 74 and drainage affecting both properties. Something the developer appears reluctant to do.
- The access should conform to Highways guidance
- The Inspector made his decision having had sight of a copy of option agreements to purchase 74 Birch Avenue and not based on an agreement to buy only the garage of 74 Birch Avenue.
- An accessible cycle link to the amenities within the village was a key factor in determining the appeal
- The developers should obtain and use the additional land that was available at the time of the appeal hearing
- No clear line of sight down the length of the passageway. The points where it narrows to 2m will be blind spots and pedestrians are likely to feel unsafe, especially at night

- Families with children and pushchairs as well as mobility scooters will require access to the village via the route. A reduction in the width of the access will restrict movement and present risk because residents will be forced to access the village via Weeley Rd due to the restricted width of the path into Birch Avenue
- No evidence has been put forward to permit the narrower path
- To encourage sustainable transport choices from a young age and throughout life the 3 metre path should be retained
- A narrower footpath will lead to more incidents and injuries.
- Wider path would be more in keeping with the open feeling of the area, less intimidating, safer and more acceptable to residents.
- The development will increase the volume of traffic in an already congested village, a wider path to Birch Avenue will make alternative transport modes more appealing
- Other cycle paths locally are over 1.9metres in width; at Brightlingsea Church and near Weeley Council offices
- How is a 1.9 meter width path wide enough and safe enough for both pedestrians and cyclists to use?
- Who will manage the link

6. **Assessment**

6.1 Site Context

6.2 The host site is located on the eastern side of Great Bentley and found within the emerging settlement boundary of Great Bentley. The area consists of a rectangular open field, presently used for arable farming, measuring approximately 7.7 hectares. The site is bounded on the northern side, in part, by the Weeley Road with the remainder of this boundary being formed by the rear boundaries of the residential curtilages of the dwellings that front the Weeley Road on its southern side. The western boundary is formed by residential properties in Pine Close and Birch Avenue whilst to the south the site is bounded by a railway line, beyond which is agricultural land and the open countryside. Agricultural land and open countryside also bound the site to the east.

6.3 The prevailing pattern of the properties that front the Weeley Road is one of a linear form of development that is rural in nature. The dwellings to the west along Pine Close and Birch Avenue have a more urban and built up feel although, the nature and the predominant character of the area is rural in its nature. Given this land was subject of an approved outline application in 2019 via application 17/01881/OUT, the land has been allocated as being within the settlement development boundary of the emerging local plan. The host site is not neighbouring or near to any Listed Building. The far north western corner of the site is adjacent to the boundary with the Great Bentley Conservation Area. There are no protected trees along within the vicinity of the site. The site slopes steadily downwards from the north west to the south east. There is an approximate fall of 4.5m over a distance of 355m and no public rights of way across the site.

6.4 The specific area of the host site in question that relates specifically to this application is on the far west of the site and involves the space between 74 and 76 Birch Avenue. In particular, the driveway, garage and rear garden space of 74 Birch Avenue that

leads into the main site to the east. Birch Avenue itself is a typical modern housing estate circa 1970's in age the houses are mostly semi-detached two storey dwellings or bungalows.

Planning History

- 6.5 Originally, the Local Planning Authority objected to the principle of the development and refused the application under delegated powers. However, outline planning permission (Ref: 17/01881/OUT) was granted with all matters reserved (layout, access, scale, appearance and landscaping) for up to 136 dwellings, informal recreation space, a local area of play and associated development following an appeal on 15th May 2020 (APP/P1560/W/19/3231554). Within the appeal decision the Planning Inspector permitted in principle a pedestrian / cycle link to be established within the curtilage of 74 Birch Avenue via Condition 12.
- 6.6 As part on the original outline approval there were 18 planning conditions attached these are summarised below.

OUTLINE APPLICATION CONDITIONS 15/00876/OUT		Timing
1	Reserved Matters- appearance, landscaping, layout, access and scale	Reserved Matter
2	Time Frame For Reserved Matters	Three Years post Decision – Must commence 2 Years after the last Reserve Matter application
3	Approved Plans	Reserve Matters
4	Access, Layout and Ecological Requirements	Reserve Matters
5	Construction Method Statement	Prior to Commencement
6	Foul Water Strategy	Prior to Commencement
7	Surface Water Drainage	Prior to Commencement
8	Surface Water Runoff	Prior to Commencement
9	Surface Water Drainage Management	Prior to Commencement
10	Land Contamination Assessment	Prior to Commencement
11	Railway Noise Survey	Prior to Commencement
12	Footpath Link to Birch Avenue and Public Footpath 11 to the North East	Prior to Commencement
13	Bat Survey	Prior to Commencement
14	Travel Information Packs	Prior to Commencement
15	Driveways to be porous material	Compliance
16	Unbound material near highways	Compliance
17	Parking Sizes	Compliance
18	Site clearance	Bird survey Dependant

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

- On-site Affordable Housing (30% of the overall development)
- Health contributions
- Education contribution
- Provision of open space including a locally equipped area of play and the need to secure its future management
- RAMS payments, index linked. Therefore, any uplift in required payments over time has been factored into the payment.

Proposal

6.9 This application is a Variation of condition 12 of application 17/01881/OUT (allowed on appeal APP/P1560/W/19/3231554) to remove the reference within condition 12 which requires the pedestrian/cycle link between the site and Birch Avenue to be 3 metres in width. Also allowing for this link between the site and Birch Avenue to be a pedestrian link only.

6.10 Separate to this application there are two other applications being considered, one a Reserve Matters application regarding the host site. The other an application for drainage features on the neighbouring field to the east of the host site. All three applications are listed below, only 21/01257/OUT is assessed in this report.

- 21/01257/OUT (Host Application)

Variation of condition 12 of application 17/01881/OUT (allowed on appeal APP/P1560/W/19/3231554) to remove the reference within condition 12 which requires the pedestrian/cycle link between the site and Birch Avenue to be 3 metres in width. Also allowing for this link between the site and Birch Avenue to be a pedestrian link only

- 21/00977/DETAIL (Reserve Matters Application – Not dealt with under this report)

Proposed application for approval of all reserved matters including access, layout, scale, appearance and landscaping in relation to outline planning application for up to 136 dwellings, allowed on appeal (ref APP/P1560/W/19/3231554) dated 15/05/2020

- 21/00978/FUL (Drainage features on the field to the east of the host site - Not dealt with under this report)

Proposed engineering operations required in support of application for Reserved Matters submitted on adjacent land (136 dwellings) including attenuation basin, public footpath, access visibility and construction access.

Principle of Development

- 6.11 The principle of development has been established by the granting of outline planning application 17/01881/OUT (allowed on appeal APP/P1560/W/19/3231554).
- 6.12 The original outline permission included one specific condition that needs to be complied with under any Reserve Matter application, namely Condition 12.
- 6.13 Condition 12, that states:

'12) No development shall commence until details of the:

a) Proposed pedestrian/cycle link between the site and Birch Avenue; and

b) A suitable pedestrian/cycle connection between the site and the existing Public Footpath Number 11 to the north east have be submitted to and agreed in writing by the Local Planning Authority. The proposed pedestrian/cycle link between the site and Birch Avenue shall be within the curtilage of 74 Birch Avenue and shall be 3 metres in width. The approved details of a) and b), as set out above, shall be completed in accordance with the approved details prior to occupation of any dwelling hereby permitted. Thereafter the pedestrian/cycle link between the site and Birch Avenue and the pedestrian/cycle connection between the site and the existing Public Footpath Number 11 to the north east shall be retained as such in perpetuity.'

- 6.14 The proposal is to change the wording to the following (words to be deleted highlighted below):

'12) No development shall commence until details of the:

a) Proposed pedestrian/~~cycle~~ link between the site and Birch Avenue; and

b) A suitable pedestrian/cycle connection between the site and the existing Public Footpath Number 11 to the north east have be submitted to and agreed in writing by the Local Planning Authority. The proposed pedestrian/~~cycle~~ link between the site and Birch Avenue shall be within the curtilage of 74 Birch Avenue ~~and shall be 3 metres in width~~. The approved details of a) and b), as set out above, shall be completed in accordance with the approved details prior to occupation of any dwelling hereby permitted. Thereafter the pedestrian/~~cycle~~ link between the site and Birch Avenue and the pedestrian/cycle connection between the site and the existing Public Footpath Number 11 to the north east shall be retained as such in perpetuity.'

- 6.15 At the time of writing there has been a separate Reserved Matters application submitted to approve the details of the application on site. However, that application must conform to the approved Outline planning conditions. Therefore, the only way a narrower footpath for pedestrians only can be achieved on the host development is if there is agreement to a Variation of Conditions application to the original Outline approval.

This application is exactly that, a variation of conditions application of the original approved outline conditions set by the Planning Inspector via within appeal APP/P1560/W/19/3231554 relating to application 17/01881/OUT. This application must be decided before the Reserved Matters application can be assessed. If this host application fails then the applicant shall not be able to implement the permission and shall either have to amend the scheme or appeal to the Planning Inspector again to achieve the narrower footpath link.

- 6.16 Nonetheless, the principle of a 3m wide pedestrian and cycle link within the curtilage of 74 Birch Avenue was agreed via the original outline approval of application 17/01881/OUT. The narrowing of this access and for the access to become pedestrian only is what is being considered in this application and that alone.

Assessment

- 6.17 The principal issues are:

- Access
- Section 106 of the Town and Country Planning Act 1990

Access

- 6.18 Within the original outline decision, the Planning Inspector emphasised the need to connect the new development with the rest of the village via a path (or “Link” as it was referred to) which would accommodate both pedestrians and cyclists. Such comments were made in the following paragraphs of the appeal decision:

- *Paragraph 28: “The Link would be likely to improve the connectivity of the site with the wider village, bringing many of the facilities and services within a reasonable walking distance.*
- *Paragraph 29: “As such I consider The Link would reduce the reliance of occupiers of the site on motor vehicles and provide them with a realistic alternative, being walking or cycling, into the village to access its facilities and services. On this basis, the development site would have an acceptable level of accessibility to Great Bentley ...”.*
- *Paragraph 30: “... with the provision of The Link referred to above, the site would be within a reasonable walking distance of the facilities and services within the village.*
- *Paragraph 56: The Link would enhance access to the open/public amenity space within Great Bentley, as well as improving connectivity with Public Right of Way ... which is located on the southern side of the site and accessed via Pine Close and a pedestrian rail crossing point”.*
- *Paragraph 87: “For reasons of sustainability, improved connectivity and ensuring access to the wider public open space there is a need to secure The Link between the site and Birch Avenue,”*

- 6.19 Therefore, it is clear such a link must remain in place. Indeed, within the Outline application the Inspector says at Paragraph 28, that:

'...the submitted Land Use Parameter Plan (Drawing Number: 9600 Rev A) shows a pedestrian/cycleway link (The Link) that leads from the site through to Birch Avenue. The Link lies within the red line of the site plan (Drawing Number: 9000 Rev A) and indicative plan, Drawing Number SK.01, provides an illustration as to how it could be provided.'

6.20 This 'link' is clearly between the properties of 74 and 76 Birch Avenue, indeed it is within the Red line Site plan of the original application, Drawing Number: 9000 Rev A. Therefore, this shows that the 'link' was intended to be between 74 and 76 Birch Avenue. The initial outline application 17/01881/OUT included part of 76 Birch Avenue within the red line boundary (notice was served on 76 Birch Avenue). The residents of 76 Birch Avenue objected to the original application and continue to object strongly to the proposals. However, the Inspector granted permission on the knowledge that the path would be installed in this location (evidenced by the Parameter Plan). This judgement cannot be revisited as part of this application. However, the width of this 'link' and who uses it can be assessed.

6.21 The applicant proposes to keep this vital link in place but wishes to reduce the width of the link and plans for the link to be used by pedestrians only. The applicant has said:

'Since the grant of the outline consent, Taylor Wimpey are now progressing a Reserved Matters application and have undertaken further site investigations and surveys accordingly. This work has highlighted that the land available for providing the connection through to Birch Avenue is in fact only 2.5m at the widest point between Nos 74 and 76 Birch Avenue, and 2.0m at its narrowest point. The specific requirements of Condition 12 are therefore unable to be met in respect of it requiring the link to be 3 metres in width.'

6.22 Officers would stress that this does not mean cyclists cannot use the link, however, they must dismount and push their bikes through the 30m section. Of this new arrangement Essex Highways has said;

'...this latest design does achieve this by providing a 2.5-metre-wide link for the majority of its length; the Essex Design Guide does stipulate that where new footways are provided, they should be a minimum 2 metres in width. Where shared footway/cycleways links are deemed appropriate, they should be a minimum 3 metres wide, where the link is bounded by a building, wall of fence, it should be widened on that side by 0.5 metres'

6.23 In this case therefore, a 2m wide footpath would achieve the minimum width for a pedestrian only footpath. Indeed, the width is actually 2.5m wide other than where the footpath passes the host dwelling (74 Birch Avenue) where it is 2m wide. As the path is a pedestrian link only it does not require the widening by 0.5m the link is bounded by a building, wall of fence. There is a small amount of space beyond the footpath edges before fence line is reached for drainage. This measures between 100mm to 300mm thick in places. Therefore, the actual width of fence to fence within the footpath on plan is slightly greater than the 2m and 2.5m indicated. Although the physical footpath will be limited to either 2.5m or 2.0m throughout the link. There is a chicane and either end of the footpath that would allow all footpath uses including

mobility scooters, wheelchairs and prams to pass. Cyclist could also pass but they must dismount from their bikes and walk their bicycles through this stretch.

- 6.24 In terms of the secondary access to Birch Avenue to the west of the site, there has been a large level of objection to the narrowing of this access and the conversion of the access into a pedestrian only access from being a pedestrian and cycle link. However, the plans have been carefully assessed by both ECC Highways and Essex Police. Neither have offered any objection to the arrangement. The pedestrian link will allow cyclist through, however, they will be encouraged to dismount at the entrances to the link and walk their bikes through. Indeed, one could say physically pushing a bike along this section of path could aid pedestrian safety. Originally it was intended to have cycles along a section of the link and footpath on the remaining width. This could have caused difficulties if two cycles met travelling in different directions. Furthermore, the modern electric powered bikes travel at significantly faster speeds than traditional cycling. Thus, having cyclist dismount and push their bikes along this small stretch would appear sensible. Indeed, Officers view the path to be safer for small children especially if cyclists dismount through this stretched. Officers recommend a condition for a sign to erected on the chicane entering the footpath, that cyclists dismount.
- 6.25 With regards to the impact of the footpath on residential amenity with the most effected neighbours at 76 Birch Avenue, officers have sympathy with this neighbours concerns. Ultimately, the principle of the link was accepted by the Inspector (originally the LPA refused the scheme, and this decision was overturned). Irrespective of whether the link would be 3m or less in width, the issue of how to best erect a boundary treatment between the two sides would have to be addressed. What has been put forward is in Officers option the best option for retaining privacy, accessing household services, ensuring highway safety and ultimately, pedestrian management, through this link to the footpaths beyond. Officers are aware of a legal 'covenant' set when the properties on Birch Avenue were first built forbidding any fencing built forward of the front building line. However, this is civil matter and has no bearing on Planning law or the decision making in this case.
- 6.26 The maintenance of the 'link' including the fencing and any upkeep required will be transferred to a management company. This shall be included within the updated legal agreements. The details of the external street lighting, including that to be provided to any dedicated pedestrian paths and within the site itself, shall be covered by the Reserve Matters application. In terms of drainage, this would still be covered by the original drainage condition (no. 7) of the outline permission that says:

'7) No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include but not be limited to:

a) Limiting discharge rates to the 1 in 1 greenfield rate calculated from the area draining to the surface water drainage network for all events up and including the 1 in 100 year rate plus 40% allowance for climate change. The run-off rate should be no higher than 1l/s;

- b) Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event. Any surface water drainage system should have a suitable half drain time;*
- c) Final modelling and calculations for all areas of the drainage system;*
- d) Further details in regard to the outfall from the site showing how surface water will be conveyed to the ditch proposed to discharge into;*
- e) The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753;*
- f) Detailed engineering drawings of each component of the drainage scheme;*
- g) A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features; and*
- h) A written report summarising the final strategy and highlighting any minor changes to the approved strategy.*

The scheme shall subsequently be implemented in accordance with the approved details and programme for delivery and thereafter retained.

Reason - The scheme shall subsequently be implemented in accordance with the approved details and programme for delivery and thereafter retained.

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

6.27 Therefore, no additional drainage condition is required and the proposal to vary the Planning condition to the following wording, is supported:

Proposed wording of Condition 12:

'No development shall commence until details of the:

- a) Proposed pedestrian link between the site and Birch Avenue; and*
- b) A suitable pedestrian/cycle connection between the site and the existing Public Footpath Number 11 to the north east have be submitted to and agreed in writing by the Local Planning Authority. The proposed pedestrian link between the site and Birch Avenue shall be within the curtilage of 74 Birch Avenue. The approved details of a) and b), as set out above, shall be completed in accordance with the approved details prior to occupation of any dwelling hereby permitted. Thereafter the pedestrian link between the site and Birch Avenue and the pedestrian/cycle connection between the site and the existing Public Footpath Number 11 to the north east shall be retained as such in perpetuity.'*

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'

- 6.28 There is space to park one vehicle at a slight angle in front of the host property 74 Birch Avenue. However, this lies outside the red line of this application or blue land ownership so this cannot be enforced within this application. In any event the loss of the parking spaces for 74 Birch Avenue has been considered by the Planning Inspector given the location of the footpath on the Parameter Plan and the red line area of the original location plan. As on street parking is not a significant concern in this location no objection is raised.

Section 106 of the Town and Country Planning Act 1990 and Viability Matters

- 6.29 A legal agreement was secured at outline stage requiring:

- On-site Affordable Housing (30% of the overall development)
- Health contributions
- Education contribution
- Provision of open space including a locally equipped area of play and the need to secure its future management
- RAMS payments, index linked. Therefore, any uplift in required payments over time has been factored into the payment.

- 6.30 This legal agreement and all conditions on the outline consent will still apply. The additional legal agreement (Deed of Variation) shall ensure the following:

Landscape Management Company to include maintenance of:

- Link Path to Birch Avenue inc fencing

The other elements mentioned below are to be added to the Deed of Variation, this is covered in the associated Reserve Matters application 21/00798/FUL.

Landscape Management Company to include maintenance of:

- Non adoptable Highway (roads and pavements)
- Landscaping Buffers and wider landscaping inc pedestrian link to the North East)
- Public Open space

Drainage

- ensuring the drainage feature outside the red line boundary is linked to this application and has to be constructed and fully operational before any dwelling on the host site is occupied.
- the long-term maintenance of the drainage feature outside of the red line boundary

Other Matters

- 6.31 None of the original conditions have been discharged therefore, the decision notice replicates that of the original other than the change to the Highway condition, subject of this application.

7. Conclusion

- 7.1 As established through the granting of outline application 17/01181/OUT, at appeal, the principle of residential development for up to 136 dwellings on this site is acceptable. The provision of a link to Birch Avenue was a fundamental factor for the Planning Inspector in approving the application at appeal. The proposed changes remove the possibility of free flowing cyclists on the link by making the link a pedestrian link only.

Cyclists could still walk their cycles the short distance through this access so sustainable forms of transport can still take place from the host site. Indeed, Officers view the path to be safer for small children especially if cyclists dismount through this short section of the link. The detailed design, appearance and layout of this access is considered acceptable. The proposal would result in no significant material harm to residential amenity or highway safety.

- 7.2 The application is, therefore recommended for approval subject to the legal agreement updates and planning conditions listed below.

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 to link this application to the original approval and include within the agreement the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Drainage	<ul style="list-style-type: none">ensuring the drainage feature outside the red line boundary is linked to this application and has to be constructed and fully operational before any dwelling on the host site is occupied.the long-term maintenance of the drainage feature outside of the red line boundary
Landscape Management Company to include maintenance of:	<ul style="list-style-type: none">Link Path to Birch Avenue inc fencingNon adoptable Highway (roads and pavements)

	<ul style="list-style-type: none"> • Landscaping Buffers and wider landscaping inc pedestrian link to the North East) • Public Open space
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8.2 Conditions and Reasons

1. Details of the access, appearance, landscaping, layout and scale (hereinafter called “the reserved matters”) shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.

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

2. 2) Application for approval of the reserved matters shall be made to the Local Planning Authority no later than the expiration of three years beginning with the date of the grant of this outline permission; and the development to which this permission relates must be begun no later than the expiration of two years from the date of approval of the last of the reserved matters to be approved.

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

3. The proposed development shall be carried out in accordance with the following approved plans: 9000 Rev A (Site Location Plan) and 9600 Rev A (Parameter Plan - Land Use) but only in respect of those matters not reserved for later approval.

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

4. Details of the reserved matters, submitted pursuant to Condition 1 above, shall include: Full details of access including the following measures:

- a) The provision of a right turn in Weeley Road;
- b) The provision of a 2 metre wide footway along the Weeley Road frontage of the site between the proposed access road and the western boundary of the site;
- c) The provision of a 2 metre wide walkable grass verge to be dedicated as highway land along the Weeley Road frontage of the site between the proposed access road and the eastern boundary of the site;
- e) The provision of a 0.5 metre wide overhang strip adjacent to the carriageway.

Full details of appearance, including the following measures:

i) The bat roost features to be incorporated into the fabric of the dwellings, hereby permitted, in accordance with the recommendation made at Paragraph 6.8 of the applicant's Preliminary Ecological Assessment (October 2017).

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. Also, in order to safeguard protected wildlife species and their habitats and in the interests of biodiversity.

5. No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the Local Planning Authority. The approved CMS shall be adhered to throughout the construction period. The CMS shall provide for:
 - a) The parking of vehicles of site operatives and visitors;
 - b) Loading and unloading of plant and materials;
 - c) Storage of plant and materials used in constructing the development; and
 - d) Wheel and under body washing facilities.

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

6. No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy approved pursuant to this condition. The foul water strategy shall thereafter be maintained in accordance with the approved details.

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

7. No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include but not be limited to:
 - a) Limiting discharge rates to the 1 in 1 greenfield rate calculated from the area draining to the surface water drainage network for all events up and including the 1 in 100 year rate plus 40% allowance for climate change. The run-off rate should be no higher than 1l/s;
 - b) Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event. Any surface water drainage system should have a suitable half drain time;
 - c) Final modelling and calculations for all areas of the drainage system;

d) Further details in regard to the outfall from the site showing how surface water will be conveyed to the ditch proposed to discharge into;

e) The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753;

f) Detailed engineering drawings of each component of the drainage scheme;

g) A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features; and

h) A written report summarising the final strategy and highlighting any minor changes to the approved strategy

Reason: - The scheme shall subsequently be implemented in accordance with the approved details and programme for delivery and thereafter retained.

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

8. 8) No works shall take place until a scheme to minimise the risk of off-site flooding and the prevention of pollution, caused by surface water run-off and groundwater during construction works, have been submitted to, and approved in writing by, the Local Planning Authority. The scheme approved pursuant to this condition shall be implemented in accordance with the approved details prior to works commencing on site and shall be maintained throughout the construction works.

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. No works shall take place until a Maintenance Plan detailing maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and approved, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided. The applicant or any successor in title shall maintain yearly logs of maintenance which shall be carried out in accordance with the approved Maintenance Plan. These yearly logs of maintenance shall be made available for inspection upon request by the Local Planning Authority.

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

10. No development shall commence until an assessment of the risks posed by any contamination, 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), has been submitted to and approved in writing by the Local Planning Authority (LPA). 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 LPA. The site shall be remediated in accordance with the measures and timescale approved and a verification report confirming the site has been remediated in accordance with the approved details shall be submitted to and approved in writing by the LPA. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the LPA. 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 LPA within 21 days of the report being completed and shall be approved in writing by the LPA.

Reason - To protect future residents against any potential contaminants present on the site.

11. No development shall commence until a noise survey (undertaken by a competent person) for the proposed residential properties that are adjacent to the railway has been submitted to, and approved in writing by, the Local Planning Authority. The noise survey shall meet the requirements of BS 8233:2014, include periods for daytime 0700-2300 hours and night-time 2300-0700 hours, and propose appropriate mitigation measures should such measures be required. The development shall be carried out in accordance with the approved noise survey and any agreed mitigation measures shall be installed prior to first occupation and thereafter retained in perpetuity.

Reason - In order to safeguard the amenities of adjoining residential occupiers and the details are needed prior to the start of work so that measures can be incorporated into the build.

12. No development shall commence until details of the:

- a) Proposed pedestrian link between the site and Birch Avenue; and

- b) A suitable pedestrian/cycle connection between the site and the existing Public Footpath Number 11 to the north east have be submitted to and agreed in writing by the Local Planning Authority. The proposed pedestrian link between the site and Birch Avenue shall be within the curtilage of 74 Birch Avenue. The approved details of a) and b), as set out above, shall be completed in accordance with the approved details prior to occupation of any dwelling hereby permitted. Thereafter

the pedestrian link between the site and Birch Avenue and the pedestrian/cycle connection between the site and the existing Public Footpath Number 11 to the north east shall be retained as such in perpetuity.'

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

13. No development shall commence until updated surveys for bats, which shall be undertaken in accordance with the recommendations set out in the Preliminary Ecological Appraisal (October 2017), have been submitted to and approved in writing by the Local Planning Authority. The updated surveys, submitted pursuant to this condition shall include any mitigation measures required and a programme for their implementation. The development shall then be carried out in accordance with the approved updated surveys for bats and the mitigation measures shall thereafter be retained in perpetuity.

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

14. No dwelling shall be occupied until details of the Travel Information Pack, which accords with Section 6 of the submitted Transport Assessment dated October 2017, has been submitted to and approved in writing by the Local Planning Authority. The approved details of the Travel Information Pack shall then be implemented in accordance with the approved details and provided to each dwelling on the site prior to its first occupation.

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

15. All new driveways and parking areas shall be made of porous materials, or provision shall be made to direct run-off 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.

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

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

17. 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

18. No clearance of trees and scrub or shrubs shall be carried out during the bird nesting season (i.e. March to August inclusive), unless supported by a survey,

undertaken by a suitably qualified ecologist, who has examined the site within a 7 day period prior to commencement of works on the site. If any nesting birds are found on site and/or are recorded either by the ecologist during their inspection or subsequently discovered all works must cease in that area until all the young have fledged and the recommencement of tree, scrub and shrub clearance have been previously approved by the above mentioned ecologist.

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

8.3 Informatives

Positive and Proactive Statement

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

Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a supplementary legal agreement (Deed of Variation) and this decision should only be read in conjunction with this agreement and the original Section 106 document that remains unaltered.

Highways Informative:

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

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

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

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

9. Additional Considerations

Public Sector Equality Duty (PSED)

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

Human Rights

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

Finance Implications

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

10. Background Papers

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

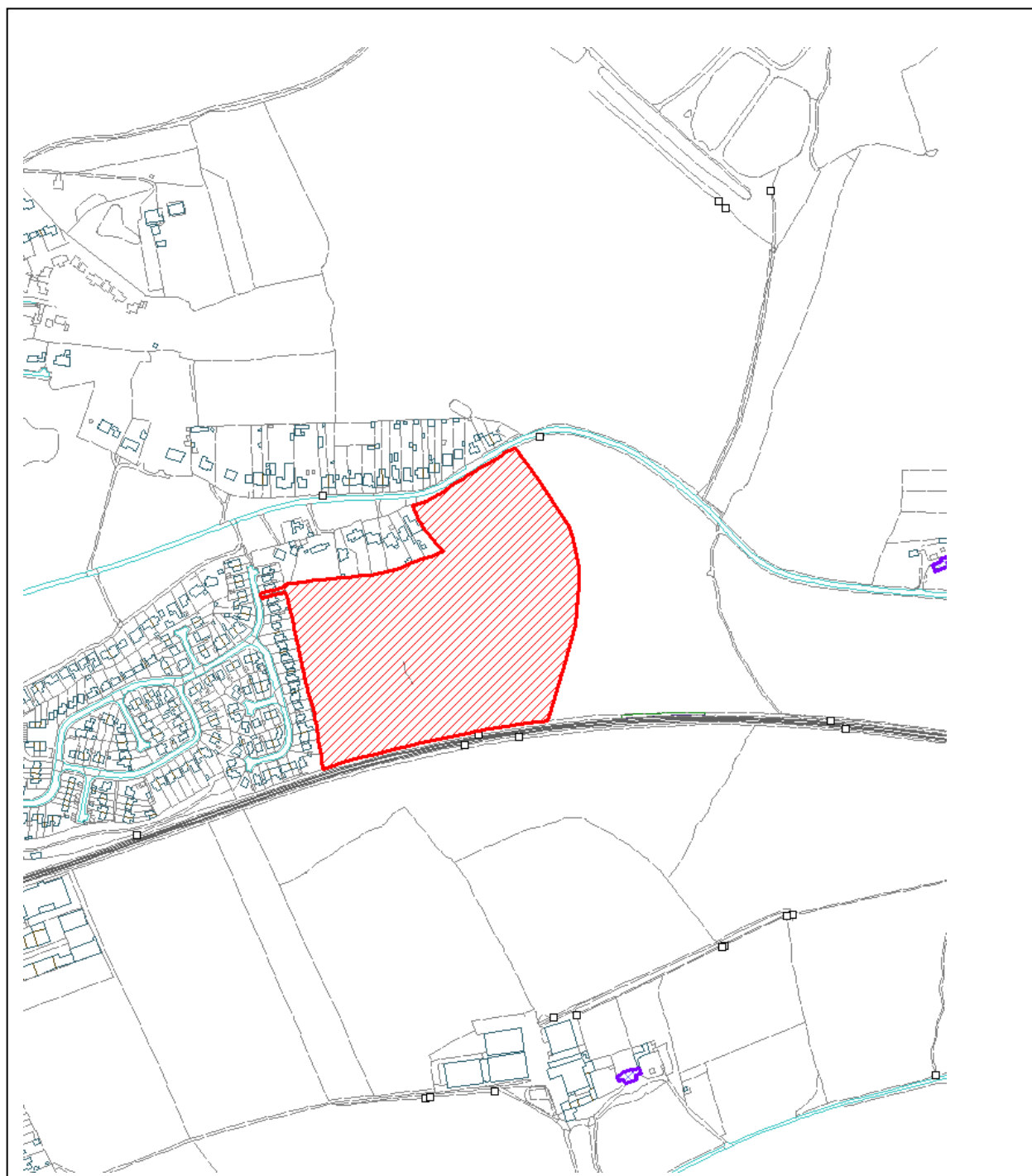
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PLANNING COMMITTEE

21st December 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.2 PLANNING APPLICATION – 21/00977/DETAIL – LAND TO THE SOUTH OF WEELEY ROAD AND TO THE EAST OF BIRCH AVENUE AND PINE CLOSE GREAT BENTLEY



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Application: 21/00977/DETAIL

Town / Parish: Great Bentley Parish
Council

Applicant: Taylor Wimpey London

Address: Land to The South of Weeley Road and to The East of Birch Avenue and
Pine Close Great Bentley

Development: Proposed application for approval of all reserved matters including access, layout, scale, appearance and landscaping in relation to outline planning application for up to 136 dwellings, allowed on appeal (ref APP/P1560/W/19/3231554) dated 15/05/2020.

1. Executive Summary

- 1.1 This application is referred to Planning Committee at the request of the Assistant Director of Planning as the original outline application was refused by the Local Planning Authority and the decision was overturned by the Planning Inspectorate.
- 1.2 The current application seeks approval of the reserved matters relating to outline planning permission 17/0881/OUT, which granted planning permission for the erection of up to 136 dwellings with access from Weeley Road, informal recreation space, a local area of play and associated development. This application includes details of appearance, landscaping, access, layout and scale which were not included as part of the outline.
- 1.3 The application also deals with the 'detail' of a footpath only link to Birch Avenue being under 3m in width. The original outline permission required this link to be a pedestrian and cycle link and 3m wide. However, there is a separate Section 73 application (Ref: 21/01257/OUT) that shall be assessed first. This separate application seeks permission to vary that condition to allow the link to be a pedestrian only link and less than 3m wide.
- 1.4 As established through the granting of outline application 17/0881/OUT the principle of residential development for up to 136 dwellings on this site is acceptable. If considered acceptable under application 21/01257/OUT, the footpath link to Birch Avenue can be under 3m in width and pedestrian only.
- 1.5 The detailed design, layout, landscaping and scale are considered acceptable. The proposal would result in no material harm to residential amenity or highway safety.
- 1.6 The application is therefore recommended for approval subject to a legal agreement to secure the management of the open space, drainage features, landscaping and non-adopted highway network.

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):**

Drainage

- ensuring the drainage feature outside the red line boundary is linked to this application and has to be constructed and fully operational before any dwelling on the host site is occupied.
- the long-term maintenance of the drainage feature outside of the red line boundary

Landscape Management Company to include maintenance of:

- Link Path to Birch Avenue including fencing
- Non adoptable Highway (roads and pavements)
- Landscaping Buffers and wider landscaping including pedestrian link to the North East)
- Public Open space

- 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.

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Adopted Tendring District Local Plan 2007 (part superseded)

QL2 Promoting Transport Choice

QL3 Minimising and Managing Flood Risk

QL12 Planning Obligations

HG3	Residential Development Within Defined Settlements
HG3A	Mixed Communities
HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
COM2	Community Safety
COM4	New Community Facilities (Including Built Sports and Recreation Facilities)
COM6	Provision of Recreational Open Space for New Residential Development
COM21	Light Pollution
COM23	General Pollution
COM29	Utilities
COM31A	Sewerage and Sewage Disposal
EN1	Landscape Character
EN2	Local Green Gaps
EN4	Protection of the Best and Most Versatile Agricultural Land
EN6	Biodiversity
EN6A	Protected Species
EN6B	Habitat Creation
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
EN12	Design and Access Statements
EN13	Sustainable Drainage Systems
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) (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)
- SP4 Meeting Housing Needs
- SP6 Infrastructure and Connectivity
- SP7 Place Shaping Principles

Relevant Section 2 Policies (emerging)

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- HP1 Improving Health and Wellbeing
- HP2 Community Facilities
- HP5 Open Space, Sports & Recreation Facilities
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- PPL1 Development and Flood Risk
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, drainage and sewage
- PPL10 Renewable Energy Generation
- CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Status of the Local Plan

Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).

The 'development plan' for Tendring comprises, in part, the 'saved' policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 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.

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. On 24th November 2021, the Council received the Planning Inspectors' final report on the legal compliance and soundness of Section 2 of the emerging Local Plan. The report has confirmed, that with the inclusion of a number of 'Main Modifications' (which have already been the subject of formal public consultation), the Plan is legally compliant and sound and can now proceed to adoption. The report is due to be considered by the Planning Policy and Local Plan Committee on 11th January 2022 which is likely to recommend adoption of the Section 2 Local Plan to Full Council on 25th January 2022. On adoption, the new Section 2 Local Plan will join the new Section 1 Local Plan to form the 'development plan' for Tendring and the old 2007 Local Plan will be superseded in full.

Now that the Inspectors' final report is received, the Section 2 Local Plan has virtually reached the final stage of preparation, all objections have been resolved and the Inspector has confirmed that the Plan is sound and therefore in conformity with the Framework. For these reasons, Officers now advise that the emerging Plan should now carry 'almost full weight' in decision making.

Until the new Local Plan is adopted in January 2022, the 2007 adopted Local Plan, legally, will still form part of the 'development plan' and there will still be a requirement to refer to the 2007 Local Plan in decision making. However, the level of weight to be afforded to the policies in the 2007 Plan is reduced to very limited weight given that a more up to date Plan has progressed to such an advanced stage of the plan making process.

In relation to housing supply:

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

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

3. Relevant Planning History

17/01881/OUT	Outline planning permission for up to 136 dwellings, informal recreation space, a local area of play and associated development.	Refused Appeal Allowed	21.12.2018 15.05.2020
20/01176/OUT	Removal of condition 4d for planning application 17/01881/OUT (allowed at appeal APP/P1560/W/19/3231554) as off-site works no longer required.	Approved	30.11.2020
21/30012/PREAPP	Pre-application for Reserved Matters further to Outline Planning Permission reference APP/P1560/W/19/3231554 in relation to 17/01881/OUT for the residential development for up to 136 dwellings, informal recreation space, a local area of play and associated development.		10.03.2021
21/00978/FUL	Proposed engineering operations required in support of application for Reserved Matters submitted on adjacent land (136 dwellings) including attenuation basin, public footpath, access visibility and construction access.	Current	
21/01257/OUT	Variation of condition 12 of application 17/01881/OUT (allowed on appeal APP/P1560/W/19/3231554) to	Current	

remove the reference within condition 12 which requires the pedestrian/cycle link between the site and Birch Avenue to be 3 metres in width. Also allowing for this link between the site and Birch Avenue to be a pedestrian link only.

- | | | |
|-----------------|--|---------|
| 21/01947/DISCON | Discharge of Conditions 11 (Noise survey) and 13 (Bat survey) of application
APP/P1560/W/19/3231554
(17/01881/OUT) | Current |
| 21/01949/DISCON | Discharge of Condition 10 (Contamination assessment) of application
APP/P1560/W/19/3231554
(17/01881/OUT) | Current |
| 21/02025/DISCON | Discharge of conditions 6 (foul water strategy) and 7 (detailed surface water drainage scheme) of application 17/01881/OUT, allowed on appeal
APP/P1560/W/19/3231554. | Current |

4. Consultations

TDC
Environmental
Protection
12.10.2021

TDC EP can see from the most recent submission, that their request on the previous planning phase has not been addressed.

Most recently in July of this year the EP team responded to the consultation request advising that information had not been submitted, as outlined in their PREAPP response, and without this information they were unable to confirm the appropriateness of the development in respect to Environmental Impact.

EP note information requested has still not been submitted by the applicant or their agent, and would once again request the below information is submitted for assessment, of which is the same response as that given within the PREAPP phase:

Construction Method Statement: Prior to the commencement of any demolition works or construction works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Environmental Protection.

- Noise Control

- 1) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.
- 2) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00(except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.
- 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)

Reason: In the interest of protecting residential amenity

Noise:

A noise survey shall be undertaken by a competent person for proposed residential properties that are adjacent to the railway. The survey will meet the requirements of BS 8233:2014 and include periods for daytime 0700-2300 hours and night-time 2300-0700 hours.

Reason: In the interest of protecting residential amenity

Contaminated Land:

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

Reason: to protect workers and end users of the site

EP can confirm that our previous comments in relation to documentation needed for this proposal have not changed.

Natural England
06.10.2021

ADDITIONAL COMMENTS - 20/10/21

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 06 October 2021 (Ref: 367917)

The advice provided in our previous response applies equally to this amendment.

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

Natural England
08.09.2021

SUMMARY OF NATURAL ENGLAND'S ADVICE - European designated sites

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

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

In the context of your duty as competent authority under the provisions of the Habitats Regulations, it is therefore anticipated that, without mitigation, new residential development in this location is 'likely to have a significant effect' on one or more European designated sites, through increased recreational pressure, either when considered 'alone' or 'in combination' with other plans and projects.

Natural England therefore advise that the Council consider whether this proposal falls within scope of the Essex Coast RAMS. Where it does, you must undertake a Habitats Regulations Assessment (HRA) (Stage 2: Appropriate Assessment) to secure any necessary recreational disturbance mitigation and record this decision within your planning documentation. We have previously provided you with a suggested HRA Record template and associated guidance to help with this process where recreational disturbance to European sites is the sole HRA issue as appears to be the case in this instance (our ref: 244199, dated 16th August 2018, template and guidance shown within APPENDIX 1 of this letter); the use of this template is not mandatory but we provided it in an attempt to streamline the process and make it as straightforward and consistent as possible for the authorities involved in the RAMS.

Having reviewed the planning documents for this application, it appears that the Council have not yet undertaken an HRA (Stage 2: Appropriate Assessment) to consider this issue. Natural England therefore advise that you do so now using Natural England's suggested template and that the Council should not grant permission until such time as the HRA has been carried out and the conclusions confirmed in line with the guidance. Please note that Natural England will only provide further comment on the Council's HRA once completed and not a 'shadow' HRA provided by the applicant.

Sites of Special Scientific Interest Impact Risk Zones

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

ECC Highways
01.12.2021

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

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

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

- 20.1464.100 T Amended proposed site layout.
- 20.1464.300 G Amended Parking layout plan
- 20.1464.550 Garages - proposed floor plans and elevations.
- 48737/c/003 D Amended highway limits of adoption
- 48737/c/006 I Amended footpath to Birch Avenue

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

2. 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 each vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

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

3. Prior to the commencement of any phase of the development, details of the estate roads and footways (including

layout, levels, gradients, surfacing, traffic calming and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.

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

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

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

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

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

6. The Cycle parking shall be provided for those dwellings without a garage in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

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

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

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

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

8. Residential Travel Plan: Prior to first occupation of the proposed development, the Developer shall submit a residential travel plan to the Local Planning Authority for approval in consultation with Essex County Council. Such approved travel plan shall then be actively implemented for a minimum period from first occupation of the development until 1 year after final occupation. It shall be accompanied by an annual monitoring fee of £1,533 per annum, index linked, (see below) - dependant on size of development to be paid to Essex County Council.

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.

For residential developments the new fees are as follows:

- Up to 79 dwellings = no fee
- 80-449 dwellings = £1,533 per annum
- 450-749 dwellings = £2,555 per annum
- 750-1000 dwellings = £3,577 per annum
- 1000+ dwellings = to be negotiated on a case-by-case basis.

All fees are index-linked with the Government's Consumer Price Index (CPI).

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

Informative:

1: Note: the proposed vehicular access for plots 133 and 134 shall be constructed at right angles to the proposed carriageway.

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

3: The areas directly adjacent to the carriageway(s) in which the trees are to be planted should not be less than 3 metres wide, exclusive of the footway and the trunks of the trees should be no nearer than 2 metres to the channel line of the road. The same dimensions should be used in situations where the footway is located adjacent to the carriageway.

In paved areas, whether or not the planted areas are to be adopted highway, trees should be sited no closer than 2 metres to the

defined (or undefined) edge of the carriageway. Where the adopted highway is to be an independent path, trees should be planted no closer than 1 metre from the edge of the highway. In all cases, trees should be provided with root barriers to prevent damage to underground services.

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

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

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

5: 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.

ECC SuDS
30.11.2021

Lead Local Flood Authority position

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, ECC SuDS do not object to the granting of planning permission.

ECC SuDS also have the following advisory comments:

- Strongly recommend looking at the Essex Green Infrastructure Strategy to ensure that the proposals are implementing multifunctional green/blue features effectively. The link can be found below.

<https://www.essex.gov.uk/protecting-environment>

Summary of Flood Risk Responsibilities for your Council

ECC SuDS have not considered the following issues as part of this planning application as they are not within our direct remit; nevertheless these are all very important considerations for managing flood risk for this development, and determining the safety and acceptability of the proposal. Prior to deciding this application you should give due consideration to the issue(s)

below. It may be that you need to consult relevant experts outside your planning team.

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

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

INFORMATIVES:

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

TDC Building
Control
16.07.2021

No adverse comments at this time.

Anglian Water
Services Ltd
18.08.2021

Assets Affected

There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. Anglian Water would ask that the following text be included within your Notice should permission be granted.

Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore, the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991 or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

Foul Water

AW have reviewed the applicant's submitted foul drainage strategy and flood risk documentation and consider that the impacts on the public foul sewerage network are acceptable to AW at this stage. AW request that they are consulted on any forthcoming application to discharge Condition 6 of the outline planning application 17/01881/OUT , to which this Reserved Matters application relates, that require the submission and approval of detailed foul drainage information.

Surface Water

AW have reviewed the applicant's submitted surface water drainage information (Drainage Strategy) and have found that the proposed method of surface water discharge does not relate to an Anglian Water owned asset. As such, it is outside of our jurisdiction and AW are unable to provide comments on the suitability of the surface water discharge. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be re-consulted to ensure that an effective surface water drainage strategy is prepared and implemented. A connection to the public surface water sewer may

only be permitted once the requirements of the surface water hierarchy as detailed in Building Regulations Part H have been satisfied. This will include evidence of the percolation test logs and investigations in to discharging the flows to a watercourse proven to be unfeasible.

TDC Waste
Management
01.12.2021

Access roads used for the local authority refuse truck route to be constructed to suitable standard to allow full vehicle access to 26 tonne, 2.5 metre wide collection vehicles and including unhindered movement of wheeled refuse bins to the collection vehicle.

Properties located in private drives to present their waste and recycling at kerbside of connecting highway road.

Private drives to be constructed to suitable standard to allow free and easy movement of wheeled bins by householders and waste collection operatives.

TDC Housing
03/12/2021

Happy with the mix and tenure split for the affordable dwellings.

TDC Tree &
Landscape Officer
03.12.2021

The information provided in relation to landscaping is sufficient to soften, screen and enhance the appearance of the development.

The revised soft landscape proposals show improvements to the scheme by way of an increase in the width of the 'buffer strip', on the perimeter of the application site, and to the planting density of the species to be used in this part of the soft landscape scheme.

It would appear that the revised soft landscaping scheme will provide a satisfactory buffer between the existing and proposed development.

Consideration should be given to any public or other access to the buffer zone both in terms of the security of new and existing dwellings and to the future maintenance of the trees and hedges planted on the land.

Essex Police
07/12/2021

Essex Police wish to make an observation with regard planning application 21/00977/Detail, land to The South of Weeley Road and to The East of Birch Avenue and Pine Close Great Bentley in respect of the potential for Designing Out Crime in pursuance of the guidance offered within National Planning Policy Framework (NPPF).

The applicant and the Essex Police have been involved in constructive consultation; Essex Police is content the ethos of Crime Prevention Through Environmental Design (CPTED) is being addressed fully within this development.

ECC Ecology
09/12/2021

No objection subject to securing biodiversity mitigation and enhancement measures

Summary

ECC Ecology have reviewed the Preliminary Ecological Appraisal (EECOS, June 2021), Bat Surveys (EECOS, September 2021), Reptile Survey (EECOS, September 2021) and Biodiversity Net Gain Assessment (EECOS, December 2021) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats. A letter from EECOS, dated 25th November 2021, was also considered. This letter assured us that the area impacted by the drainage proposals has been covered by an ecological survey.

A previous holding objection was placed on the residential development application 21/00977/DETAIL due to missing ecological information associated with Otter, Water Vole, farmland birds and Priority habitats (River) (Place Services, 2nd December 2021). However, these potential impacts have been covered in an application for the adjacent land setting out details of the required drainage for the residential development (21/00978/FUL)

A hydrobrake will be installed in the culvert to limit the amount of water entering Weeley Brook from the proposed SuDS which will negate any potential impacts on Otter and Water Vole. Although additional land for nesting Skylark cannot be secured through these applications, provision of undisturbed and open wildflower areas will increase the foraging capacity of the arable field for farmland birds including Skylark.

The legal agreement secured at outline stage is being updated to secure Public Open Space (POS) within the development and will also include the link from the residential site to existing recreational areas in the vicinity of the site.

ECC Ecology are now 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 Preliminary Ecological Appraisal (EECOS, June 2021), Bat Surveys (EECOS, September 2021) and Reptile Survey (EECOS, September 2021) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly bats, Badger, reptiles and nesting birds.

All ecological conditions of the Appeal for the outline application (ref APP/P1560/P1554) have been met; updated bat

surveys have been undertaken, integrated bat boxes have been included in the design and precautionary measures for vegetation clearance on site have been set out.

The biodiversity enhancement measures for the residential development and drainage area including the recommendations in the Biodiversity Net Gain Assessment (EECOS, December 2021), have been recommended to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021). These reasonable biodiversity enhancement measures should be laid out in a Biodiversity Enhancement Layout and secured by a condition of any consent. This document should also include a map showing which areas will be sown/planted with the wildflower mixes and native shrubs.

We agree that the areas of wildflower grassland should not be accessible to members of the public and should be retained and managed for wildlife in perpetuity. A Landscape and Ecological Management Plan (LEMP) should be produced to outline how this will be achieved. This LEMP should be secured by a condition of any consent.

Although recently updated, the Biodiversity Net Gain calculation does not seem to include the baseline condition of the additional arable field needed for the drainage works but does include the proposed habitat creation within and around the SuDS. The proposed gardens could also be included in this assessment. An updated Biodiversity Net Gain report, including these details, should be secured by 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 as updated by the Environment Act 2021.

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

ECC Ecology recommend that 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 Preliminary Ecological Appraisal (EECOS, June 2021), Bat Surveys (EECOS, September 2021) and Reptile Survey (EECOS, September 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) as updated by the Environment Act 2021.

3. PRIOR TO COMMENCEMENT: UPDATED BIODIVERSITY NET GAIN DESIGN STAGE REPORT

1.

An Updated Biodiversity Net Gain Design Stage Report, in line with Table 2 of CIEEM Biodiversity Net Gain report and audit templates (July 2021), shall be submitted to and approved in writing by the local planning authority which provides a minimum of not net loss using the DEFRA Biodiversity Metric 3.0 or any successor. The content of the Biodiversity Net Gain report should include the following:

- Baseline data collection and assessment of current conditions on site for both the residential development and drainage area;
- A commitment to measures in line with the Mitigation Hierarchy and evidence of how BNG Principles have been applied to maximise benefits to biodiversity;
- Provision of the full BNG calculations, with detailed justifications for the choice of habitat types, distinctiveness and condition, connectivity and ecological functionality;
- Details of the implementation measures and management of proposals;
- Details of the monitoring and auditing measures.

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

Reasons: In order to demonstrate measurable net gains and allow the LPA to discharge its duties under the NPPF (2021) as updated by the Environment Act 2021

3. PRIOR TO ANY WORKS ABOVE SLAB LEVEL: BIODIVERSITY ENHANCEMENT LAYOUT

A Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (EECOS, June 2021), Bat Surveys (EECOS, September 2021), Reptile Survey (EECOS, September 2021) and Biodiversity Net Gain Assessment (EECOS, December 2021), 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 prior to occupation and all features shall be retained in that manner thereafter.

Reason: To enhance Protected and Priority Species and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2021.

4. PRIOR TO OCCUPATION: LANDSCAPE AND ECOLOGICAL MANAGEMENT PLAN

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

The content of the LEMP shall include the following:

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

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

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2021

5. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

A lighting design scheme for biodiversity within the residential developments shall be submitted to and approved in writing by the

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

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

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2021

5. **Representations**

5.1 Great Bentley Parish Council object to the application for the following reasons:

- Disappointed with the examples of the illustrative drawings that are being proposed;
- The vernacular is plain, poorly conceived and our view overly simplistic and therefore inappropriate in this location;
- The Parish would like to see better quality design with a much better palate of materials and textures, including quality brickwork with white cement jointing;
- Rendered and timber materials and detailing would also be appropriate;
- It is particularly important that the place setting is enhanced at the frontage of the site and we would be pleased to see greater architectural quality and emphasis spent in terms of both hard and soft landscaping;
- It is important to us that the visual impact is improved across the long views from both the South and the East.

5.2 26 letters of objection have been received which raise the following concerns regarding the proposal:

- It does not respect the local context and street pattern and increases the density of building within what is currently an open country side;
- building behind the established property lines of Weeley Road, Birch Avenue and Pine Close, there would be an unsympathetic change to the established character of the area;
- significant overshadowing and loss of privacy to the established properties;
- significant increase of traffic through the village green and Weeley Road to the highway network;
- Shair Lane junction to the A133 is not suited to the increase in traffic volume;

- additional traffic through the village, which already has significant traffic and parking issues;
- trees previously proposed for planting along the northern boundary have been removed from the plan;
- The plans continue to show the pedestrian / cycle link downgraded to a 1.9m pedestrian footpath. This is contrary to what the Planning Inspector requested;
- The link to Birch Avenue should be wide enough to provide a safe and convenient route for all users, pedestrians, cyclists, prams, mobility scooters;
- Visibility is a major safety issue for this access;
- A Restrictive Covenant is in place for 74 and 76 preventing any fencing beyond the front elevation of the houses;
- The 3 metre access within 74 is unachievable unless Taylor Wimpey carry out changes to services for 74 and drainage affecting both properties. Something the developer appears reluctant to do;
- The access should conform to Highways guidance;
- There is a concentration of affordable housing on the north western area of the plot. Shouldn't these be equally distributed throughout the whole site?
- Residents of Pine Close who will be overlooked by properties built at the bottom of their short rear gardens;
- There is no proposed buffer zone and the laurels will be within the gardens of the new houses with nothing to stop the new residents pulling them up if they are so inclined. The buffer zone should be reinstated;
- There is no assurance that this planting will remain;
- The Inspector made his decision having had sight of a copy of option agreements to purchase 74 Birch Avenue and not based on an agreement to buy only the garage of 74 Birch Avenue;
- The property designs could be improved and a better palette of materials, textures and brickwork should be used;
- The surroundings roads are not suitable to cope with the extra traffic and dangers this brings, this will bring. The amenities are not sufficient;
- Noise will also be an issue with these plots gardens close to our boundary and our neighbours;
- All the small affordable housing squashed into one area backing the existing properties in Birch and Pine Close and all the larger aesthetically pleasing houses at the start of the main entrance;
- Great Bentley and the local area's infrastructure is already struggling;
- No benefit for the village of Great Bentley;
- Overlooking to neighbouring residential properties;
- Overdevelopment of the site;
- The application fails to adhere to condition 4 of the original outline approval;
- The access would face on the frontage of existing properties;
- Loss of trees and wildlife;
- There are road safety issues with the access and lack of visibility;
- Light Pollution of cars leaving the access;
- The sewage infrastructure cannot cope;
- Is there compensation for the residents effected?
- The properties living opposite the access to the site will not be able to safely leave their driveways;
- Most motorists go well over 30mph in this location;
- The development should be tree lined;
- There is not a biodiversity net

- The houses are too large, not in line with the Strategic Housing Market Assessment;
- There are not clear visibility slight lines at the point of access;
- Condition 4d) of the original approval relating to Road improvements at the Heckford road and A133 junction has not taken place.

6. Assessment

6.1 Site Context

6.2 The host site is located on the eastern side of Great Bentley and found within the emerging settlement boundary of Great Bentley. The area consists of a rectangular open field, presently used for arable farming, measuring approximately 7.7 hectares. The site is bounded on the northern side, in part, by the Weeley Road with the remainder of this boundary being formed by the rear boundaries of the residential curtilages of the dwellings that front the Weeley Road on its southern side. The western boundary is formed by residential properties in Pine Close and Birch Avenue; whilst to the south, the site is bounded by a railway line, beyond which is agricultural land and the open countryside. Agricultural land and open countryside also bound the site to the east.

6.3 The prevailing pattern of the properties that front the Weeley Road is one of a linear form of development that is rural in nature. The dwellings to the west along Pine Close and Birch Avenue have a more urban and built up feel although, the nature and the predominant character of the area is rural in its nature. Given this land was subject of an approved outline application in 2019 via application 17/01881/OUT, the land has been allocated as being within the settlement development boundary of the emerging Local Plan. The host site is not neighbouring or near to any Listed Buildings. The far north-western corner of the site is adjacent to the boundary with the Great Bentley Conservation Area. There are no protected trees within the vicinity of the site. The site slopes steadily downwards from the north-west to the south-east. There is an approximate fall of 4.5m over a distance of 355m and no public rights of way across the site.

6.4 Planning History

6.5 Originally, the Local Planning Authority objected to the principle of the development and refused the application under delegated powers. However, outline planning permission (Ref: 17/01881/OUT) was granted with all matters reserved (layout, access, scale, appearance and landscaping) for up to 136 dwellings, informal recreation space, a local area of play and associated development following an appeal on 15th May 2020 (APP/P1560/W/19/3231554).

6.6 As part on the original outline approval there were 18 planning conditions attached. These are summarised below:

OUTLINE APPLICATION CONDITIONS 15/00876/OUT		Timing
1	Reserved Matters- appearance, landscaping, layout, access and scale	Reserved Matter
2	Time Frame For Reserved Matters	Three Years post Decision – Must commence 2 Years after the last Reserve Matter application
3	Approved Plans	Reserve Matters
4	Access, Layout and Ecological Requirements	Reserve Matters
5	Construction Method Statement	Prior to Commencement
6	Foul Water Strategy	Prior to Commencement
7	Surface Water Drainage	Prior to Commencement
8	Surface Water Runoff	Prior to Commencement
9	Surface Water Drainage Management	Prior to Commencement
10	Land Contamination Assessment	Prior to Commencement
11	Railway Noise Survey	Prior to Commencement
12	Footpath Link to Birch Avenue and Public Footpath 11 to the North East	Prior to Commencement
13	Bat Survey	Prior to Commencement
14	Travel Information Packs	Prior to Commencement
15	Driveways to be porous material	Compliance
16	Unbound material near highways	Compliance
17	Parking Sizes	Compliance
18	Site clearance	Bird survey Dependant

6.7 Also relevant is the variation in conditions Application 20/01176/OUT for the 'Removal of condition 4d for planning application 17/01881/OUT (allowed at appeal APP/P1560/W/19/3231554) as off-site works no longer required'. This was approved on 30.11.2020.

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

- On-site Affordable Housing (30% of the overall development);
- Health contribution;
- Education contribution;
- Provision of open space including a locally equipped area of play and the need to secure its future management; and
- RAMS payments, index linked. Therefore, any uplift in required payments over time has been factored into the payment.

6.9 Proposal

6.10 This is the first Reserve Matters application on the host site. The elements up for consideration are the five reserved matters, namely: Appearance, Layout, Landscape, Access and Scale.

6.11 The outline approval Ref: 17/01887/OUT included the following Condition (no. 3):

'The proposed development shall be carried out in accordance with the following approved plans: 9000 Rev A (Site Location Plan) and 9600 Rev A (Parameter Plan - Land Use) but only in respect of those matters not reserved for later approval'.

6.12 The Parameter Plan indicated a Landscape buffer on the northern, western and southern boundaries, together with a single road access into the site from Weeley Road and a separate pedestrian / cycle access from Birch Avenue to the west. It also showed a main loop road indicated with a Locally Equipped Area of Play and Public Open Space located to the north of this. Finally, the Parameter plan showed a footpath link to the east of the site connecting with the wider Public Right of Way No. 11, in the fields to the north-east.

6.13 The residential area of the site takes up 78% of the site, 10% is taken up with the Public Open Space and Locally Equipped Area of Play and 12% is taken up with Landscaping. All the dwellings on site are two storey dwellings varying in size from 2-bedroom to 5-bedroom homes with an overall density of 17.8 dwellings per hectare. The materials to be used consist of red and buff brick, with render and boarding on specific plots. The roof tiles to be used are brown and grey plain tile.

6.14 Separate to this application there are two other applications being considered, one Section 73 (Town and Country Planning Act 1990 (Variation of Conditions)) regarding the host site. The other an application for drainage features on the neighbouring field to the east of the host site. All three applications are listed below, only 21/00977/DETAIL is assessed in this report.

- 21/00977/DETAIL (Host Application)

Proposed application for approval of all reserved matters including access, layout, scale, appearance and landscaping in relation to outline planning application for up to 136 dwellings, allowed on appeal (ref APP/P1560/W/19/3231554) dated 15/05/2020

- 21/01257/OUT (Section 73 application on Host site – Not Dealt with via this report)

Variation of condition 12 of application 17/01881/OUT (allowed on appeal APP/P1560/W/19/3231554) to remove the reference within condition 12 which requires the pedestrian/cycle link between the site and Birch Avenue to be 3 metres in width. Also allowing for this link between the site and Birch Avenue to be a pedestrian link only

- 21/00978/FUL (Drainage features on the field to the east of the host site)

Proposed engineering operations required in support of application for Reserved Matters submitted on adjacent land (136 dwellings) including attenuation basin, public footpath, access visibility and construction access.

6.15 Principle of Development

6.16 The principle of development has been established by the granting of outline planning permission for up to 136 dwellings on this site at appeal. Condition No. 3 of the appeal decision states that the reserved matters shall be carried out in accordance with the following approved plans:

*9600 Rev A (Parameter Plan - Land Use)
9000 Rev A (Site Location Plan)*

'but only in respect of those matters not reserved for later approval'.

6.17 The original outline permission included two specific conditions that shall need to be complied with and assessed under the Reserved Matters application, namely Conditions 4 and 12.

6.18 Condition 4 states:

'4) Details of the reserved matters, submitted pursuant to Condition 1 above, shall include:

Full details of access including the following measures:

- a) The provision of a right turn in Weeley Road;*
- b) The provision of a 2 metre wide footway along the Weeley Road frontage of the site between the proposed access road and the western boundary of the site;*
- c) The provision of a 2 metre wide walkable grass verge to be dedicated as highway land along the Weeley Road frontage of the site between the proposed access road and the eastern boundary of the site;*
- d) Improvements to the junction of Heckfords Road and the A133, to include appropriate lining and signage, two number traffic islands and high level beacons;*
- e) The provision of a 0.5 metre wide overhang strip adjacent to the carriageway.*

Full details of appearance, including the following measures:

- i) The bat roost features to be incorporated into the fabric of the dwellings, hereby permitted, in accordance with the recommendation made at Paragraph 6.8 of the applicant's Preliminary Ecological Assessment (October 2017).'*

6.19 In relation to this condition part 4d) was removed via application 20/01176/OUT. This was approved on 30.11.2020.

6.20 Also relevant for this Reserved Matters application is condition 12 of the appeal decision relating to the outline permission on this site. Condition 12, that states:

'12) No development shall be carried out until details of the:

a) Proposed pedestrian/cycle link between the site and Birch Avenue; and

b) A suitable pedestrian/cycle connection between the site and the existing Public Footpath Number 11 to the north east have be submitted to and agreed in writing by the Local Planning Authority. The proposed pedestrian/cycle link between the site and Birch Avenue shall be within the curtilage of 74 Birch Avenue and shall be 3 metres in width. The approved details of a) and b), as set out above, shall be completed in accordance with the approved details prior to occupation of any dwelling hereby permitted. Thereafter the pedestrian/cycle link between the site and Birch Avenue and the pedestrian/cycle connection between the site and the existing Public Footpath Number 11 to the north east shall be retained as such in perpetuity.'

6.21 At the time of writing there has been a separate application Section 73 (Town and Country Planning Act 1990 (Variation of Conditions)) application submitted to vary the wording of Condition 12 via application 21/01257/OUT. This separate application shall be assessed first out of the three applications submitted. The Section 73 application has been submitted because the 3 metre wide footpath between the host site and Birch Avenue cannot be achieved as that level of width is not available. Therefore, the separate Section 73 application seeks to remove the reference of footpath to Birch Avenue being 3m in width and for the path to be a pedestrian and cycle path. The applicant is requesting that the path becomes a pedestrian path only with cyclists required to demount and walk their bikes through the access link. If this separate Section 73 Application is approved, then the applicant could, if also approved, build out this Reserved Matters submission. If the Section 73 application for a narrower footpath for pedestrians only is refused then this Reserve Matters application cannot be implemented. Accordingly, the Section 73 application shall be assessed by Planning Committee first.

6.22 Nonetheless, the principle of all matters other than the proposed narrower pedestrian only footpath to Birch Avenue (being assessed via application 21/01257/OUT), has been agreed via the original outline approval of application 17/01881/OUT.

6.23 The Reserved Matters subject of this application are discussed in more detail in the sections below.

6.24 Assessment

6.25 The principal issues are:

- Scale (including Housing Mix and Affordable Housing Provision)
- Appearance
- Layout
- Landscaping
- Access
- Biodiversity
- Drainage/Flood Risk
- Accessibility and Adaptability
- Renewable Energy Provision
- Section 106 of the Town and Country Planning Act 1990

6.26 Scale including Housing Mix and Affordable Housing Provision

6.27 In total, there are 136 separate units of accommodation across the site, with 13 different styles presented. In terms of total housing mix across the site the schedule is given below.

	Total	Percentage
2 bed	16	12%
3 bed	62	46%
4 bed	44	32%
5 bed	14	10%

6.28 Having regard to the scale of the development in this rural edge location, and character and scale of the neighbouring existing developments, the proposed mix is broadly consistent with the requirements of the Strategic Housing Market Assessment Update 2015 that requires 42.2% of new owner-occupied dwellings to be three bedroom properties and 32.4% to be 2 bedrooms. There are 41 affordable units proposed, these are clearly shown on the Affordable Housing Location plan. This results in there being 30% of the total, this was confirmed in the appeal decision. Of this number, 12 or 30% are shared ownership and 29 or 70% are affordable rents.

6.29 All the affordable dwellings (41) are either 2 bed (34%) or 3 bed (66%) units. There are 95 market houses on the site, a schedule of the house types has been given by the applicant. Overall, both private and market housing have floor sizes equal to or in excess of, the national minimum floor size requirements. All of the proposed dwellings are two storeys in height, approximately half have single storey garages.

6.30 To address Policy LP5 of the Emerging Plan which states that '*...to avoid an over-concentration of council housing in one location, no single group of council houses will exceed ten dwellings*' the applicant has provided a 'Affordable Housing Location Plan' that demonstrates no more than 10 Affordable units are clustered together, Officers accept the positioning on these units. TDC Housing have confirmed they accept the affordable housing mix and the tenure split. Given the character of the surrounding area it is considered that the scale of development proposed is acceptable. Officers have no objection to the proposed housing mix on offer in this rural edge location.

6.31 Appearance

6.32 All of the houses are of an attractive functional modern design. They are all between 2 - 5 bedroom proportions, mostly semi-detached and detached houses with 5 dwelling plots forming short 3 dwelling terraces. The different houses types benefit from features such as, porches, soldier courses above and below the windows, front gable projections, some with external chimney stacks and occasional bay windows. There is also the very positive use of render and Hardiplank Cladding Weatherboarding, an Essex tradition, in both Black and White on approximately 8% of the properties and in some cases on the garages themselves.

6.33 These materials are found in the surrounding areas and will help the development assimilate into the area and help create a 'sense of place'. The roof tiles shall be

either a plain red roof tile, dark brown plain tile or a reconstituted Slate. The proposed mix will ensure variety and visual interest across the development.

- 6.34 Officers recommend a condition is attached to the decision to see samples of all the materials, before development can commence. The outline parameter plan for landscaping and layout has been closely adhered to and there is no reason to conclude the proposed appearance of the buildings, would create any harm to the setting of any of the neighbouring residential units. This conclusion is strengthened via the positive landscape buffers, discussed further in the Landscaping section below.
- 6.35 Within the appeal decision the Inspector noted that whilst the Conservation Area adjoins the north-western corner of the site, *'any impact is localised and negligible'*. Officers do not consider the development would cause any harm to the Conservation Area, especially given the landscaping offset that has been factored into the layout. The conclusion of the Inspector remain relevant here, in that the development before members would have a neutral impact on the setting of the nearby Heritage assets and no objection is raised on harm to the nearby heritage assets.
- 6.36 All of the proposed dwellings address the street, to create an active street frontage. There are some dwellings which also have side elevations that face onto the street or footpaths. These elevations are either set back from the street or in less prominent locations within the development and are therefore considered to be acceptable and not result in any adverse impact.
- 6.37 The proposed dwellings are all two storey in height and are of a functional modern design with appropriate detailing; it is considered that they would not be out of character with the surrounding area. Subject to planning conditions, the appearance of the buildings will be reflective of the vernacular and styles found locally and ultimately officers do not object to their appearance. It is, therefore considered that the detailed design and appearance of the proposed dwellings is acceptable.
- 6.38 Layout
- 6.39 The original outline planning permission was for up to 136 dwellings. This application seeks to achieve 136 dwellings on site. The entire site covers an area of 7.7 hectares, therefore, across the site a net density of 17.8 dwellings per hectare is achieved. It is considered that this low housing density is keeping with the semi-rural nature of the site and lower than the minimum density that is generally required under Policy HG7 of the adopted Local Plan and Policy LP3 of the emerging Local Plan. Part of the reason this figure is achieved is due to the drainage features being located on the neighbouring field to the east.
- 6.40 The road and footway widths are all accepted by ECC Highways, ensuring that the internal road layout can safely and comfortably accommodate emergency services, waste collection services etc. All of the houses would benefit from a combination of either garaging and or surface parking, which in all instances would be compliant with parking standards. The application is fully policy compliant in terms of garden sizes and internal room sizes, no objection on layout is raised. All the plots are provided with areas for bin and cycle provision (this shall be secured via planning condition) and meet the National Minimum Floor size allowances.

- 6.41 To the west of the site on the opposite side of Birch Avenue and Pine Close, there will be some overlooking towards the rear of these properties, however, given the distance of separation and intervening vegetation it is not considered that any overlooking would be significant. Equally, this conclusion would be true in terms of impact on the existing properties to the south of Weeley Road that back onto the site.
- 6.42 It is accepted that there will be some noise and disturbance to neighbouring residents during the construction phase, however, there is a condition on the outline consent that requires a Construction Method Statement to be submitted and adhered to. Overall, residential amenity for future residents would be acceptable having regard to overlooking, overshadowing or over dominance. There has been a suggestion to remove permitted development rights for roof extensions in the properties that back on to Birch Avenue and Pine Close, however, the offset from the boundary and in time the 5m wide tree belt (landscape buffer) shall minimise any potential concerns in this regard. As such, it has not been recommended that Permitted Development Rights for loft conversions be removed.
- 6.43 As established, all the dwellings are two-storey dwellings and intelligently laid out. This is positive for on street surveillance, that is achieved in all aspects of the site. In particular overlooking the Local Area of Play and the footpath link to Birch Avenue. With regard to the footpath to Birch Avenue, the applicant shall include maintenance of the footpath into the management scheme for the public open space. Officers also recommend, notwithstanding the details on the plans, a further lighting condition be attached to ensure suitable illumination of this area and the site as a whole. The revisions to the plans have been fully supported by Essex Police.
- 6.44 The wider site layout is arranged around five character areas.
1. Public Frontage
 2. Central Green
 3. Rural Frontage
 4. Central Streets
 5. Private Mews
- 6.45 There is a higher density within the Central Streets and Private Mews areas to the west of the development. The central, southern and eastern areas, including the Public Frontage (opposite Weeley Road), known as the Central Green and Rural Frontage are less densely grouped together, with more space between the dwellings. These varied but simple modern designed streetscapes demonstrate a positive design response, which assists in breaking up the built form on this more sensitive rural edge location. The differing areas provide focal points within the scheme, help to give a differing sense of place and wayfinding. As well as the landscape buffers, additional trees are being planted at the entrance by Weeley Road, by the central open space and along the southern boundary. This all helps soften a pleasant semi-rural spacious organic layout. As highlighted above, the drainage features on the east field help with this arrangement.
- 6.46 Importantly, the layout follows closely the Parameter Plan agreed via the outline appeal decision. Condition No. 3 of the outline consent requires:

'The proposed development shall be carried out in accordance with the following approved plans: 9000 Rev A (Site Location Plan) and 9600 Rev A (Parameter Plan - Land Use) but only in respect of matters not reserved for later approval'

- 6.47 The proposed development is in accordance with the Parameter Plan and therefore meets this condition. Parking is provided either to the front or sides of the dwellings, they are situated in small clusters, in appropriate locations throughout the site and therefore do not dominate the proposed development. In conclusion, there is no objection to the layout of the proposed development.
- 6.48 Landscaping
- 6.49 The outline approval included a Landscape Parameter Plan '9600 Rev A (*Parameter Plan - Land Use*)'. The Reserved Matters are in accordance with this plan.
- 6.50 Overall, the landscape provided is in conformity with the outline plan, the only difference is that there is a proposed attenuation basin in the eastern section of the neighbouring site, whereas in the Landscape Parameter Plan all the attenuation basins were on the southern side of the site. The revised plans have included a landscape buffer to the west of the site where tree planting shall take place and a landscape buffer to the north of the site adjacent to the existing properties on the southern side of Weeley Road. On the Parameter Plan, the northern landscape buffer adjacent to the existing properties on Weeley Road is narrower than that of the western landscape buffer. The amended plans have a fenced off private landscape buffer to the north and west of the site.
- 6.51 The dedicated northern landscape buffer is 3m wide and shall allow for a hedge line to be established. Officers recommend a condition that this hedge once developed should be maintained at a height of at least 2.5 metres. The trees have been taken out of this section due to concerns over long term maintenance, they were also previously in the garden areas of the proposed plots. The western landscape buffer is also now fenced off and within private ownership. This buffer is wider on the Parameter Plan and 5m wide on the plans. This allows for tree planting to take place as there is room for maintenance.
- 6.52 There remains 10% Public Open Space (including a Local Area for Play, three public green spaces, and a pedestrian path to the Public Footpath 11 in the northwest of the site) and 12% Landscaping (including the landscaping buffers). Officers consider the level of Public Open Space and landscaping provided on site to be acceptable. Furthermore, there is no objection to the provision of an attenuation basin to the east of the site, although that is assessed more fully via application 21/00978/FUL. All the Public Open Space, communal Landscaping (including the buffers to the north and west), along with the Footpath Link to Birch Avenue are to be managed by a private Management Company. The legal agreement, subject to an approval to this recommendation, shall be updated to include the landscaping buffers to the north and west and well as maintenance of the footpath link to Birch Avenue.
- 6.53 The Council's Landscape Officer has fully supported the comprehensive detailed planting proposals, that includes a good mix of tree, shrub and hedgerow species along with ferns and herbaceous species to provide interest and colour. Officers recommend that conditions be imposed to secure landscaping replacement within 5 years should planting not survive. There is a comment on the landscaping plans for the northern section next to the existing properties on Weeley Road that says:

'Area this side of new fence line to have all land and vegetation conveyed to existing land owners to north of site bound

Ultimately if neighbouring landowners do not wish to take part in this exercise they can simply decline the offer.

6.54 In terms of hard landscaping, it is proposed the roads and footways within the site will be built to the County Council's standards, most other than the shared surfaces in cul de sac locations will be adopted by ECC and maintained in perpetuity. The areas that are not up for adoption are built to adoptable standards, these shall be maintained by a management company dealing with the rest of the host site. A planning condition is recommended to see the exact hard landscaping details of the roads and pavements etc used in the development. Overall, subject to planning conditions no objection to the landscaping on site is raised.

6.55 Access

6.56 In accordance with the outline approval, the only means of access for road traffic shall be from Weeley Road with a secondary pedestrian / cycle access to Birch Avenue, also a footpath link to Public Road of Way 11 to the north east. These aspects agreed in principle at the outline stage.

6.54 In terms of the main access to Weeley Road, the outline approval required the arrangement of the access, but not the precise location as this would need to be addressed in future Reserved Matters applications. Ultimately, 'Access' as a reserved matter was not assessed at outline stage. Therefore, the location of the physical access to Weeley Road is slightly different to that indicated on the Parameter Plan at outline stage. This variation can be allowed as condition 3 of the outline approval included the line *'but only in respect of those matters not reserved for later approval'*.

6.55 Furthermore, the outline approval included a further condition regarding access arrangements from Weeley Road, namely condition 4. The elements of this condition pertaining to Highways were as follows:

'4) Details of the reserved matters, submitted pursuant to Condition 1 above, shall include:

Full details of access including the following measures:

- a) The provision of a right turn in Weeley Road;*
- b) The provision of a 2 metre wide footway along the Weeley Road frontage of the site between the proposed access road and the western boundary of the site;*
- c) The provision of a 2 metre wide walkable grass verge to be dedicated as highway land along the Weeley Road frontage of the site between the proposed access road and the eastern boundary of the site;*
- d) Improvements to the junction of Heckfords Road and the A133, to include appropriate lining and signage, two number traffic islands and high level beacons;*
- e) The provision of a 0.5 metre wide overhang strip adjacent to the carriageway.'*

6.56 The revised plans (including the landscaping) have included all these details as required by the outline planning condition. ECC Highways have carefully assessed the plans submitted including the Adoptable Limits Plan that includes the visibility

splays. They have confirmed no objections to the Highway arrangements. There is a section of the visibility splay that is outside the red line boundary of the host site, namely the section to the west of the access to Weeley Road. However, this can be covered by a section 278 agreement of the Highways Act 1980 that allows developers to enter into a legal agreement with Essex Highways to make permanent alterations or improvements to a public highway, as part of a planning approval. As such, Officers have no objections to the access from Weeley Road as these deal with the required elements of condition 4 of the outline approval.

6.57 There have been concerns raised about a loss of residential amenity through car headlights leaving the site. However, the principle of the access was agreed at outline stage. The exact location of the access is opposite Bonython House. This property currently benefits from a significant amount of vegetation in part screening the impact and the dwelling is both set back from the road and at an angle. Ultimately, the present access position appears the most suitable location. Therefore, Officers do not object to the location of the access on residential amenity grounds.

6.58 With regards to the link to Birch Avenue; Condition 12 of the Outline approval requires the following:

'No development shall commence until details of the:

a) Proposed pedestrian/cycle link between the site and Birch Avenue; and

b) A suitable pedestrian/cycle connection between the site and the existing Public Footpath Number 11 to the north east have be submitted to and agreed in writing by the Local Planning Authority.

The proposed pedestrian/cycle link between the site and Birch Avenue shall be within the curtilage of 74 Birch Avenue and shall be 3 metres in width. The approved details of a) and b), as set out above, shall be completed in accordance with the approved details prior to occupation of any dwelling hereby permitted.

Thereafter the pedestrian/cycle link between the site and Birch Avenue and the pedestrian/cycle connection between the site and the existing Public Footpath Number 11 to the north east shall be retained as such in perpetuity.'

6.59 There is currently a separate Section 73 application (Ref: 21/01257/OUT) to vary the above condition to allow for the link to Birch Avenue to be a pedestrian only link and for the width to be reduced to below the 3m stipulated. The applicant has purchased a strip of land from 74 Birch Avenue (not the entire plot), which would allow for the creation of the new access. The land purchased from 74 Birch Avenue includes the driveway, garage and strip of land to the rear connecting to the host site.

Within the Outline application the Inspector stated at Paragraph 28, that:

'...the submitted Land Use Parameter Plan (Drawing Number: 9600 Rev A) shows a pedestrian/cycleway link (The Link) that leads from the site through to Birch Avenue. The Link lies within the red line of the site plan (Drawing Number: 9000 Rev A) and indicative plan, Drawing Number SK.01, provides an illustration as to how it could be provided.'

6.60 This 'link' is clearly between the properties of 74 and 76 Birch Avenue, indeed it is within the Red line Site plan of the original application, Drawing Number: 9000 Rev A. Therefore, this shows that the 'link' was intended to be between 74 and 76 Birch Avenue. The initial outline application 17/01881/OUT included part of 76 Birch Avenue within the red line boundary (notice was served on 76 Birch Avenue). The residents of 76 Birch Avenue objected to the original application and continue to object strongly to the proposals. However, the Inspector granted permission on the knowledge that the path would be installed in this location (evidenced by the Parameter Plan). This judgement cannot be revisited as part of this application. However, the width of this 'link' and who uses it can be assessed.

6.61 The applicant proposes to keep this vital link in place but wishes to reduce the width of the link and plans for the link to be used by pedestrians only. The applicant has said:

'Since the grant of the outline consent, Taylor Wimpey are now progressing a Reserved Matters application and have undertaken further site investigations and surveys accordingly. This work has highlighted that the land available for providing the connection through to Birch Avenue is in fact only 2.5m at the widest point between Nos 74 and 76 Birch Avenue, and 2.0m at its narrowest point. The specific requirements of Condition 12 are therefore unable to be met in respect of it requiring the link to be 3 metres in width.'

6.62 Officers would stress that this does not mean cyclists cannot use the link, however, they must dismount and push their bikes through the 30m section. Of this new arrangement Essex Highways has said;

'...this latest design does achieve this by providing a 2.5-metre-wide link for the majority of its length; the Essex Design Guide does stipulate that where new footways are provided, they should be a minimum 2 metres in width. Where shared footway/cycleways links are deemed appropriate, they should be a minimum 3 metres wide, where the link is bounded by a building, wall of fence, it should be widened on that side by 0.5 metres'

6.63 In this case, therefore, a 2m wide footpath would achieve the minimum width for a pedestrian *only* footpath. Indeed, the width is actually 2.5m wide other than where the footpath passes the host dwelling (74 Birch Avenue) where it is 2m wide. As the path is a pedestrian link only it does not require the widening by 0.5m *the link is bounded by a building, wall of fence*. There is a small amount of space beyond the footpath edges before fence line is reached for drainage. This measures between 100mm to 300mm thick in places. Therefore, the actual width of fence to fence within the footpath on plan is slightly greater than the 2m and 2.5m indicated. Although the physical footpath will be limited to either 2.5m or 2.0m throughout the link. There is a chicane at either end of the footpath that would allow all footpath uses including mobility scooters, wheelchairs and prams to pass. Cyclist could also pass but they would need to dismount from their bikes and walk their bicycles through this stretch.

6.64 In terms of the secondary access to Birch Avenue to the west of the site, there has been a large level of objection to the narrowing of this access and the conversion of the access into a pedestrian only access from being a pedestrian and cycle link. However, the plans have been carefully assessed by both ECC Highways and Essex Police. Neither have offered any objection to the arrangement. The pedestrian link will allow cyclist through, however, cyclists will be encouraged to dismount at the

entrances to the link and walk their bikes through. Indeed, one could say physically pushing a bike along this section of path could aid pedestrian safety. Originally, it was intended to have cycles along a section of the link and footpath on the remaining width. This could have caused difficulties if two cycles met travelling in different directions. Furthermore, the modern electric powered bikes travel at significantly faster speeds than traditional cycles. Thus, having cyclist dismount and push their bikes along this small stretch would appear sensible. Indeed, Officers view the path to be safer for small children especially if cyclists dismount through this stretch. Officers recommend a condition for a sign to be erected on the chicane entering the footpath, that cyclists dismount.

- 6.65 With regards to the impact of the footpath on residential amenity with the most effected neighbours at 76 Birch Avenue, officers have sympathy with this neighbours concerns. Ultimately, the principle of the link was accepted by the Appeal Inspector (originally the LPA refused the scheme, and this decision was overturned). Irrespective of whether the link would be 3m or less in width, the issue of how to best erect a boundary treatment between the two sides would have to be addressed. What has been put forward is in Officers option the best option for retaining privacy, accessing household services, ensuring highway safety and ultimately, pedestrian management, through this link to the footpaths beyond. Officers are aware of a legal 'covenant' set when the properties on Birch Avenue were first built forbidding any fencing built forward of the front building line. However, this is civil matter and has no bearing on Planning law or the decision making in this case.
- 6.66 The maintenance of the 'link' including the fencing and any upkeep required will be transferred to a management company. This shall be included within the updated legal agreements. Notwithstanding the details on the plans, officers suggest a further lighting condition to assess the details of the lighting in the area especially once within the host site itself. In terms of drainage, this would still be covered by the original drainage condition (no. 7) of the outline permission.
- 6.67 The Highway Authority has confirmed that they have no objection to the application as submitted from an access and highway layout perspective. The internal road widths and pavement widths have been checked and are considered acceptable; as is the quantum of parking. Essex County Council Highways have recommended the following conditions:
- Development to be in accordance with the submitted plans
 - To ensure adequate visibility splays are provided and maintained.
 - To require further details of the layout, levels, gradients, surfacing, traffic calming and means of surface water drainage.
 - To ensure any proposed boundary planting is a minimum of 1 metre back from the highway boundary and any visibility splay.
 - To ensure the provision of car parking and turning areas prior to first occupation.
 - Provision of cycle parking for those properties without a garage
 - Construction Management Plan
 - Residential Travel Plan
- 6.68 All of the above conditions are recommended to be imposed other than the financial element of the Residential Travel Plan, this seems unreasonable as it has not been imposed on other similarly sized Reserve Matters developments in the District. Overall, there are no objections to the development in relation to Access matters.

6.69 Biodiversity

6.70 The Council has screened the proposed development and consider that it falls within the scope of the Essex Coast RAMS and as a result the Council has gone on to carry out a Habitats Regulations Assessment (HRA)(Stage 2 – Appropriate Assessment) in order to secure any necessary recreational disturbance mitigation.

6.71 The mitigation described in the Appropriate Assessment, being a combination of on-site measures (circular dog walking routes and/or links to the surrounding public rights of way (PRoW); in addition to signage/leaflets to householders to promote these areas for recreation; dog waste bins). There are also connections to the Off-Site public rights of way.

6.72 Having considered the proposed avoidance and mitigation measures above, Tendring District Council conclude that with mitigation the project will not have an Adverse Effect on the Integrity of the European sites included within the Essex Coast RAMS. This conclusion has been shared by Natural England, however at the time of writing their formal response has not been received, This shall be updated at the time of Committee.

6.73 As well as the onsite landscaping and landscape buffers, off-site habitat proposals have been included within the landscaping plans to achieve at least 10% Biodiversity Net Gain. This includes the SUD drainage basin immediately south-east outside the planning application boundary and additional associated wildflower grassland and mixed native shrub planting across 0.8 hectares of new habitat within existing arable land. This provides an additional 6.9 habitat units. The total change from the current baseline is therefore +1.84 habitat units or +12.34% Biodiversity Net Gain. These findings have been accepted by officers and no objection is raised. There have been no objections from ECC Ecology who have a number of suggested planning conditions relating to ecological enhancements. These have been included in the recommendation.

6.74 The applicant has provided full details of appearance, of the bat roost features to be incorporated into the fabric of the dwellings, in accordance with the recommendation made at Paragraph 6.8 of the applicant's Preliminary Ecological Assessment (October 2017). Also, this is in accordance with the outline planning condition 4 i). Indeed, ECC Ecology have confirmed all the ecological conditions of the Appeal for the outline application (ref APP/P1560/W/19/3231554) have been met; updated bat surveys have been undertaken, integrated bat boxes have been included in the design and precautionary measures for vegetation clearance on site have been set out. Subsequently, no objection is raised.

6.75 Drainage

6.76 At the appeal stage, a surface water scheme had been proposed which demonstrates that surface water management is achievable in principle and conditions have been imposed requiring further details. Namely Condition 6 relating to Foul Water Strategy, Condition 7 relating to Surface Water Drainage, Condition 8 relating to Surface Water Runoff and Condition 9 relating to Surface Water Drainage Management of application 17/01881/OUT (approved on appeal APP/P1506/W/19/ 3231554).

- 6.77 These details shall be assessed separately prior to commencement of development and are not up for consideration under this Reserve Matters application.
- 6.78 As part of this application the applicant has moved the attention basins to the eastern field. This is being dealt with via application 21/00978/FUL.
- 6.79 Essex County Council Flood and Water Management Team have no objection other than to recommend a legal agreement be put in place for the long-term maintenance of the drainage feature outside of the red line boundary. This has been recommended in the updated legal agreement. Anglian Water, have also been consulted on the application, and raise no objection to the details submitted at this stage. Anglian Water originally did not object to this development and stated the Thorrington Water Recycling Centre has the capacity to deal with this development.
- 6.80 Accessibility and Adaptability
- 6.81 Modified Policy LP3 of the Emerging Plan which is currently out to public consultation states that 'on housing developments of 10 or more dwellings, 10% of market housing should be to Building Regulations Part M4(2) 'adaptable and accessible' standard. For affordable homes, 10% should be to Building Regulations Part M4(2) and 5% should be to Part M4(3) 'wheelchair-user' standards'.
- 6.82 All properties meet Nationally Described Space Standards, and M4(2) and M4(3) properties are provided, in line with the policy expectation.
- 6.83 Renewable Energy Provision
- 6.84 The emerging policies on such matters, include SPL3 Sustainable Design, PPL5 Water conservation, drainage and sewage and most critically, PPL10 Renewable Energy Generation. These policies will make it local policy to provide energy saving measures that could include renewables energy provision on all new residential developments.
- 6.85 Consequently, when assessing PPL10 Renewable Energy Generation in particular, the applicant has provided a 'Energy and Sustainability Statement'. This attempts to fulfil the emerging policy PPL10. This emerging Policy is given considerable weight due to the advance nature of the adoption process of the emerging plan and lack of objections to the policy. The Local Planning Department welcomes the report from the applicant that suggests 23.8% energy savings will be obtained on site. This is more than the minimum 20% the LPA normally require.
- 6.86 The Energy Statement provides information stating Solar Photovoltaics are most suitable for the proposal, however there are no plans stating how the panels will be arranged.
- 6.87 Therefore, the LPA recommends the following condition:

'Notwithstanding the details contained within the submitted Energy Statement, prior to the occupation of any dwelling a scheme and plans 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 energy sources to be incorporated, details of noise

levels emitted (compared to background noise level) and how much of the overall energy needs these will meet and plans indicating the location of any external installations within the development. The development shall be carried out in accordance with the approved details and shall be retained as such thereafter

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

6.88 Officers also recommend a condition to install super-fast broadband and an electric charging point for each dwelling. With such conditions in place, officers believe the development can adequately comply with the requirements of emerging Policy PPL10, therefore, no objections on these grounds are raised.

6.89 S106 of the Town and Country Planning Act 1990

6.90 A legal agreement was secured at outline stage requiring:

- On-site Affordable Housing (30% of the overall development)
- Health contributions
- Education contribution
- Provision of open space including a locally equipped area of play and the need to secure its future management
- RAMS payments, index linked. Therefore, any uplift in required payments over time has been factored into the payment.

6.91 This legal agreement and all conditions on the outline consent will still apply. The additional legal agreement (Deed of Variation) shall ensure the following:

Drainage

- ensuring the drainage feature outside the red line boundary is linked to this application and has to be constructed and fully operational before any dwelling on the host site is occupied.
- the long-term maintenance of the drainage feature outside of the red line boundary

Landscape Management Company to include maintenance of:

- Link Path to Birch Avenue inc fencing
- Non adoptable Highway (roads and pavements)
- Landscaping Buffers and wider landscaping inc pedestrian link to the North East)
- Public Open space

6.92 Other Matters

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

7. Conclusion

- 7.1 As established through the granting of outline application 17/01181/OUT, at appeal, the principle of residential development for up to 136 dwellings on this site is acceptable. This scheme provides a range of housing within landscaped surroundings to create safe, attractive and characterful streets. The appearance does not feel cramped or overdeveloped. The detailed design, appearance, layout, landscaping, access and scale are considered acceptable. The proposal would result in no material harm to residential amenity or highway safety.
- 7.2 The new homes have policy compliant private gardens, sufficient off-street parking provision and include capacity for the storage of cycles and refuse. Sustainable drainage has been utilised to manage surface water runoff and the highways are designed to meet the necessary safety standards and compliment the different character areas of the site. The landscaped perimeter of the site will provide benefits for local biodiversity, help with lessening the impact on residential amenity as well as retaining the character of Great Bentley.
- 7.3 Ultimately, the proposals bring forward much-needed housing in a manner that is considered a sympathetic and high-quality addition to Great Bentley. The proposal is considered compliant with the parameter plans as set out and approved at Outline stage. The application is, therefore recommended for approval subject to a legal agreement updates and planning conditions listed below.

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
Drainage	<ul style="list-style-type: none">ensuring the drainage feature outside the red line boundary is linked to this application and has to be constructed and fully operational before any dwelling on the host site is occupied.the long-term maintenance of the drainage feature outside of the red line boundary
Landscape Management Company to include maintenance of:	<ul style="list-style-type: none">Link Path to Birch Avenue including fencingNon adoptable Highway (roads and pavements)Landscaping Buffers and wider landscaping including pedestrian link to the North East)Public Open space

8.2 Conditions and Reasons

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

21.5138.01 l	Amended soft landscaping proposals (sheet 1 of 7)
21.5138.05 i	Amended soft landscaping proposals (sheet 5 of 7)
21.5138.06 j	Amended soft landscaping proposals (sheet 6 of 7)
21.5138.07 j	Amended soft landscaping proposals (sheet 7 of 7)
21.5138.08 m	Amended soft landscaping proposals overall
21.5138.02 l	Amended soft landscaping proposals (sheet 2 of 7)
21.5138.03 j	Amended soft landscaping proposals (sheet 3 of 7)
21.5138.04 l	Amended soft landscaping proposals (sheet 4 of 7)

20.1464.306 j	Amended affordable housing plan
20.1464.311 d	Amended land uses plan
20.1464.310 d	Amended net developable area plan
20.1464.309 d	Amended adaptable and accessible dwellings plan
20.1464.308 g	Amended affordable cluster plan

20.1464.307 h	Amended distribution plan
20.1464.302 k	Amended materials plan
20.1464.301 h	Amended density plan
20.1464.300 h	Amended proposed parking layout
20.1464.305 h	Amended storey height plan
20.1464.304 h	Amended refuse strategy plan
20.1464.303 h	Amended garden area and depth plan
20.1464.100 u	Amended proposed site layout
20.5168.d1	1fr bat tube - (schwegler) standard arrangement
	Shared ownership and affordable rent plots Received 30 Nov 2021
48737/c/001 c	Amended alignment contours
48737/c/006 l	Amended footpath to birch avenue
48737/c/003 d	Amended highway limits of adoption
48737/c/002 c	Amended drainage layout
	Energy and sustainability statement Received 15 Nov 2021

	Reptile survey Received Oct 2021
	Biodiversity net gain assessment Received 01 Oct 2021
	Bat survey Received 01 Oct 2021
20.1464.560	House type 3b m4(3) - proposed floor plans and elevations
21.5138.08 e	Amended soft landscaping proposals overall
48737/c/005	Temporary construction access plan
20.1464.464 a	Ht nt30 ardale (variant 3) - proposed floor plans
20.1464.462	Ht nt30 ardale (variant 2) - proposed floor plans
20.1464.451	Ht na51 wayford (variant 1) - proposed elevations
20.1464.450	Ht na51 wayford (variant 1) - proposed floor plans
20.1464.486 a	Ht nt42 waysdale (variant 4) - proposed floor plans
20.1464.484 a	Ht nt42 waysdale (variant 3) - proposed floor plans
20.1464.482 a	Ht nt42 waysdale (variant 2) - proposed floor plans
20.1464.480	Ht nt42 waysdale (variant 1) - proposed floor plans
20.1464.481	Ht nt42 waysdale (variant 1) - proposed elevations

20.1464.483 a	Ht nt42 waysdale (variant 2) - proposed elevations
1604-kc-xx-ytree-tcp01rev0	Tree constraints plan
20.1464.550	Garages - proposed floor plans and elevations
20.1464.470	Ht nt31 kingdale (variant 1) - proposed floor plans
20.1464.472	Ht nt31 kingdale (variant 2) - proposed floor plans
20.1464.460	Ht nt30 ardale (variant 1) - proposed floor plans
20.1464.461	Ht nt30 ardale (variant 1) - proposed elevations
20.1464.463	Ht nt30 ardale (variant 2) - proposed elevations
20.1464.440	Ht na44 manford (variant 1) - proposed floor plans
20.1464.441	Ht na44 manford (variant 1) - proposed elevations
20.1464.443	Ht na44 manford (variant 2) - proposed elevations
20.1464.435 a	Ht na43 lanford (variant 3) - proposed elevations
20.1464.433 a	Ht na43 lanford (variant 2) - proposed elevations
20.1464.431	Ht na43 lanford (variant 1) - proposed elevations
20.1464.430	Ht na43 lanford (variant 1) - proposed floor plans

20.1464.432 a	Ht na43 lanford (variant 2) - proposed floor plans
20.1464.434 a	Ht na43 lanford (variant 3) - proposed floor plans
20.1464.422	Ht na32 byford (variant 3) - proposed floor plans and elevations
20.1464.421	Ht na32 byford (variant 2) - proposed floor plans and elevations
20.1464.420	Ht na32 byford (variant 1) - proposed floor plans and elevations
20.1464.414	Ht na34 colrford (variant 5) - proposed floor plans and elevations
20.1464.413	Ht na34 colrford (variant 4) - proposed floor plans and elevations
20.1464.412	Ht na34 colrford (variant 3) - proposed floor plans and elevations
20.1464.411	Ht na34 colrford (variant 2) - proposed floor plans and elevations
20.1464.410	Ht na34 colrford (variant 1) - proposed floor plans and elevations
20.1464.403	Ht na22 blandford (variant 4) - proposed floor plans and elevations
20.1464.402	Ht na22 blandford (variant 3) - proposed floor plans and elevations

20.1464.401	Ht na22 blandford (variant 2) - proposed floor plans and elevations
20.1464.400	Ht na22 blandford (variant 1) - proposed floor plans and elevations
	Preliminary ecological appraisal Received 01 Jul 2021
	Tree survey Received 01 Jul 2021
	Tree survey and impact assessment Received 01 Jul 2021
1604-kc-xx-ytree-tpp01rev0	Tree protection plan
20.1464.497	Ht woodman (variant 4) - proposed elevations
20.1464.495	Ht woodman (variant 3) - proposed elevations
20.1464.493	Ht woodman (variant 2) - proposed elevations
20.1464.491	Ht woodman (variant 1) - proposed elevations
20.1464.490	Ht woodman (variant 1) - proposed floor plans
20.1464.492	Ht woodman (variant 2) - proposed floor plans
20.1464.494	Ht woodman (variant 3) - proposed floor plans
20.1464.496	Ht woodman (variant 4) - proposed floor plans

20.1464.485 a	Ht nt42 waysdale (variant 3) - proposed elevations
20.1464.487 a	Ht nt42 waysdale (variant 4) - proposed elevations
20.1464.473	Ht nt31 kingdale (variant 2) - proposed elevations
20.1464.471	Ht nt31 kingdale (variant 1) - proposed elevations
20.1464.466	Ht nt30 ardale (variant 4) - proposed floor plans
20.1464.465 a	Ht nt30 ardale (variant 3) - proposed elevations
20.1464.467	Ht nt30 ardale (variant 4) - proposed elevations
20.1464.442	Ht na44 manford (variant 2) - proposed floor plans
20.1462.030 c	Site plan

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

2. 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:
 - 20.1464.100 T Amended proposed site layout.
 - 20.1464.300 G Amended Parking layout plan
 - 20.1464.550 Garages - proposed floor plans and elevations.
 - 48737/c/003 D Amended highway limits of adoption
 - 48737/c/006 I Amended footpath to Birch Avenue

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

3. 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 each vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

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

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

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

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

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

7. The Cycle parking shall be provided for those dwellings without a garage in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

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

8. Prior to above ground works, a scheme for the provision of electric vehicle charging facilities for the new dwellings 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 dwellings.

Reason: In order to promote sustainable transport.

9. 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.

10. Notwithstanding the details on the approved plans, no development shall commence until precise details of lighting and refuse storage/collection points have been submitted to and approved, in writing, by the Local Planning Authority. Such lighting and refuse points 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.

11. Notwithstanding the details on the approved plans, no development shall commence until precise details of the external street lighting (including that to be provided to any dedicated pedestrian/ paths) and refuse storage/collection points have been submitted to and approved, in writing, by the Local Planning Authority. Such lighting and refuse points 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.

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

Reason - In order to ensure a satisfactory development in terms of landscape appearance, character and functionality and ensure the earliest and practicable implementation of new planting required to mitigate the impact of the development.

13. No development shall commence until precise details the manufacturer and types and colours of the external facing materials and roofing materials for the dwelling to be used in the construction have been submitted to and approved, in writing, by the Local Planning Authority.

Reason: To ensure a satisfactory development in relation to external appearance and in the interests of residential amenity.

14. Notwithstanding the details on the approved plans, the hedge height planted in the northern landscape buffer adjacent to the existing properties on the southern side of Weeley Road shall, once matured be kept to a height on not less than 2.5 metres high.

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

15. Prior to the occupation of any dwelling, a 'Cyclists dismount' sign shall be erected on the chicane at either end of the footpath link between the host site and Birch Avenue. The sign shall be retained and maintained for the perpetuity.

Reason: in the interest of pedestrian safety.

16. Prior to the occupation of any dwelling, details of the location and maintenance schedule of two dog bins on the site shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be maintained for the lifetime of the development.

Reason: In the interests of residential amenity.

17. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (EECOS, June 2021), Bat Surveys (EECOS, September 2021) and Reptile Survey (EECOS, September 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) as updated by the Environment Act 2021.

18. Prior to commencement an Updated Biodiversity Net Gain Design Stage Report, in line with Table 2 of CIEEMBiodiversity Net Gain report and audit templates (July 2021), shall be submitted to and approved in writing by the local planning authority which provides a minimum of not net loss using the DEFRA Biodiversity Metric 3.0 or any successor.

The content of the Biodiversity Net Gain report should include the following:

- Baseline data collection and assessment of current conditions on site for both the residential development and drainage area;
- A commitment to measures in line with the Mitigation Hierarchy and evidence of how BNG Principles have been applied to maximise benefits to biodiversity;
- Provision of the full BNG calculations, with detailed justifications for the choice of habitat types, distinctiveness and condition, connectivity and ecological functionality;
- Details of the implementation measures and management of proposals;
- Details of the monitoring and auditing measures.

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

Reasons: In order to demonstrate measurable net gains and allow the LPA to discharge its duties under the NPPF (2021) as updated by the Environment Act 2021

19. Prior to any works above slab level a Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (EECOS, June 2021), Bat Surveys (EECOS, September 2021), Reptile Survey (EECOS, September 2021) and Biodiversity Net

Gain Assessment (EECOS, December 2021), 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 prior to occupation and all features shall be retained in that manner thereafter."

Reason: To enhance Protected and Priority Species and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2021.

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

The content of the LEMP shall include the following:

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

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

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2021

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

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

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2021

8.3 Informatives

Positive and Proactive Statement

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

Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a supplementary legal agreement (Deed of Variation) and this decision should only be read in conjunction with this agreement and the original Section 106 document that remains unaltered.

Highways Informative:

1: Note: the proposed vehicular access for plots 133 and 134 shall be constructed at right angles to the proposed carriageway.

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

3: The areas directly adjacent to the carriageway(s) in which the trees are to be planted should not be less than 3 metres wide, exclusive of the footway and the trunks of the trees should be no nearer than 2 metres to the channel line of the road. The same dimensions should be used in situations where the footway is located adjacent to the carriageway.

In paved areas, whether or not the planted areas are to be adopted highway, trees should be sited no closer than 2 metres to the defined (or undefined) edge of the carriageway. Where the adopted highway is to be an independent path, trees should be planted no closer than 1 metre from the edge of the highway. In all cases, trees should be provided with root barriers to prevent damage to underground services.

4: 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:

Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
CO7 7LT

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.

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
- C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.4 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.
- 9.5 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.
- 9.6 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

- 9.7 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.
- 9.8 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).

9.9 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

9.10 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.

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

10. Background Papers

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

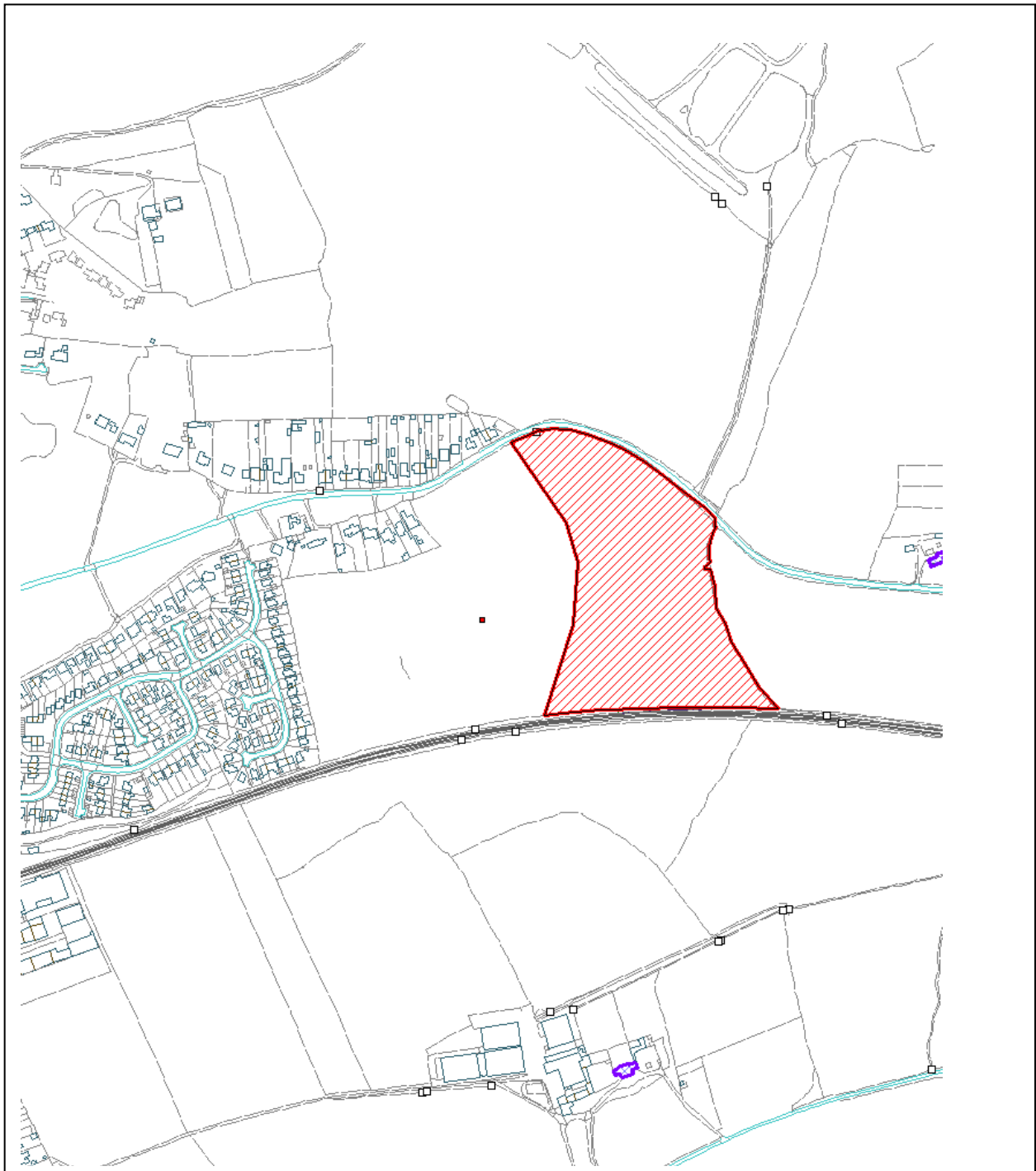
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PLANNING COMMITTEE

21st December 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.3 PLANNING APPLICATION – 21/00978/FUL – LAND TO THE SOUTH OF WEELEY ROAD GREAT BENTLEY



DO NOT SCALE

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Application: 21/00978/FUL

Town / Parish: Great Bentley Parish Council

Applicant: Taylor Wimpey London

Address: Land to The South of Weeley Road Great Bentley

Development: Proposed engineering operations required in support of application for Reserved Matters submitted on adjacent land (136 dwellings) including attenuation basin, public footpath, access visibility and construction access.

1. Executive Summary

- 1.1 This application is referred to Planning Committee at the request of the Assistant Director of Planning as the original outline application was refused by the Local Planning Authority and the decision was overturned by the Planning Inspectorate.
- 1.2 The current application seeks approval of the engineering operations required in support of application for Reserved Matters submitted on adjacent land Ref: 21/00977/DETAIL (136 dwellings) including attenuation basin, public footpath, access visibility and construction access.
- 1.5 The detailed design, layout, landscaping and scale are considered acceptable. The proposal would result in no material harm to residential amenity or highway safety. The loss of the agricultural land is considered acceptable due in part to the modest size of the drainage features proposed and their location.
- 1.6 The application is, therefore recommended for approval subject to a legal agreement to secure the management of the open space, drainage features, landscaping and non-adopted highway network.

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):**

Drainage

- ensuring the drainage feature is linked to the neighbouring site (21/00977/DETAIL) and has to be constructed and fully operational before any dwelling on the neighbouring site is occupied.
- the long-term maintenance of the drainage feature

Landscape Management Company to include maintenance of:

- Link Path to Birch Avenue inc fencing
- Non adoptable Highway (roads and pavements)
- Landscaping Buffers and wider landscaping inc pedestrian link to the North East)
- Public Open space

b) Subject to the conditions stated in section 8.2

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

2. **Planning Policy**

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

NPPF National Planning Policy Framework July 2021

National Planning Practice Guidance

Adopted Tendring District Local Plan 2007 (part superseded)

QL2 Promoting Transport Choice

QL3 Minimising and Managing Flood Risk

QL12 Planning Obligations

HG3 Residential Development Within Defined Settlements

HG3A Mixed Communities

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

COM2 Community Safety

COM4 New Community Facilities (Including Built Sports and Recreation Facilities)

COM6 Provision of Recreational Open Space for New Residential Development

COM21 Light Pollution

COM23 General Pollution

- COM29 Utilities
- COM31A Sewerage and Sewage Disposal
- EN1 Landscape Character
- EN2 Local Green Gaps
- EN4 Protection of the Best and Most Versatile Agricultural Land
- EN6 Biodiversity
- EN6A Protected Species
- EN6B Habitat Creation
- 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
- EN12 Design and Access Statements
- EN13 Sustainable Drainage Systems
- 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) (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)
- SP4 Meeting Housing Needs
- SP6 Infrastructure and Connectivity
- SP7 Place Shaping Principles

Relevant Section 2 Policies (emerging)

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- HP1 Improving Health and Wellbeing
- HP2 Community Facilities
- HP5 Open Space, Sports & Recreation Facilities
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- PPL1 Development and Flood Risk
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, drainage and sewage
- PPL10 Renewable Energy Generation
- CP1 Sustainable Transport and Accessibility
- CP2 Improving the Transport Network

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Status of the Local Plan

Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).

The 'development plan' for Tendring comprises, in part, the 'saved' policies of the 2007 Local Plan. Paragraph 219 of the Framework asks 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.

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. On 24th November 2021, the Council received the Planning Inspectors' final report on the legal compliance and soundness of Section 2 of the emerging Local Plan. The report has confirmed, that with the inclusion of a number of 'Main Modifications' (which have already been the subject of formal public consultation), the Plan is legally compliant and sound and can now proceed to adoption. The report is due to be considered by the Planning Policy and Local Plan Committee on 11th January 2022 which is likely to recommend adoption of the Section 2 Local Plan to Full Council on 25th January 2022. On adoption, the new Section 2 Local Plan will join the new Section 1 Local Plan to form the 'development plan' for Tendring and the old 2007 Local Plan will be superseded in full.

Now that the Inspectors' final report is received, the Section 2 Local Plan has virtually reached the final stage of preparation, all objections have been resolved and the Inspector has confirmed that the Plan is sound and therefore in conformity with the Framework. For these reasons, Officers now advise that the emerging Plan should now carry 'almost full weight' in decision making.

Until the new Local Plan is adopted in January 2022, the 2007 adopted Local Plan, legally, will still form part of the 'development plan' and there will still be a requirement to refer to the 2007 Local Plan in decision making. However, the level of weight to be afforded to the policies in the 2007 Plan is reduced to very limited weight given that a more up to date Plan has progressed to such an advanced stage of the plan making process.

In relation to housing supply:

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

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

3. Relevant Planning History

17/01881/OUT	Outline planning permission for up to 136 dwellings, informal recreation space, a local area of play and associated development.	Refused	21.12.2018
20/01176/OUT	Removal of condition 4d for planning application 17/01881/OUT (allowed at appeal APP/P1560/W/19/3231554) as off-site works no longer required.	Approved	30.11.2020
21/30012/PREAPP	Pre-application for Reserved Matters further to Outline Planning Permission reference APP/P1560/W/19/3231554 in relation to 17/01881/OUT for the residential development for up to 136 dwellings, informal recreation space, a local area of play and associated development.		10.03.2021
21/00977/DETAIL	Proposed application for approval of all reserved matters including access, layout, scale, appearance and landscaping in relation to outline planning application for up to 136 dwellings, allowed on appeal (ref APP/P1560/W/19/3231554) dated 15/05/2020.	Current	
21/00978/FUL	Proposed engineering operations required in support of application for Reserved Matters submitted on adjacent land (136 dwellings) including attenuation basin, public footpath, access visibility and construction access.	Current	
21/01257/OUT	Variation of condition 12 of application 17/01881/OUT (allowed on appeal APP/P1560/W/19/3231554) to remove the reference within condition 12 which requires the pedestrian/cycle link between the site and Birch Avenue to be 3 metres in width. Also allowing for this link between the site and Birch Avenue to be a pedestrian link only.	Current	

21/01947/DISCON	Discharge of Conditions 11 (Noise survey) and 13 (Bat survey) of application APP/P1560/W/19/3231554 (17/01881/OUT)	Current
21/01949/DISCON	Discharge of Condition 10 (Contamination assessment) of application APP/P1560/W/19/3231554.(17/01881/OUT)	Current
21/02025/DISCON	Discharge of conditions 6 (foul water strategy) and 7 (detailed surface water drainage scheme) of application 17/01881/OUT, allowed on appeal APP/P1560/W/19/3231554.	Current

4. Consultations

Natural England
06.10.2021

SUMMARY OF NATURAL ENGLAND'S ADVICE - European designated sites¹

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

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

In the context of your duty as competent authority under the provisions of the Habitats Regulations², it is therefore anticipated that, without mitigation, new residential development in this location is 'likely to have a significant effect' on one or more European designated sites, through increased recreational pressure, either when considered 'alone' or 'in combination' with other plans and projects.

We therefore advise that you consider whether this proposal falls within scope of the Essex Coast RAMS. Where it does, you must undertake a Habitats Regulations Assessment (HRA) (Stage 2: Appropriate Assessment) to secure any necessary recreational disturbance mitigation and record this decision within your planning documentation. We have previously provided you with a suggested HRA Record template and associated guidance to help with this process where recreational disturbance to European sites is the sole HRA issue as appears to be the case in this instance (our ref: 244199, dated 16th August 2018, template and guidance shown within APPENDIX 1 of this letter); the use of this template is not mandatory but we provided it in an attempt to streamline the process and make it as straightforward and consistent as possible for the authorities involved in the RAMS.

Having reviewed the planning documents for this application, it appears that you have not yet undertaken an HRA (Stage 2: Appropriate Assessment) to consider this issue. We therefore advise that you do so now using our suggested template and that you should not grant permission until such time as the HRA has been carried out and the conclusions confirmed in line with the guidance. Please note that we will only provide further comment on your authority's HRA once completed and not a 'shadow' HRA provided by the applicant.

Sites of Special Scientific Interest Impact Risk Zones

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

guidance can be accessed from the data.gov.uk website

ECC SuDS Consultee
01.12.2021

Lead Local Flood Authority position

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

Condition 1

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

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

ECC SuDS have the following advisory comments:

- We strongly recommend looking at the Essex Green Infrastructure Strategy to ensure that the proposals are implementing multifunctional green/blue features effectively. The link can be found below.

<https://www.essex.gov.uk/protecting-environment>

INFORMATIVES:

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

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

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

- It is the applicant's responsibility to check that they are complying with common law if the drainage

scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.

ECC Highways Dept
18.11.2021

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

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

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

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM 1.

2. On commencement of development the temporary construction access, as shown in principle on drawing 48737_C_005, Date (May 2021) shall be constructed at right angles to the existing carriageway. The width of the access at its junction with the highway shall not be less than 7.3 metres retained at that width for 22 metres within the site and shall be provided with an appropriate kerb radius of no less than 15 metres. Upon completion of the development / numbered occupancy, the temporary construction vehicular access shall be suitably and permanently closed incorporating the reinstatement to full height of the highway verge / footway /

cycleway / kerbing . Full details to be agreed in writing with the Local Planning Authority.

Reason: To ensure to ensure that vehicles can enter and leave the highway in a controlled manner and the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway following development in the interests of highway safety in accordance with policy DM1.

3. On commencement of development the temporary 30-mph speed limit and temporary Traffic Regulation Order shall be in place; the extents of the temporary speed limit to be agreed in advance with the local Planning Authority in conjunction with the local Highway Authority. The Traffic Management signage either side of the temporary construction access shall be submitted on a plan as part of this condition prior to the commencement of the development.

Reason: To ensure to ensure that vehicles can enter and leave the highway in a controlled manner and the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway following development in the interests of highway safety in accordance with policy DM1.

Note: The developer will need to pay for the necessary temporary Traffic Regulation Order prior to the temporary construction access coming into use.

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. Prior to occupation of the site, the temporary road junction / access at its centre line shall be provided with a minimum clear to ground visibility splay with dimensions of 2.4 metres by 97 metres to the south-east and 2.4 metres by 90 metres to the north-west, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

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

6. No unbound material shall be used in the surface treatment of the vehicular access within 10 metres of the highway boundary.

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

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: Under Section 23 of the Land Drainage Act 1991, prior written consent from the Environment Agency is required to build any culvert (pipe) or structure (such as a dam or weir) to control or alter the flow of water within an ordinary watercourse. Ordinary watercourses include ditches, drains and any other networks of water which are not classed as Main River.

If you believe you need to apply for consent, please contact the Environment Agency as soon as possible to discuss your plans. Planning permission does not negate the requirement for consent, and full details of the work you propose will be required at least two months before you intend to start. Once preliminary

details have been agreed, you will be asked you to fill in an application form, which must be returned with the appropriate fee.

Please call the Environment Agency on 08708 506 506 and ask for the Essex Development and Flood Risk Team to discuss this requirement further.

3: The proposed connecting footpath from the development to public footpath no. 11 (Great Bentley_165) should be permissive though and should not form part of the Public Rights of Way (PROW) network as it does not add anything to the PROW network and will only serve the new development. Therefore, this footpath will need to be clearly marked as permissive. Public footpath no.11 is of limited use as to the north it ends at the A133 as there are no other PROW directly connecting to this public footpath.

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.

TDC Tree & Landscape Officer
22.07.2021

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

In terms of the future use of the land it is clear that it is associated with the development of the adjacent land however it does not appear clear how the land will be set out and maintained in the future. In this regard it is not apparent whether the land will remain in agricultural use or set out as informal open space with recreation and/or leisure benefits for the new development and the wider community.

Drawing No 48737/G/FIG02 is annotated to the effect that the land will be available for 'Informal Recreation' however no other information has been

provided regarding the layout of the land. In this regard it would be helpful to know what works will be carried out in terms of preparing the land for this purpose.

If the land is to be used for this purpose it would be desirable to secure details of infrastructure planting; such as specimen tree planting, boundary hedgerows and perhaps one or two small copses.

Whilst outside the remit of the role of trees and landscaping it would appear that the application may need to be amended to deal with the potential change of use of the land from agricultural use to recreational open space.

Essex County Council Ecology
09.12.2021

No objection subject to securing biodiversity mitigation and enhancement measures

Summary

ECC Ecology have reviewed the Preliminary Ecological Appraisal (EECOS, June 2021), Bat Surveys (EECOS, September 2021), Reptile Survey (EECOS, September 2021) and Biodiversity Net Gain Assessment (EECOS, December 2021) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats. A letter from EECOS, dated 25th November 2021, was also considered. This letter assured us that the area impacted by the drainage proposals has been covered by an ecological survey.

A previous holding objection was placed on the residential development application 21/00977/DETAIL due to missing ecological information associated with Otter, Water Vole, farmland birds and Priority habitats (River) (Place Services, 2nd December 2021). However, these potential impacts have been covered in an application for the adjacent land setting out details of the required drainage for the residential development (21/00978/FUL)

A hydrobrake will be installed in the culvert to limit the amount of water entering Weeley Brook from the proposed SuDS which will negate any potential impacts on Otter and Water Vole. Although additional land for nesting Skylark cannot be secured through these applications, provision of undisturbed and open wildflower areas will increase the foraging

capacity of the arable field for farmland birds including Skylark.

The legal agreement secured at outline stage is being updated to secure Public Open Space (POS) within the development and will also include the link from the residential site to existing recreational areas in the vicinity of the site.

ECC Ecology are now 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 Preliminary Ecological Appraisal (EECOS, June 2021), Bat Surveys (EECOS, September 2021) and Reptile Survey (EECOS, September 2021) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly bats, Badger, reptiles and nesting birds.

All ecological conditions of the Appeal for the outline application (ref APP/P1560/W/19/3231554) have been met; updated bat surveys have been undertaken, integrated bat boxes have been included in the design and precautionary measures for vegetation clearance on site have been set out.

The biodiversity enhancement measures for the residential development and drainage area including the recommendations in the Biodiversity Net Gain Assessment (EECOS, December 2021), have been recommended to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021). These reasonable biodiversity enhancement measures should be laid out in a Biodiversity Enhancement Layout and secured by a condition of any consent. This document should also include a map showing which areas will be sown/planted with the wildflower mixes and native shrubs.

ECC Ecology agree that the areas of wildflower grassland should not be accessible to members of the public and should be retained and managed for wildlife in perpetuity. A Landscape and Ecological Management Plan (LEMP) should be produced to

outline how this will be achieved. This LEMP should be secured by a condition of any consent.

Although recently updated, the Biodiversity Net Gain calculation does not seem to include the baseline condition of the additional arable field needed for the drainage works but does include the proposed habitat creation within and around the SuDS. The proposed gardens could also be included in this assessment. An updated Biodiversity Net Gain report, including these details, should be secured by 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 as updated by the Environment Act 2021.

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

ECC Ecology recommend that 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 Preliminary Ecological Appraisal (EECOS, June 2021), Bat Surveys (EECOS, September 2021) and Reptile Survey (EECOS, September 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 and Countryside Act 1981 as amended and

s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2021.

2. PRIOR TO COMMENCEMENT: UPDATED BIODIVERSITY NET GAIN DESIGN STAGE REPORT

An Updated Biodiversity Net Gain Design Stage Report, in line with Table 2 of CIEEM Biodiversity Net Gain report and audit templates (July 2021), shall be submitted to and approved in writing by the local planning authority which provides a minimum of not net loss using the DEFRA Biodiversity Metric 3.0 or any successor.

The content of the Biodiversity Net Gain report should include the following:

- Baseline data collection and assessment of current conditions on site for both the residential development and drainage area;
- A commitment to measures in line with the Mitigation Hierarchy and evidence of how BNG Principles have been applied to maximise benefits to biodiversity;
- Provision of the full BNG calculations, with detailed justifications for the choice of habitat types, distinctiveness and condition, connectivity and ecological functionality;
- Details of the implementation measures and management of proposals;
- Details of the monitoring and auditing measures.

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

Reasons: In order to demonstrate measurable net gains and allow the LPA to discharge its duties under the NPPF (2021) as updated by the Environment Act 2021

3. PRIOR TO ANY WORKS ABOVE SLAB LEVEL: BIODIVERSITY ENHANCEMENT LAYOUT

A Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (EECOS, June 2021), Bat Surveys (EECOS, September 2021), Reptile Survey (EECOS, September 2021) and Biodiversity Net Gain Assessment (EECOS, December 2021), 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 prior to occupation and all features shall be retained in that manner thereafter.

Reason: To enhance Protected and Priority Species and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2021.

4. PRIOR TO OCCUPATION: LANDSCAPE AND ECOLOGICAL MANAGEMENT PLAN

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

The content of the LEMP shall include the following:

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

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

implemented in accordance with the approved details."

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2021

5. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

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

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

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2021

TDC Environmental Protection
07/12/2021

Construction and Demolition:

In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, Pollution and Environmental Control ask that the following is submitted:

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

Environmental Control. This should at minimum include the following where applicable.

o 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.

o 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 ground 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).

5. Representations

5.1 Great Bentley Parish Council object to the application for the following reasons:

- The development is outside of the original land edged red development area and would not normally be acceptable.
- However, if improvements to the house types are taken on board, this will act as mitigation towards this development being outside of the original land edged red.
- Concern that documents relating to the application are missing - The proposed Construction access is stated as being on Drawing Ref 48737-C-005 but is not included with the application.

5.2 There have been a number of letters received regarding the neighbouring site 21/00977/DETAIL and 21/001257/OUT however the points raised do not relate specifically this application on the eastern field.

6. Assessment

Site Context

6.1 The host site is rectangular in nature, measuring 5.52 hectares. The site is bounded on the northern side, by the Weeley Road, to the east by a hedge row with an associated drainage ditch Agricultural land and open countryside also bound the site to the east. The southern boundary is bounded by a railway line, beyond which is agricultural land and the open countryside. This land is presently outside the emerging settlement boundary for Great Bentley and the land is used for arable agricultural purposes. The western boundary borders with the pending residential development associated with outline application 17/01881/OUT.

6.2 The neighbouring field to the east measuring some 7.7ha is the location of the development for upto 136 dwellings approved via 17/01881/OUT allowed on appeal

(ref APP/P1560/W/19/3231554) dated 15/05/2020. That neighbouring site is subject two other applications being considered elsewhere, these are detailed below.

- 21/00977/DETAIL (Reserve Matters Application of the original site)

Proposed application for approval of all reserved matters including access, layout, scale, appearance and landscaping in relation to outline planning application for up to 136 dwellings, allowed on appeal (ref APP/P1560/W/19/3231554) dated 15/05/2020

- 21/01257/OUT (Section 73 application on Host site – Not Dealt with via this report)

Variation of condition 12 of application 17/01881/OUT (allowed on appeal APP/P1560/W/19/3231554) to remove the reference within condition 12 which requires the pedestrian/cycle link between the site and Birch Avenue to be 3 metres in width. Also allowing for this link between the site and Birch Avenue to be a pedestrian link only

- 6.3 This application links into the Reserve Matters application Ref: 21/00977/DETAIL as the drainage features and public access through the field are associated with the Reserved Matters approval. However, as the host site is outside the red line of the original outline site and thus the Reserved Matters site of Ref: 21/00977/DETAIL, this application is being dealt with separately.

Planning History

- 6.4 Originally, the Local Planning Authority objected to the principle of the development on the neighbouring field to the west for the application for up to 136 dwellings. However, outline planning permission (Ref: 17/01881/OUT) was granted with all matters reserved (layout, access, scale, appearance and landscaping) for up to 136 dwellings, informal recreation space, a local area of play and associated development following an appeal on 15th May 2020 (APP/P1560/W/19/3231554). As part on the original outline approval there were 18 planning conditions attached these are summarised below.

OUTLINE APPLICATION CONDITIONS 15/00876/OUT		Timing
1	Reserved Matters- appearance, landscaping, layout, access and scale	Reserved Matter
2	Time Frame For Reserved Matters	Three Years post Decision – Must commence 2 Years after the last Reserve Matter application
3	Approved Plans	Reserve Matters
4	Access, Layout and Ecological Requirements	Reserve Matters
5	Construction Method Statement	Prior to Commencement
6	Foul Water Strategy	Prior to Commencement
7	Surface Water Drainage	Prior to Commencement

8	Surface Water Runoff	Prior to Commencement
9	Surface Water Drainage Management	Prior to Commencement
10	Land Contamination Assessment	Prior to Commencement
11	Railway Noise Survey	Prior to Commencement
12	Footpath Link to Birch Avenue and Public Footpath 11 to the North East	Prior to Commencement
13	Bat Survey	Prior to Commencement
14	Travel Information Packs	Prior to Commencement
15	Driveways to be porous material	Compliance
16	Unbound material near highways	Compliance
17	Parking Sizes	Compliance
18	Site clearance	Bird survey Dependant

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

- On-site Affordable Housing (30% of the overall development)
- Health contributions
- Education contribution
- Provision of open space including a locally equipped area of play and the need to secure its future management
- RAMS payments, index linked. Therefore, any uplift in required payments over time has been factored into the payment.

Proposal

6.6 This application seeks planning permission for the creation of the engineering operations required in support of application for Reserved Matters 21/00977/DETAIL submitted on adjacent land (136 dwellings) including an attenuation basin, drainage ditch, public footpath, access visibility and construction access.

6.7 The application site is outside the red line boundary of the original outline approval. Therefore, this application is a separate standalone full application. The pedestrian footpath crossing the field was a requirement of condition 12 of the original outline approval. The drainage features and additional biodiversity planting is taking place to the south of the site and the temporary construction access to the north west of the site. The scheme also offers biodiversity enhancements to the south of the site.

Principle of Development

6.8 The proposal is outside the settlement boundary, however no significant built form is proposed. Notably, principle of the footpath link to Public Right of Way 11 to the north west has been established through the approval of the original application via condition 12 of the outline approval. Furthermore, there are significant public benefits to the scheme in that a footpath to the wider public open space is being created, and additional biodiversity measures are proposed to the south of the site. In addition to this, a further landscaping condition can be attached to the recommendation to soften the residential development to the west. Due in part to the modest loss of agricultural land and the significant public and biodiversity benefits created, there is no objection to the principle of the development.

Loss of Agricultural Land

- 6.9 The land classification maps identifies the site as being Grade 2 and 3 land, that is classed as good to moderate. The drainage features shall involve the loss of some agricultural land. However, the size is not significant given the size of the drainage features. Furthermore, these features are to the far south of the site.
- 6.10 Policy EN4 states *“Development will not be permitted on the best and most versatile land (namely land classified as grades 1, 2 or 3a as defined by the ALC) [Agricultural Land Classification] unless special justification can be shown” and indicates where such development is “...unavoidable, areas of poorer quality agricultural land should be used in preference to that of higher quality agricultural land...”*
- 6.11 The pre-ambble to policy PPL3 in the eLP states *“In order to promote sustainable development, in considering where to select sites for new development in this Local Plan, the Council has taken particular care to assess the value of the landscape and, where practical, allocate sites with the lowest sensitivity, thereby helping to protect valued landscapes and the best and most versatile agricultural land.”*
- 6.12 Given the biodiversity gains achieved, also the lowering of the density per hectare on the development site to the west, officers consider that the loss of the agricultural land at this site would not be significant or unacceptable. This conclusion is based on the modest scale of the loss and the fact that the land in question is at the lower end of the quality range. The scale of loss would be insufficient to adversely affect the development and diversification of agricultural and other land based rural businesses and no objection is raised.

Landscaping/Biodiversity

- 6.13 No trees or other significant vegetation will be adversely affected by the development proposal. Other than the footpath link, there will be no public access to the rest of the land. The drainage features shall have no disenable impact on the wider landscape and no objection is raised. Officers recommend (as an additional public benefit) a landscaping condition. This can help soften the two dwellings on the neighbouring site that border the host site (plots 136 and 119). Thus, improving views of the wider residential development from the east. There is sufficient Public Open Space (10%) on the residential site (21/00977/DETAIL) and landscaping (12%) to conclude that no further public open space land is required on the host site.
- 6.14 Subject to planning conditions, the proposed works will ultimately not look incongruous once completed within the existing setting of the land. Indeed, they shall be largely indistinguishable from the existing appearance.
- 6.15 From the biodiversity perspective, ECC Ecology have no objections to the scheme, they have noted that a hydrobrake will be installed in the culvert to limit the amount of water entering Weeley Brook from the proposed SuDS which will negate any potential impacts on Otter and Water Vole. Furthermore, the application provides for an additional area of undisturbed and open wildflower to the south of the site. This will increase the foraging capacity of the arable field for farmland birds including Skylark. Subject to the recommended Planning Conditions suggested by ECC Ecology, an acceptable net bio diversity gain shall take place.

- 6.16 Natural England have commented on the scheme and suggested that a Habitats Regulations Assessment (HRA) (Stage 2: Appropriate Assessment) is required. However, this is only if the development proposed 100 dwellings or more. In this case no dwellings are being created hence the assessment is not required. The assessment has taken place on the neighbouring site 21/00977/DETAIL, Natural England have agreed with the findings although at the time of print, their formal comments have not been received. This shall be included in the update sheet.
- 6.17 The legal agreement secured at outline stage is being updated to secure Public Open Space (POS) within the development and will also include the link from the residential site via the footpath to the east to the Public Right of Way 11 to the north west.
- 6.18 Overall, subject to planning conditions, the detailed design, appearance, layout and scale is considered acceptable.

Highway Safety/Parking

- 6.19 The Highway Authority has confirmed that they have no objection to the application as submitted from an access and highway layout perspective. As the application involves a temporary construction access ECC Highways have requested on commencement of development a temporary 30-mph speed limit and temporary Traffic Regulation Order shall be in place. This shall include Traffic Management signage either side of the temporary construction access. The reason for this is to ensure that vehicles can enter and leave the highway in a controlled manner and the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway following development in the interests of highway safety.
- 6.20 Further to this, Essex County Council Highways have recommended the following conditions:
- Construction Management Plan
 - Sufficient kerb Radi to be shown
 - temporary 30-mph speed limit and temporary Traffic Regulation Order
 - No discharge of surface water onto the Highway.
 - visibility splays
 - Limits to unbound material within 10 of the highway
- 6.21 All of the above conditions form part of the recommendation below. Officers also recommend a condition which would confirm the material details of the footpath to be agreed before development. Overall, there are no objections to the development in relation to Access matters.

Drainage

- 6.22 Essex County Council Flood and Water Management Team have no objection other than to recommend a legal agreement is put in place for the long-term maintenance of the drainage and for this to be linked to the neighbouring development. This has been recommended in the updated legal agreement. The Lead Local Flood Authority have also requested a planning condition relating to the maintenance of the drainage features. This is included in the recommendations. Officers recommend the contaminated land condition that the Planning Inspector used on the neighbouring site to be included with this recommendation.

6.23 S106 of the Town and Country Planning Act 1990

6.24 A legal agreement was secured at outline stage on the neighbouring site to the west (17/0881/OUT) securing:

- On-site Affordable Housing (30% of the overall development)
- Health contributions
- Education contribution
- Provision of open space including a locally equipped area of play and the need to secure its future management
- RAMS payments, index linked. Therefore, any uplift in required payments over time has been factored into the payment.

6.25 This legal agreement and all conditions on the outline consent will still apply. The additional legal agreement (Deed of Variation) shall ensure the following:

Drainage

- ensuring the drainage feature is linked to the neighbouring site (21/00977/DETAIL) and has to be constructed and fully operational before any dwelling on the neighbouring site is occupied.
- the long-term maintenance of the drainage feature

Landscape Management Company to include maintenance of:

- Link Path to Birch Avenue inc fencing
- Non adoptable Highway (roads and pavements)
- Landscaping Buffers and wider landscaping inc pedestrian link to the North East)
- Public Open space

7. Conclusion

7.1 As established through the granting of outline application 17/01181/OUT, at appeal, the principle of residential development for up to 136 dwellings on the neighbouring site is acceptable. This application provides the drainage features of this neighbouring development and also the footpath across the field to the wider Public Rights of Way beyond.

7.2 The proposed developments shall have a negligible impact on the wider landscape. An additional landscaping condition will provide benefits for local biodiversity and help with lessening the impact on residential amenity as well as retaining the character of Great Bentley. The additional also includes a bio diversity net gain that subject to planning conditions is supported by ECC Ecology. The loss of agricultural land can be supported given the wider public benefits of the scheme and the low magnitude of farmland loss.

7.3 In the absence of any significant material harm, the application is, therefore recommended for approval subject to a legal agreement updates and planning conditions listed below.

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
Drainage	<ul style="list-style-type: none"> ensuring the drainage feature is linked to the neighbouring site (21/00977/DETAIL) and has to be constructed and fully operational before any dwelling on the neighbouring site is occupied. the long-term maintenance of the drainage feature
Landscape Management Company to include maintenance of:	<ul style="list-style-type: none"> Link Path to Birch Avenue inc fencing Non adoptable Highway (roads and pavements) Landscaping Buffers and wider landscaping inc pedestrian link to the North East) Public Open space
CATEGORY	TERMS

8.2 Conditions and Reasons

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

21.5138.09	Suds area
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48737/c/004 b	Amended drainage layout - east
48737/c/005 b	Amended construction access
20.1464.40b	Amended proposed site layout (infrastructure)

20.1462.31	Site plan (infrastructure)
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Reason - For the avoidance of doubt and in the interests of proper planning.

2. Prior to occupation of adjacent development a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason: - The scheme shall subsequently be implemented in accordance with the approved details and programme for delivery and thereafter retained.

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

3. No development shall commence until an assessment of the risks posed by any contamination, 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), has been submitted to and approved in writing by the Local Planning Authority (LPA). 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 LPA. The site shall be remediated in accordance with the measures and timescale approved and a verification report confirming the site has been remediated in accordance with the approved details shall be submitted to and approved in writing by the LPA. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the LPA. 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 LPA within 21 days of the report being completed and shall be approved in writing by the LPA.

Reason - To protect future residents against any potential contaminants present on the site.

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

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

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

5. On commencement of development the temporary construction access, as shown in principle on drawing 48737_C_005, Date (May 2021) shall be constructed at right angles to the existing carriageway. The width of the access at its junction with the highway shall not be less than 7.3 metres retained at that width for 22 metres within the site and shall be provided with an appropriate kerb radius of no less than 15 metres. Upon completion of the development / numbered occupancy, the temporary construction vehicular access shall be suitably and permanently closed incorporating the reinstatement to full height of the highway verge / footway / cycleway / kerbing . Full details to be agreed in writing with the Local Planning Authority.

Reason: To ensure to ensure that vehicles can enter and leave the highway in a controlled manner and the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway following development in the interests of highway safety.

6. On commencement of development the temporary 30-mph speed limit and temporary Traffic Regulation Order shall be in place; the extents of the temporary speed limit to be agreed in advance with the local Planning Authority in conjunction with the local Highway Authority. The Traffic Management signage either side of the temporary construction access shall be submitted on a plan as part of this condition prior to the commencement of the development.

Reason: To ensure to ensure that vehicles can enter and leave the highway in a controlled manner and the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway following development in the interests of highway safety.

Note: The developer will need to pay for the necessary temporary Traffic Regulation Order prior to the temporary construction access coming into use.

7. 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.

8. Prior to occupation of the site, the temporary road junction / access at its centre line shall be provided with a minimum clear to ground visibility splay with dimensions of 2.4 metres by 97 metres to the south-east and 2.4 metres by 90 metres to the north-west, as measured from and along the nearside edge of the carriageway. Such

vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

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

9. No unbound material shall be used in the surface treatment of the vehicular access within 10 metres of the highway boundary.

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

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

- 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.

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

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

10. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (EECOS, June 2021), Bat Surveys (EECOS, September 2021) and Reptile Survey (EECOS, September 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) as updated by the Environment Act 2021.

11. Prior to commencement an Updated Biodiversity Net Gain Design Stage Report, in line with Table 2 of CIEEM Biodiversity Net Gain report and audit templates (July 2021), shall be submitted to and approved in writing by the local planning authority which provides a minimum of not net loss using the DEFRA Biodiversity Metric 3.0 or any successor.

The content of the Biodiversity Net Gain report should include the following:

- Baseline data collection and assessment of current conditions on site for both the residential development and drainage area;
- A commitment to measures in line with the Mitigation Hierarchy and evidence of how BNG Principles have been applied to maximise benefits to biodiversity;
- Provision of the full BNG calculations, with detailed justifications for the choice of habitat types, distinctiveness and condition, connectivity and ecological functionality;
- Details of the implementation measures and management of proposals;

- Details of the monitoring and auditing measures.

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

Reasons: In order to demonstrate measurable net gains and allow the LPA to discharge its duties under the NPPF (2021) as updated by the Environment Act 2021

12. Prior to any works above slab level a Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (EECOS, June 2021), Bat Surveys (EECOS, September 2021), Reptile Survey (EECOS, September 2021) and Biodiversity Net Gain Assessment (EECOS, December 2021), 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 prior to occupation and all features shall be retained in that manner thereafter."

Reason: To enhance Protected and Priority Species and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2021.

13. Prior to occupation a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority.

The content of the LEMP shall include the following:

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

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

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2021

14. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority some of soft landscaping works for the

site, which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837:2012 Trees in relation to design, demolition and construction.

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

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

Reason - In order to ensure a satisfactory development in terms of landscape appearance, character and functionality and ensure the earliest and practicable Implementation of new planting required to mitigate the impact of the development.

8.3 Informatives

Positive and Proactive Statement

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

Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a supplementary legal agreement (Deed of Variation) and this decision should only be read in conjunction with this agreement and the original Section 106 document 17/0881/OUT that remains unaltered.

Highways Informative:

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

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

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

2: Under Section 23 of the Land Drainage Act 1991, prior written consent from the Environment Agency is required to build any culvert (pipe) or structure (such as a dam or weir) to control or alter the flow of water within an ordinary watercourse. Ordinary watercourses include ditches, drains and any other networks of water which are not classed as Main River.

If you believe you need to apply for consent, please contact the Environment Agency as soon as possible to discuss your plans. Planning permission does not negate the requirement for consent, and full details of the work you propose will be required at least two months before you intend to start. Once preliminary details have been agreed, you will be asked you to fill in an application form, which must be returned with the appropriate fee.

Please call the Environment Agency on 08708 506 506 and ask for the Essex Development and Flood Risk Team to discuss this requirement further.

3: The proposed connecting footpath from the development to public footpath no. 11 (Great Bentley_165) should be permissive though and should not form part of the Public Rights of Way (PROW) network as it does not add anything to the PROW network and will only serve the new development. Therefore, this footpath will need to be clearly marked as permissive. Public footpath no.11 is of limited use as to the north it ends at the A133 as there are no other PROW directly connecting to this public footpath.

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.

Drainage Informative

- We strongly recommend looking at the Essex Green Infrastructure Strategy to ensure that the proposals are implementing multifunctional green/blue features effectively. The link can be found below. <https://www.essex.gov.uk/protecting-environment>

9. Additional Considerations

Public Sector Equality Duty (PSED)

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

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

Human Rights

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

Finance Implications

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

10. Background Papers

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

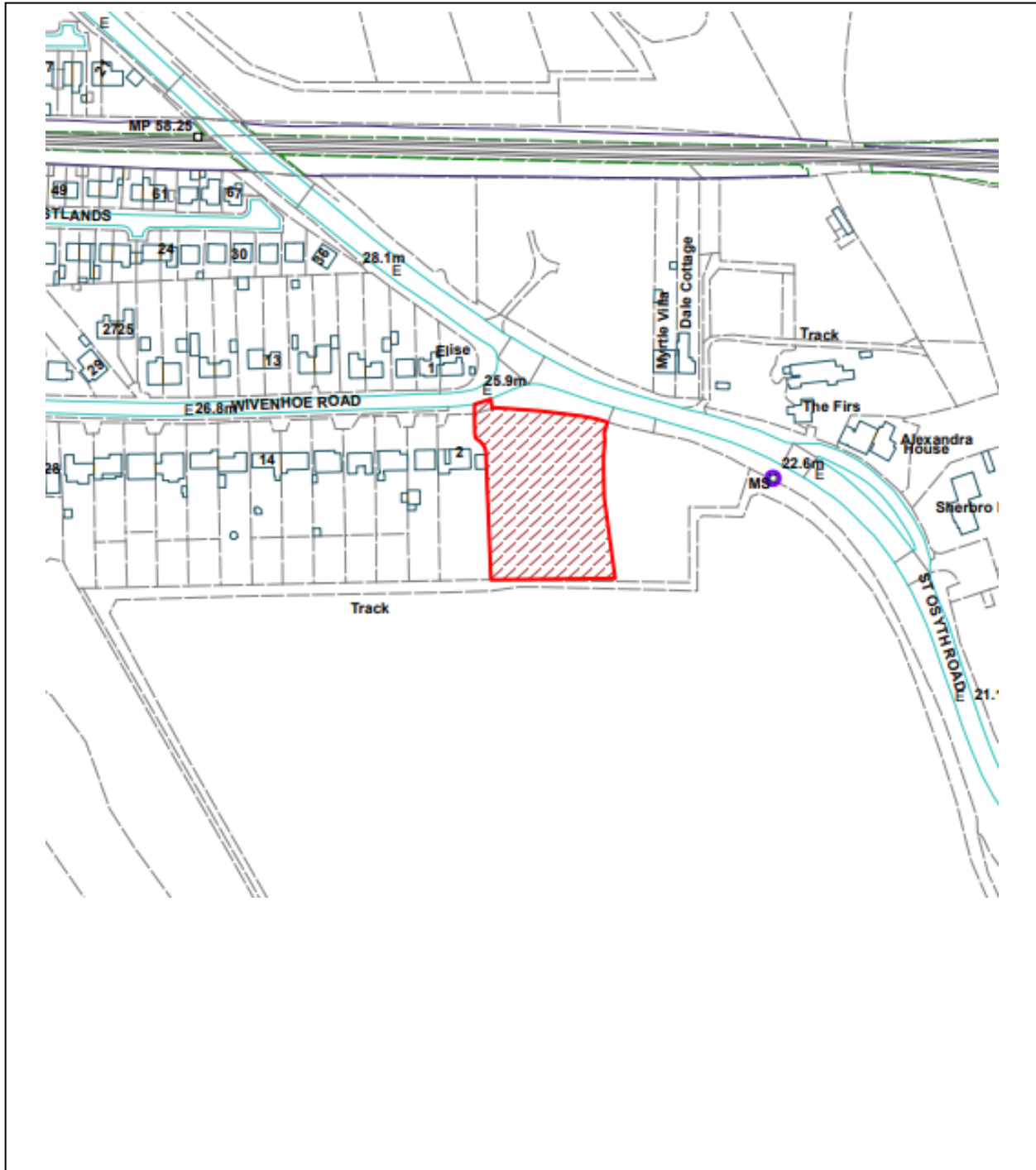
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PLANNING COMMITTEE

21 December 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.4 PLANNING APPLICATION – 21/01490/VOC – LAND ADJACENT 2 WIVENHOE ROAD ALRESFORD CO7 8AD



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Application: 21/01490/VOC

Town / Parish: Alresford Parish Council

Applicant: Mr Ross Bain - Vaughan and Byth (Construction) Ltd

Address: Land adjacent 2 Wivenhoe Road Alresford =CO7 8AD

Development: Variation of condition 2 (Approved drawing numbers) of application 19/01261/FUL - to allow for design amendments to Plots 2 and 3 and Site Layout Plan.

1. **Executive Summary**

- 1.1 This application has been referred to Planning committee as one of the landowners is an employee of Tendring District Council.
- 1.2 The application seeks planning permission for the variation of condition 2 of application 19/01261/FUL to allow for design amendments to plots 2 and 3.
- 1.3 The site falls adjacent to, but outside of, the Alresford Settlement Development Boundary within the Adopted Tendring Local Plan 2007 but falls inside the Settlement Development Boundary for Alresford within the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.
- 1.4 It is considered that the design changes to Plots 2 and 3 are more of a traditional appearance and are in keeping with the different types of housing along Wivenhoe Road.
- 1.5 There will be no impact upon residential amenities, impact on trees or impact upon highways.
- 1.6 Alresford Parish Council have no objection and one letter of support has been received.

Recommendation:

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

- a) Subject to the conditions stated in section 8.1

2. **Planning Policy**

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

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Adopted Tendring District Local Plan 2007 (part superseded)

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

EN1 Landscape Character

EN6 Biodiversity

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

COM6 Provision of Recreational Open Space for New Residential Development

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 Adopted Policies (Section 1)

SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

SP7 Place Shaping Principles

Relevant Emerging Policies (Section 2)

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

CP1 Sustainable Transport and Accessibility

Status of the Local Plan

Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).

The 'development plan' for Tendring comprises, in part, the 'saved' policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 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.

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. On 24th November 2021, the Council received the Planning Inspectors' final report on the legal compliance and soundness of Section 2 of the emerging Local Plan. The report has confirmed, that with the inclusion of a number of 'Main Modifications' (which have already been the subject of formal public consultation), the Plan is legally compliant and sound and can now proceed to adoption. The report is due to be considered by the Planning Policy and Local Plan Committee on 11th January 2022 which is likely to recommend adoption of the Section 2 Local Plan to Full Council on 25th January 2022. On adoption, the new Section 2 Local Plan will join the new Section 1 Local Plan to form the 'development plan' for Tendring and the old 2007 Local Plan will be superseded in full.

Now that the Inspectors' final report is received, the Section 2 Local Plan has virtually reached the final stage of preparation, all objections have been resolved and the Inspector has confirmed that the Plan is sound and therefore in conformity with the Framework. For these reasons, Officers now advise that the emerging Plan should now carry 'almost full weight' in decision making.

Until the new Local Plan is adopted in January 2022, the 2007 adopted Local Plan, legally, will still form part of the 'development plan' and there will still be a requirement to refer to the 2007 Local Plan in decision making. However, the level of weight to be afforded to the policies in the 2007 Plan is reduced to very limited weight given that a more up to date Plan has progressed to such an advanced stage of the plan making process.

In relation to housing supply:

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

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

3. Relevant Planning History

01/01197/FUL	Change of use from agricultural to domestic	Approved	20.09.2001
01/01877/FUL	Timber garage	Approved	12.12.2001
06/01419/TPO	1 No. Oak - -remove all epicormic growth. Crown lift to 6 metres over road.	Approved	29.09.2006

13/00833/OUT	Outline application for 5 new dwellings.	Refused	14.11.2013
14/01144/OUT	Outline application for 5 dwellings (revised application following refusal 13/00833/OUT).	Withdrawn	01.04.2015
15/01686/FUL	Construction of a new single storey low impact sustainable dwelling. The proposal will incorporate the provision of a driveway and double garage.	Approved	11.02.2016
18/01381/FUL	Residential development of 3 dwelling houses.	Refused	24.10.2018
18/01775/FUL	Proposed residential dwelling house and garage.	Approved	16.01.2019
19/01261/FUL	Residential development of 3no. dwelling houses.	Refused	25.10.2019
20/01409/FUL	Variation of condition 2 of application 19/01261/FUL (approved on appeal APP/P1560/W/19/3244048) for revisions to plot one and access road.	Approved	22.01.2021
21/01572/DISCON	Discharge of conditions 3, (Tree report/plan) 4, (Landscaping) and 8 (Construction method statement) of permission 19/01261/FUL.	Approved	28.10.2021

4. Consultations

ECC Highways Dept
19.10.2021

It is noted that this application concerns variation of condition 2, to allow for design amendments to Plots 2 and 3 and site layout plan, in principle the Highway Authority does not object to the proposal 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

TDC Tree & Landscape Officer
15.10.2021

The trees on the boundary of the site, which are important for the screening benefit that they provide will not be affected by the proposed variation of condition application.

5. **Representations**

5.1 Alresford Parish Council have no objection to this application.

5.2 1 letter of representation has been received stating the following:

- Concerns with the parking on the original layout and moving the garages back is sensible to increase the off road parking space. No objection and see no reason why these changes should not be approved.

6. **Assessment**

Site Context

6.1 The site is situated to the south of the junction of Wivenhoe Road and St Osyth Road in Alresford, and is currently laid to grass. Along the north boundary of the site there are mature trees and hedgerow which provide screening.

6.2 The site is currently accessed via an entrance to the western side of the site adjacent to No. 2 Wivenhoe Road. Wivenhoe Road is a residential street, with a mix of dwellings of different styles and designs, each with large rear gardens and generally arranged in a linear manner. On the opposite side of the St Osyth Road there is a cluster of residential properties.

6.3 The site falls adjacent to, but outside of, the Alresford Settlement Development Boundary within the Adopted Tendring Local Plan 2007 but falls inside the Settlement Development Boundary for Alresford within the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Planning History

6.4 Under planning reference 19/01261/FUL, the application was refused at Planning Committee for the erection of three dwellings due to the intensification of the site which would represent a form of ribbon development that would not be in keeping with the surrounding semi-rural streetscene that fails to enhance the surrounding local areas character or distinctiveness.

6.5 The application was taken to appeal and the decision was allowed on 14 August 2020 under planning appeal reference APP/P1560/W/19/3244048.

6.6 Under planning reference, 20/01409/FUL, planning permission was approved for the variation of condition 2 of application 19/01261/FUL (approved on appeal APP/P1560/W/19/3244048) for revisions to plot one and access road.

Proposal

6.7 This application seeks planning permission for the variation of condition 2 (Approved drawing numbers) of application 19/01261/FUL - to allow for design amendments to Plots 2 and 3 and Site Layout Plan.

Assessment

6.8 The main considerations for this application are:

- Principle of development
- Scale, Layout and Appearance
- Impact upon Neighbouring Amenities
- Trees and Landscaping
- Highway Safety and Parking Provision
- Financial Contribution – Open Space and Play Space
- Financial Contribution – Habitat Regulations Assessment
- Other Considerations

Principle of Development

6.9 The principle of development has been established through the planning appeal reference APP/P1560/W/19/3244048 and therefore development is acceptable on the application site subject to the details below.

Scale, Layout and Appearance

6.10 Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context. Emerging Policies SPL3 and LP4 of Section 2 of the 2013-33 Local Plan also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout, create a unique sense of place - avoiding the use of ubiquitous standard house types. Paragraph 130 of the Framework requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.

6.11 In regards to plot 2 and plot 3, the proposed design is considered more traditional including features such as an oak post porch with casement cottage style windows. To the rear will be a single storey extension including a roof lantern used for light purposes only. The proposed change in design is considered acceptable in this location.

6.12 The dwellings retain at least 1 metre to all boundaries which exceeds the standards set out within saved Policy HG14 of the Tendring District Local Plan.

6.13 In terms of the garages for both plots, they have been set back from both dwellings which has created a long driveway to accommodate parking for several cars.

6.14 Plot 2 will be constructed from: natural slate roof with grey angle ridges; facing brickwork with oak post and a brick plinth. Plot 3 will be constructed from natural slate roof with grey angle ridges, render with pentice boards, oak posts and brick plinth. The materials proposed are considered acceptable and in keeping the character of the area.

6.15 Policy HG9 of the Saved Tendring District Local Plan 2007 states that private amenity space for a dwelling of three bedrooms or more should accommodate a minimum of 100 square metres. The plans provided demonstrate that the dwellings can accommodate sufficient private amenity space in line with Policy HG9.

Impact upon Neighbouring Amenities

6.16 The NPPF, at paragraph 130 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Adopted Policy SP7 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

requires that all new development protects the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking.

- 6.17 Plot 2 will be visible to the neighbouring Plot 1 and Plot 3. There are no side elevation windows proposed and due to the distance to neighbouring boundaries, it is not considered to cause any impact upon neighbouring amenities.
- 6.18 Plot 3 will be visible to the neighbouring plot 2 and number 2 Wivenhoe Road, however due to the distance to the boundary as well as there being no side elevation windows, it is considered that the proposed dwelling will not cause any impact upon neighbouring amenities.

Trees and Landscaping

- 6.19 Saved Policy EN1 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.
- 6.20 The trees on the boundary of the site - which are important for the screening benefit that they provide - will not be affected by this proposed variation of condition application.

Highway Safety and Parking Provision

- 6.21 Essex Highway Authority have been consulted on this application and have stated that it is noted that this application concerns variation of condition 2, to allow for design amendments to Plots 2 and 3 and site layout plan, in principle the Highway Authority does not object to the proposal as submitted.
- 6.22 The garages proposed for both plots 2 and 3 both comply with Essex Parking Standards requirements to measure 7m by 3m. There is also sufficient parking to the front of the garages to accommodate at least two parking spaces in line with the Standards. The proposal is acceptable in terms of highway safety and parking provision.

Financial Contributions - Open Space and Play Space

- 6.23 Policy COM6 of the adopted Tendring District Local Plan 2007 states *"For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built"*. These sentiments are carried forward within emerging Policy HP5.
- 6.24 An Open Space financial contribution was requested in relation to the original consent for this site and this been paid.

Financial Contribution - Recreational Disturbance

- 6.25 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.
- 6.26 The development relates solely to changes to the external appearance of both plots 2 and 3. This application seeks to amend the original planning permission, which has been implemented and does not involve any increase to the number of properties to be built. The existing signed Unilateral Undertaking ensures that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District

Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

6.27 The contributions have already been paid so there is no requirement for a UU under this new application.

7. Conclusion

7.1 The principle of residential development in this locality is supported by Local Plan policy. The proposal does not amount to any visual harm, harm to residential amenities, nor harm to highway safety and parking provision. The application is, therefore recommended for approval.

8. Recommendation

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

8.2 Conditions and Reasons

1. The development hereby permitted shall begin no later than 14 August 2023.

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

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

- Drawing no. 714/1
- Drawing no. 714/2
- Drawing no. 714/3
- Drawing no. 714/4
- Amended Site Plan – Scanned 11 Nov 2021

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

3. The development hereby approved shall be carried out in accordance with drawing no. RS/TP/01 – Tree Constraints Plan and Arboricultural Report – Dated 25/06/13 as submitted under application 21/01572/DISCON.

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

4. All changes in ground levels, hard landscaping, planting, seeding or turfing shown on approved

Drawing no. 714/1 submitted under 21/01572/DISCON 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 implementation and maintenance of the approved landscaping scheme for a period of five years in the interests of the character and quality of the development.

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

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

6. Prior to the first occupation of the dwellings hereby approved, the vehicular access and off street parking and turning facilities in regards to plot 1, as shown on approved drawing 41 Rev B submitted under 20/01409/FUL and in regards to plot 2 and 3 as shown on drawing no. 714/1 and an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority, shall be provided.

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

7. The development hereby approved shall be carried out in accordance with the drawing no. 714/1/CMS and Construction Method Statement scanned 07 Sept 2021 submitted under application 21/01572/DISCON unless otherwise agreed in writing by the local planning authority.

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

8.3 Informatives

Positive and Proactive Statement

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

Highways

1: 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 contractor must ensure that no mud or detritus is taken onto the highway, such measures include provision of wheel cleaning facilities and sweeping/cleaning of the highway.

Under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus etc. on the highway. In addition, under Section 161 any person, depositing anything on a highway which results in a user of the highway being injured or endangered is guilty of an offence.

9. Additional Considerations

Public Sector Equality Duty (PSED)

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

Human Rights

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

Finance Implications

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

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

10. Background Papers

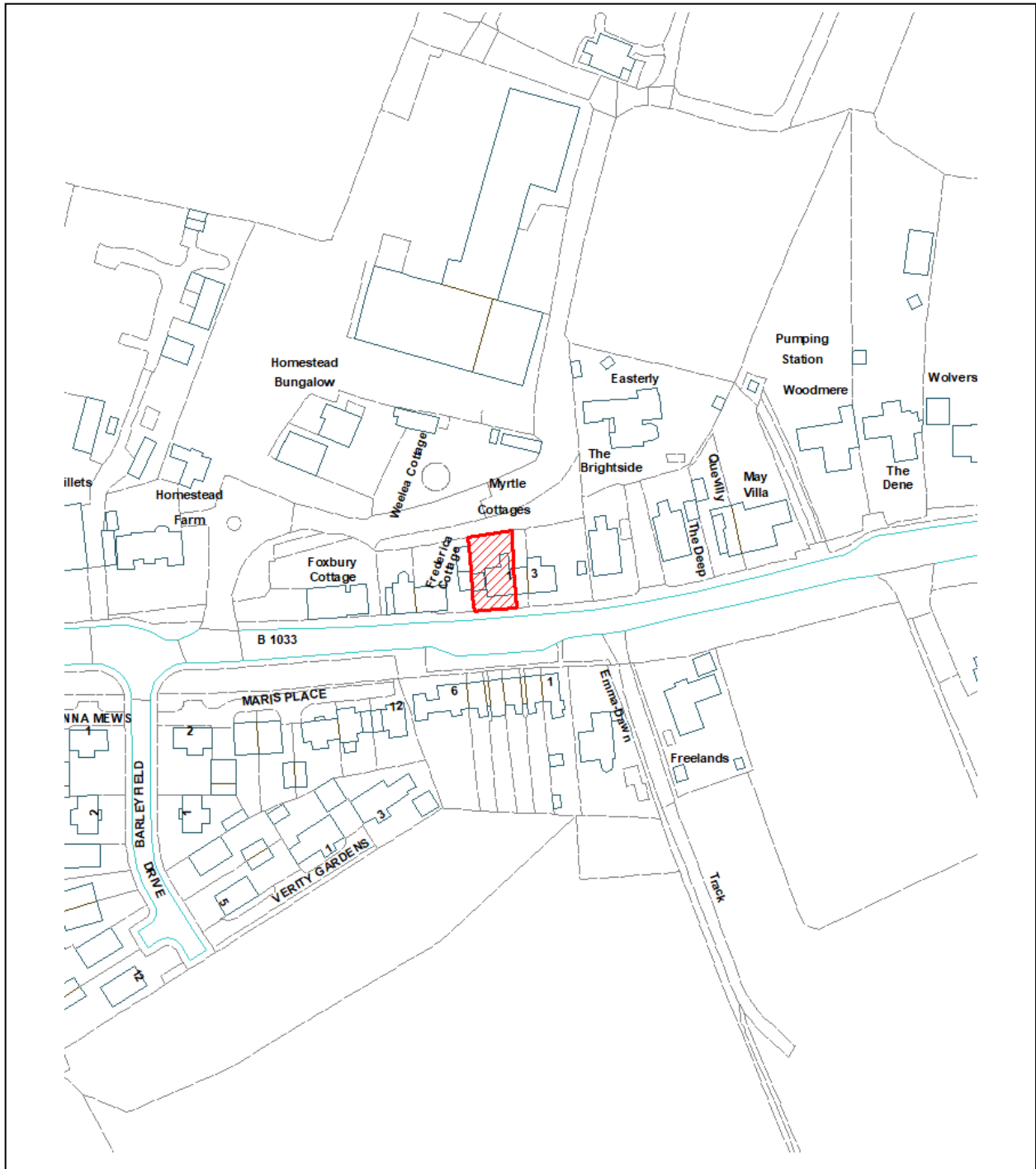
10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

PLANNING COMMITTEE

21st December 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.5 PLANNING APPLICATION – 21/01992/FULHH – 1 MYRTLE COTTAGES THORPE ROAD WEELEY CLACTON ON SEA CO16 9JL



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Application: 21/01992/FULHH

Town / Parish: Weeley Parish Council

Applicant: Mr and Mrs Leggett

Address: 1 Myrtle Cottages Thorpe Road Weeley Clacton On Sea Essex CO16 9JL

Development: Proposed single storey rear extension with glazed roof lantern, following partial demolition of rear extension.

1. Executive Summary

- 1.1 The application is before Members as the applicant is a member of staff employed by Tendring District Council.
- 1.2 The proposed extension will be located to the rear of the property and will be shielded from the streetscene by the existing dwelling and garage. The extension is of a single storey nature and is considered to be of a size and scale appropriate to the existing dwelling with the application site retaining adequate private amenity space. The proposal does include the use of differing materials, however due to its rearward location and the variety of materials within the locale, the use of such is considered acceptable in this instance.
- 1.3 The proposal will have some impact to neighbours in regards to residential amenities. However, when applying relevant calculations and assessment the impact would not result in such a significant loss of amenities that would warrant the refusal of this application.

Recommendation:

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

- a) the conditions stated in section 8.2

2. Planning Policy

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

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Adopted Tendring District Local Plan 2007 (part superseded)

QL11 Environmental Impacts and Compatibility of Uses (part superseded)

HG12 Extensions to or Replacement of Dwellings Outside Settlement Development Boundaries

HG9 Private Amenity Space

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

Relevant Section 1 Policies (adopted)

SP7 Place Shaping Principles

Relevant Section 2 Policies (emerging)

SPL3 Sustainable Design

PPL3 The Rural Landscape

Local Planning Guidance

Essex Design Guide

Status of the Local Plan

Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).

The 'development plan' for Tendring comprises, in part, the 'saved' policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 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.

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. On 24th November 2021, the Council received the Planning Inspectors' final report on the legal compliance and soundness of Section 2 of the emerging Local Plan. The report has confirmed, that with the inclusion of a number of 'Main Modifications' (which have already been the subject of formal public consultation), the Plan is legally compliant and sound and can now proceed to adoption. The report is due to be considered by the Planning Policy and Local Plan Committee on 11th January 2022 which is likely to recommend adoption of the Section 2 Local Plan to Full Council on 25th January 2022. On adoption, the new Section 2 Local Plan will join the new Section 1 Local Plan to form the 'development plan' for Tendring and the old 2007 Local Plan will be superseded in full.

Now that the Inspectors' final report is received, the Section 2 Local Plan has virtually reached the final stage of preparation, all objections have been resolved and the Inspector has confirmed that the Plan is sound and therefore in conformity with the Framework. For these reasons, Officers now advise that the emerging Plan should now carry 'almost full weight' in decision making.

Until the new Local Plan is adopted in January 2022, the 2007 adopted Local Plan, legally, will still form part of the 'development plan' and there will still be a requirement to refer to the 2007 Local Plan in decision making. However, the level of weight to be afforded to the policies in the 2007 Plan is reduced to very limited weight given that a more up to date Plan has progressed to such an advanced stage of the plan making process.

3. Relevant Planning History

02/00563/FUL	New vehicle access, garage and conservatory	Approved	02.05.2002
03/01771/FUL	Change of use of garage under	Approved	25.10.2003

construction to store and office

21/01992/FULHH

Proposed single storey rear extension with glazed roof lantern, following partial demolition of rear extension.

Current

4. **Consultations**

Not applicable to this application.

5. **Representations**

None Received

6. **Assessment**

Site Context

- 6.1 The application site comprises of a two storey end terraced cottage known as '1 Myrtle Cottage'. The main house is constructed from brick with a small lightly coloured rendered porch at the front.
- 6.2 The house is set back from this front boundary, with a low level boundary fence and gate. Sited to the west is an existing garage which has been constructed from brick. To the rear is an existing extension which has been finished in boarding and is set off of the shared boundary.
- 6.3 Located to the rear the existing site is laid to lawn with small areas of patio and paving slabs dotted throughout. Situated along the shared boundaries is a mixture of close boarded fencing and planting.

Proposal

- 6.4 This application seeks planning permission for the erection of a single storey rear extension 4.7m in depth and 3m in height. The extension would have a roof lantern, which would protrude 0.4m above the roof.
- 6.5 The proposed extension would require the demolition of the existing structure and will be finished in smooth render in a light colour which will match that on the existing porch.

Design and Appearance

- 6.6 The proposed extension will be to the rear and screened by the existing house and garage preventing any public views from Clacton Road.
- 6.7 The single storey design means that it would appear as a subservient feature and appropriate addition in relation to the main house and will be finished in a light coloured render.
- 6.8 The use of render here will not be consistent with the predominant brick constructed dwelling. However, as the proposal will be screened from public view by the existing house and garage the use of this material would not be noticeable within the streetscene. Furthermore, the local streetscene contains a variety of materials which differ in type and colour and therefore there is no real uniformity to the local built form.
- 6.9 The site is of a large enough size to accommodate the proposal and still retain a minimum of 100m² in private amenity space in accordance with Saved Policy HG9 of the Adopted Tendring District Local Plan 2007 (part superseded).

6.10 The site is situated outside the housing settlement limits, however as the proposal will be in keeping with the existing character of the dwelling and will not harm the character of the surrounding area the proposal meets Policy HG12 of the Adopted Tendring District Local Plan 2007 (part superseded). It should be noted, however, that the site is located within the housing settlement limits of the emerging Tendring District Local Plan 2013-2033.

Impact on Residential Amenity

6.11 The proposed extension will not result in a loss of residential amenities to the property to the west as it will be sited sufficient distance away from the boundary shared with "Frederica Cottage" and will be predominantly screened by existing fencing and outbuildings which are in situ along the boundary and serve this adjacent dwelling.

6.12 The proposal will also be sited sufficiently away from the rearward boundary and screened by the existing planting in situ here preventing any disruption to the amenities of "Homestead Lake Country Park" and "Homestead Farm Bungalow."

6.13 Sited east of the site is 2 Myrtle Cottages which like the host dwelling is southward facing allowing for the majority of the sunlight to be received to their front gardens.

6.14 This neighbour currently has an opening at ground floor nearest to the siting of the proposal which currently has clear views onto the existing boundary fencing and planting along with the host dwellings existing extension which is currently 4.1m in depth. This application seeks the approval for an extension sited along the shared boundary at 4.7m in depth, which would be a 0.6m greater than the existing.

6.15 As this extension will be greater in width, compared to the existing, it is likely to have some impact to the level of light and outlook received by this neighbours nearest window. The proposal will have a flat roof and will be 3m in height, which will reduce the level of light and outlook received by this neighbouring site. The screening by way of the boundary fencing and planting will further reduce the prominence of the extension. As a precautionary measure the Sunlight/ daylight calculations specified within the Essex Design Guide have been applied to the proposed plans. Upon using these calculations the 45 degree line in plan encompasses this neighbours rear window where as in elevation it only strikes through the lower section of it. As the 45 degree line does not strike through the centre of this window in both the combined plans any loss of light resulting from the proposal would be minimal and not so significant to refuse planning permission upon.

6.16 It should also be noted that under the Householder Prior Notification Scheme, which was introduced in 2013 for extensions of up to 6m, this extension could be erected under new permitted development rules provided there was no objections from neighbouring properties. These extensions do not need a formal application but a written notification to Local Planning Authorities and in the absence of objections from neighbours are allowed to be constructed.

6.17 Whilst the proposal will be in close proximity to the neighbouring boundary of 2 Myrtle Cottage it will be largely screened by the boundary fencing only attracting limited views to this neighbour. It should also be noted that this neighbours views are already disrupted due to the host dwellings existing extension and boundary fencing and as per the allowances of permitted development detailed above any loss of outlook resulting from the proposal in this instance would be considered not so significant to warrant the grounds of refusing this application.

6.18 The side elevation of the proposal facing 2 Myrtle Cottage is absent from any windows preventing a loss of privacy to this neighbour.

7. Conclusion

7.1 The application for a proposed rear extension has been assessed above and is considered to be acceptable in terms of visual and residential amenity and in accordance with relevant national and local plan policy. The application is, therefore, recommended for approval.

8. Recommendation

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

8.2 Conditions and Reasons

1. The development hereby permitted shall be 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 plan:

Drawing No 01 Rev C

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

8.3 Informatives

Positive and Proactive Statement

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

9. Additional Considerations

Public Sector Equality Duty (PSED)

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

9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;

9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and

9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.

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

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

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

Human Rights

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

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

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

Finance Implications

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

10. Background Papers

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

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